



**APPROVED MINUTES OF THE REGULAR MEETING OF
THE ZONING BOARD OF APPEALS OF THE CITY OF ANN ARBOR
December 17, 2008**

The Regular Session of the Zoning Board of Appeals was held on Wednesday, December 17, 2008 at 6:00 p.m. in City Council Chambers, 100 N. Fifth Avenue, A2, MI
The meeting was called to order at 6:08 p.m. by Chairperson Carol Kuhnke

ROLL CALL

Members Present: **(9)** C. Carver, D. Gregorka, J. Carlberg, W. Carman,
K. Loomis, C. Kuhnke, C. Briere, S. Briere & D. Tope

Members Absent: **(0)**

Staff Present: **(2)** M. Kowalski 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 D. Tope, Seconded by C. Carver, **“To approve the minutes of the November 19, 2008 Regular Session be Approved as Presented.**

C - APPEALS & ACTION

C-1 547 Sixth Street and 714 West Madison Street – ZBA08-009

James Foster is requesting two variances from **Chapter 55, (Zoning), Section 5:30:**

1. A variance of 2,605 square feet in order to permit creation of a parcel 5,895 square feet in size (8500 square feet is required by Code).
2. A variance of 12 feet 10 inches in order to permit a rear setback of 17 feet 2 inches. (30 feet is required by Code).

Description and Discussion -

James Foster is requesting two variances to permit modifications to existing parcel lines at 547 Sixth and 714 West Madison in order to permit the rearrangement of parcel lines. No new parcels or building construction is being proposed. The variance from the required lot area is being requested in order to permit a land transfer which would remove land from 714 Madison and join it to 547 Sixth. This land transfer is required because part of the house addition at 547 Sixth was constructed over the property line of 714 West Madison. In the 1960's the building owner submitted information for building permits for the addition to 547 Sixth Street. This submittal was based on the completion of a boundary adjustment to transfer land from 714 Madison to 547 Sixth. The addition was constructed, but the land transfer was never completed.

53 Currently, the parcel at 547 Sixth is non-conforming for lot area and the rear setback, 714
 54 Madison complies with zoning regulations, including lot area. After the land transfer, 547 Sixth
 55 will become conforming for the rear setback, but will still be non-conforming for lot area.
 56 However, as a result of the land transfer, 714 West Madison will become non-conforming for
 57 lot area and will also require a variance for the rear setback. The variance for the rear setback
 58 is required because the most logical placement of the lot lines for the new parcel configuration
 59 creates a building encroachment into the rear setback of 714 West Madison. This is the same
 60 boundary line adjustment proposed on the 1965 land transfer document. Both properties have
 61 been owned by the same person since the addition was completed in the 1960's. This original
 62 owner is recently deceased. The estate wishes to sell the properties, but cannot sell either
 63 parcel with the building at 547 Sixth Street crossing the property line of 714 West Madison.

64

65 **Questions to Staff by the Board**

66

67 D. Gregorka (To M. Kowalski) – So staff is saying that the Sixth Street parcel will remain non-
 68 conforming. Why is that? (M. Kowalski – Due to the lot area. It's approximately less than
 69 1000 sq. ft. under the conforming lot area. Both lots would become non-conforming after that).
 70 If we were to approve this, what kind of status would these structures and parcels be in,
 71 because they'll be on non-conforming lots.

72

73 Going forward, a year later, the new owner of one of these properties wants to do something –
 74 they would have to file for permission to alter a non-conforming structure and a variance?
 75 (Correct. They are zoned R2A, so by creating both of these as 'non-conforming' lots, all they
 76 would ever be able to have is a single-family house on each).

77

78 C. Carver (to M. Kowalski) – Why do we need a variance? (We need permission from the
 79 Board to create a non-conforming lot).

80

81 D. Tope – I didn't hear discussion regarding what would be required to keep that Madison
 82 street lot non-conforming. Was that possibility explored? Why do we have to create two non-
 83 conforming lots? (M. Kowalski – One reason for the existing plan is that this was the way the
 84 original land transfer was proposed. We did look into curving or something odd with the lot
 85 lines, there is no real way to transfer the lot area without creating the non-conformities, unless
 86 you created a jigsaw puzzle type of the lot line on Sixth Street).

87

88 *(Extensive discussion between the Board and Staff regarding all possibilities of parcel and*
 89 *setback configurations and possible lot lines).*

90

91 **Petitioner Presentation**

92

93 Mr. Karl Frankena – Attorney representing the owner of the property. He displayed a lot layout
 94 from 1965 showing how the lot was supposed to be redrawn when the owner requested the
 95 parcel be split. There was an application filed, given a building permit, but no one ever
 96 followed up on changing the legal descriptions on what was on the tax rolls. After the death of
 97 the petitioner's father, he discovered that this lot line issue had never been seen to fruition.

98

99 The sixth street lot is unusual. It sits above everything. That backyard is actually lower than
 100 the Madison Street property. The Madison Street property sits above the house to the left
 101 which sits at the corner of Sixth and Madison Streets. If you look at the northwest corner of
 102 this, you'll see a little staircase, and this is a stair that is used to walk up the Sixth Street lot to
 103 get to the Seventh Street lot. The petitioner's father had planted a brush row or tree row right
 104 along where the north line would be so that the back yard for all these years has been a back
 105 yard for the Sixth Street property. The tenant that rents this currently use this in this way.

106 The other tenants' backyard have theirs up to the planted brush row. We've made the request
 107 to approve what was requested in 1965 when the addition was put on and try to get approval
 108 to make that change.. We were told that we couldn't just change the boundary lines as there
 109 was a need to have the Zoning Board approve these for variances.

110
 111 We've cured the non-conformity of the rear lot line setback on the Sixth Street property and
 112 make it saleable and match what was proposed in 1965. The end result of this change is that
 113 we take a smaller lot on Sixth Street and make it larger; we take the smaller lot on Madison
 114 Street and make it larger – both lots end up being larger than the property on the corner of
 115 Sixth Street and the three lots to the east at the corner of Fifth Street (for example). The only
 116 alternative to try to 'cut the baby in two" as suggested would be to add part of the rear yard
 117 from the Sixth Street property back to the Madison Street property, but when you look at it, the
 118 yard would be unusable due to the size of the houses in relation to the yard.

119
 120 **Questions of the Petitioner by the Board**

121
 122 W. Carman – This is a small house and that is my concern. Someone will come along later
 123 and want to make alterations to that home and it is even more non-conforming that it would be.
 124 I'm sensitive to the notion that there is a topographical change, but this would allow them some
 125 leeway in what they want to do. Otherwise, someone will be back here with another appeal.

126
 127 D. Tope – It would suit the goal of the ZBA to have the variances be the least necessary to
 128 achieve the purposes. You could change the property lines so that the square footage of the
 129 lot was less non-conforming, and grant an easement for the use of that, so long as the new
 130 owners would agree to that. To me, there is not a compelling rationale to create these non-
 131 conformities to the extent that these do.

132
 133 C. Carver – The petitioner is the owner of the estate, and Robert was the father that built this?
 134 (Petitioner – Correct). Any hardship is self-imposed and we're not allowed to give relief for
 135 self-imposed hardships. How do you work around that? (Petitioner – We're here because
 136 someone dropped the ball in 1965 and Robert wasn't aware of it. He came in and got the
 137 building permit and asked to change the boundary. He got the building permit and our
 138 assumption was that it was agreed that he could change the boundary but somehow it never
 139 got changed.

140
 141 We think that the city granted him permission – they gave him a building permit, and
 142 occupancy permit, they've assessed him ever since, we're just trying to go back and correct
 143 the problem as best we can. This is why we put ourselves in "Robert's" shoes – his drawings,
 144 his file, this is what he wanted. He planted trees, he physically moved the property line by
 145 planting the trees and adopting that back to the house. We'll point out that my client (the
 146 original owner's son) will not live here. He lives in California and these are rental properties.
 147 We can't sell these properties without a change in the boundary.

148
 149 W. Carman – I'm trying to put myself in the 'shoes' of the city and what went on. It's pretty
 150 clear from other cases that sometimes, things go awry and mistakes are made and I don't
 151 know what the process was for getting a boundary change in 1965. Was that something that
 152 could be administratively approved or did they have to go through some process and either
 153 they went through it and didn't get it or they went through it and they got it and you lost the
 154 records or they never went through it. Someone could perhaps have given him a building
 155 permit by accident. (Matt Kowalski stated that staff could find no further information other than
 156 what was submitted earlier regarding the requested boundary change).

157
 158 D. Tope – So the tax bills show there was no change – so no action was taken or pursued.

159 D. Gregorka – Stated that a building permit was issued and D. Tope stated that that was a
160 separate issue.– The ball got dropped on the partial rearrangement.
161

162 D. Tope – The fact that the tax bills didn't change would have been notice to the property
163 owner that their request didn't go through.
164

165 W. Carman – There have been interpretations in the recent past that you can build a building
166 over a property line, especially when the property is owned by the same person, and I can cite
167 two places – one on Washtenaw on Pittsfield and one in Plymouth Professional Park in which
168 we actually approved it that way. I can't speak to what the thoughts were in 1965, but it's
169 possible that they didn't see that as inconsistent. Maybe they turned down the lot line change
170 and you don't have the record of it.
171

172 K. Loomis – In some ways it makes sense to make the lot lines as sensible as possible. If the
173 land itself corresponds with what the petitioners state here (the land corresponds with the
174 brush line and actual topography), I think it makes sense to grant the variance this variance in
175 order to correspond to what is apparent to the eye on the property line itself.
176

177 W. Carman – So what will you do when the person in the smaller lot and home comes in and
178 says "I need to add onto my house?" We, as the Board would create that. (D. Gregorka –
179 Stated the petitioner is the one requesting it, not the Board).
180

181 Petitioner – Pointed out surrounding lots near these properties that are still smaller.
182

183 J. Carlberg – Concurred with the petitioner, but said that in the interest of justice for future
184 owners of these properties that a decision be made.
185

186 W. Carman – Stated she was not opposed to two properties, but it used to be that it wasn't
187 within the Boards purview to make a conforming lot non-conforming. That language has
188 changed in the ordinance, but during the 80's it couldn't be allowed. I'm also concerned that
189 some of the arithmetic here doesn't add up either. It is approximately 1600 sq. ft. short on the
190 proposed new lot on Sixth Street, and 2600 sq. ft. short on the lot on Madison.
191

192 C. Kuhnke – Stated that since the Board does now have the ability to approve these instances,
193 that this would suggest that there are certain cases where this would be appropriate.
194

195 D. Tope – Reminded the petitioner and the Board that the Board also has the ability to put
196 'conditions' or restrictions on a particular ruling. Some of those conditions could speak to this
197 problem that go with the land so that it is understood down the road.
198

199 Petitioner – Stated that he wanted to make two additional points. Going back to the historical
200 part of this situation, on the drawing from the deceased owner, it says 'division line per owners
201 instructions, so, the city of Ann Arbor clearly got the drawing, it has the building departments
202 stamp on it so it was known at the time that they did this. He also stated that they are trying to
203 make one lot less non-conforming at the expense of the other.
204

205 J. Carlberg – Asked if the petitioner could put a stipulation on the sale of this house that you
206 inform the new owners that they will have to get a variance for any changes to the house due
207 to its non-conformity. You would want someone to know that they will go through considerable
208 legal process in order to change things.

209 Petitioner – Stated that he thinks that anyone who buys a house checks on whether it's legal
210 and conforming, that's an obligation. (Board and staff emphatically stated NO, THEY DON'T!).
211

212 W. Carman (To M. Kowalski) – They can make an addition to the house even though the lot is
 213 too small, provided that the addition conforms to the setbacks. We will have given a variance
 214 for the rear setbacks, if it complied to those setbacks, they would not need permission (Yes – It
 215 would have to remain Single-Family Dwelling District due to the lot size though).

216
 217 **Public Comment** - None.

218
 219 **Discussion by the Board**

220
 221 C. Kuhnke – If the only way this will pass is to keep the restriction to a one-story home, then
 222 I’m going to support it, but in general I don’t support the concept behind it. We’re creating a
 223 situation where every other house around the Sixth Street house can impact the Sixth Street
 224 house by adding a second story and the West Madison house can’t. Your protection against
 225 having a second story built on the house next to you is to buy the house next to you, if that is
 226 of such great concern, and that exists throughout the city.

227
 228 D. Gregorka – States that he doesn’t agree with that, as there is no reason why this parcel
 229 can’t add on a second- story if they get a variance in the future. It’s not prohibited, it’s just
 230 requiring a variance if they want a second story on it. (C. Kuhnke – There is not another
 231 neighbor around that needs to do that. You can’t restrict someone from building up.)

232
 233 **MOTION**

234
 235 Moved by Wendy Carman, Seconded by D. Gregorka, “**that in the case of Appeal Number**
 236 **ZBA08-009, 547 Sixth Street and 714 West Madison Street, that the Board grant a**
 237 **variance of 2,605 square feet, from the required lot size of 8500 square feet and a**
 238 **variance of 12 feet, 10 inches from the required 30 foot setback requirement to allow a**
 239 **parcel of 5, 895 feet with a rear setback of 17 feet, 2 inches (at 714 West Madison), per**
 240 **submitted plans of the existing structure. Given the following findings of fact;**

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1. **The building at 548 Sixth Street was allowed to be built across property lines, encroaching plus or minus 14 feet into the adjacent property, is exceptional and peculiar to these properties.**
 2. **The variances being requested are intended to correct a problem created in the 1960’s.**
 3. **This is a unique condition in the city to have buildings constructed across property lines, and the owner needs to obtain a boundary adjustment in order to separate ownership of the two lots.**
 4. **Failure to grant the requested variances will result in more than just mere inconvenience, as it may prohibit the sale of these properties without removing the addition at 547 Sixth Street.**
 5. **Allowing the variance will result in substantial justice being done, since it will rectify an error made in the ‘60’s and will not affect any neighbors.**
 6. **The conditions that created this hardship are not considered ‘self-imposed,’ because the owner had the necessary permits to build the addition and his lack of a boundary change/approval was not noticed for more than forty years.**
 7. **The variance is the minimum necessary to separate these two parcels.”**

260 **On a Roll Call Vote – MOTION PASSED – (2) Nay, (6) Yea (1) Temporarily Absent**
 261 **(Variances Approved)**

262
 263 **(2) Nay - Carlberg & Tope ----- (6) Yea – Carmen, Carver, Gregorka, Kuhnke, C. Briere &**
 264 **K. Loomis --- (1) Temporarily Absent (S. Briere had stepped out)**

C-2 833 East University Avenue – ZBA08-010

Michael Van Goor is requesting permission to alter a non-conforming structure from **Chapter 55** (Zoning), **Section 5:86**, in order to permit an addition to the rear of an existing house.

Description and Discussion

The subject parcel is located at 833 East University. The parcel is zoned R4C (Multiple-Family Residential District) and is located on the east side of East University. The house is three-stories, 6068 square feet, and was built in 1920. The existing house has 5 rental units containing a total of 15 bedrooms.

The petitioner is proposing to construct a three-story addition with basement to the rear of the house containing a total of 2,955 square feet. After construction of the addition, the house will be 9,023 square feet and will have twenty-four bedrooms. However the total number of units in the house will be reduced from five (non-conforming for units per lot area), to four (conforming). The existing structure is non-conforming because it is built approximately 6 feet into the side yard setback. However, the proposed addition conforms to all zoning standards and will be setback 12 feet from the northern side property line. Even though the proposed addition conforms to all zoning standards, the project needs ZBA approval because the code only exempts alterations to non-conforming single-family houses. The addition is set back 42 feet from the rear property line and over 17 feet from the southern side property line. No other part of the structure is constructed within the setbacks.

The proposed addition requires a site plan for City Council approval due to the addition of floor area to a multiple-family structure. This project was recommended for approval at the December 16, 2008 Planning Commission meeting.

Questions to Staff by the Board - None.

W. Carman - How many parking spaces are there currently? (M. Kowalski -9). How many will there be when we're done? (6).

C. Carver – How many unrelated people can live in an R4C zoned property? (Six unrelated people per unit – 4 – 6 bedroom units - 24 people.)

Petitioner Presentation

Mr. Michael Van Goor, Petitioner for this property, was present to speak on behalf of the appeal. He stated that staff had covered the issue thoroughly. The house was built in 1920 and the footprint was 712 sq. feet. Our addition in the rear has a footprint of 970 square feet, so that is an increase of 258 sq. feet. The addition follows the building line on the north and the rear. We have pulled the north line in to conform with the 12 ft. setback all around. Although there are 9 vehicles currently parked on the site, they are non-conforming as they are doubled up. (M. Kowalski – 6 legal spaces). The idea is to bring this into conformity with the zoning and building codes. The number of units is being decreased to the maximum four allowed based on the lot area

They are decreasing the number of parking spaces to conform as well as building code compliance with fire rated walls between unit and proper egress. The overall intent is to 'clean things up' if you will. It should be noted that it was requested that additional bike parking was

317 requested for the site plans and was agreed that I and planning staff would work together on
 318 this for a goal of 12 bike parking spaces on the property and that these would be covered.

319

320 **Questions of the Petitioner by the Board**

321

322 C. Carver – Assuming your client is going to rent to 24 people and there are only six parking
 323 spaces, where are the plans for the other 18 cars? (Petitioner – There aren't currently 18 cars
 324 on the site). You have 6 legal parking spaces and 24 bedrooms/people. If we assume they all
 325 have cars, then I'm concerned about the parking. (Part of this renovation is to help to monitor
 326 how many people are in this dwelling – many of the older homes have very large rooms and
 327 although they may be leased to one person, you know as well as I do that there are more than
 328 one person in each of these rooms. Our room sizes will not permit more than 24 people.)
 329 That's fine, but you'll still have 24 people/possibly 24 cars.

330

331 *(7:17 p.m. S. Briere returns at this time).*

332

333 (C. Carver asked J. Carlberg how the Planning Commission deals with the parking quandary).

334

335 J. Carlberg – The Planning Commission takes the position that we don't want to encourage
 336 students to bring cars; there is not extra space. If someone chooses to rent in any of the
 337 homes in this particular area, they have to figure out if they can rent a space somewhere else
 338 (if there is not one available to them there), or choose not to live there, but there is not
 339 additional parking in this area, and that is an incentive not to bring a car.

340

341 C. Carver – The streets are loaded with cars, so that not everybody follows that thought.

342

343 J. Carlberg – That is the limit that is set. What the surrounding neighborhood has done has
 344 decreased the opportunity for parking. So, don't bring your car, bring your bike.

345

346 D. Tope (To Petitioner) – The current structure is how many stories, including all habitable
 347 space? (Four) The basement is habitable? (Yes.)

348

349 D. Gregorka (To Petitioner) – Just to be clear, you're going to 24 bedrooms. What are you
 350 currently at this home? (15 bedrooms). (It's non-conforming because of the number of units
 351 and because of the side setback on the existing structure.)

352

353 **Public Comment** – None.

354

355 (One letter submitted and read into the record – recommends rejection of this petition.)

356

357 **Discussion by the Board**

358

359 D. Tope – Because these units are large, they are probably housing more than 30 as it is. This
 360 way, they would be limited per bedroom.

361

362 **MOTION**

363

364 **Moved by K. Loomis, Seconded by C. Kuhnke, "In regard to Appeal Number ZBA08-010,
 365 833 East University, the Board grants permission to alter a non-conforming structure
 366 based on the following findings of fact and in accordance with the established
 367 standards for approval, per submitted plans:**

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369

370 **Based on the following findings of fact and in accordance with the established**
 371 **standards for approval, Chapter 55, Section 5:87, the Zoning Board of Appeals hereby**
 372 **grants permission to alter a non-conforming structure.**
 373

- 374 **1. The alteration complies as nearly as practicable with the requirements of the**
 375 **Zoning Chapter, where the addition complies with the required setbacks; and**
 376
 377 **2. The alteration will not have a detrimental effect on neighboring property, given**
 378 **that the parcel is in an area of multi-family homes and the size of the structure**
 379 **will remain consistent with surrounding properties.”**
 380

381 **On a Voice Vote – MOTION TO APPROVED - PASSED – (Permission to alter a Non-**
 382 **conforming Structure – Granted) - (1) Nay, (8) Yea**
 383
 384
 385

386 **C-3 808 Tappan Street – ZBA08-011**
 387

388 Michael Van Goor is requesting permission to alter a non-conforming structure from
 389 **Chapter 55 (Zoning), Section 5:86**, in order to permit an addition to the rear of an
 390 existing house.
 391

392 **Description and Discussion**
 393

394 The subject parcel is located at 808 Tappan. The parcel is zoned R4C (Multiple-Family
 395 Residential District) and is located on the west side of Tappan. The house is three-stories,
 396 6608 square feet, and was built in 1910. The existing house has 6 rental units containing a
 397 total of 12 bedrooms.
 398

399 The petitioner is proposing to construct a small three-story addition to the rear of the house
 400 containing a total of 880 square feet. After construction of the addition, the house will be 7,488
 401 square feet and will have twenty-four bedrooms. However the total number of units in the
 402 house will be reduced from six (non-conforming for units per lot area) currently, to four
 403 (conforming). The existing structure is non-conforming because it is built approximately 4 feet
 404 5 inches into the side yard setback. No other part of the structure is within the setbacks. The
 405 proposed addition will continue this non-conformity, but will not increase the encroachment into
 406 the side yard setback.
 407

408 The proposed addition does not extend any closer to the side property line than the existing
 409 structure, therefore only permission to Alter a Non-Conforming structure is needed and not a
 410 variance. The structure was built at a slight angle on the property so the rear addition is slightly
 411 further from the side property line than the existing structure. When completed the addition is
 412 set back over 80 feet from the rear property line and over 14 feet from the northern side
 413 property line and 7 feet 10 inches from the side.
 414

415 The proposed addition requires a site plan for City Council approval due to the addition of floor
 416 area to a multiple-family structure. **This project was recommended for approval at the**
 417 **December 16, 2008 Planning Commission meeting.**
 418

419 **Questions to Staff by the Board - None.**
 420

421 **Petitioner Presentation**

422
423 Mr. Michael Van Goor, Petitioner for this property, was present to speak on behalf of the
424 appeal. He stated that they are really trying to 'clean-up' this property and make it conforming
425 to the Zoning and Building codes. As staff indicated, there are parking spaces that are being
426 removed from the site – there is currently non-conforming parking in the front setback which
427 we would like to keep, but because it is non-conforming, it is being removed. Also as staff
428 noted, we are filling in the back corner where there is currently a covered porch. The intent is
429 that that would match the exterior design of the existing structure as well.

430
431 **Questions of the Petitioner by the Board**

432
433 W. Carmen – The non-conforming part of the addition is only 80 square feet? (M. Van Goor –
434 it's 50 square feet.) That area is three stories high, so it's 150 square feet? Three bedroom?
435 (That is the equivalent of one bedroom, as this doesn't include wall thickness, etc.)

436
437 D. Tope – The asphalt in the front is going to be new asphalt, even though on paper you're
438 removing parking? (M. Van Goor – that area is currently all gravel. It is considered paving
439 from an engineering point of view.) So the whole expanse is gravel? (Yes. That shows on
440 aerial photos dating back to 1957.) The new asphalt is narrowing the 'parkable' area and new
441 asphalt in the rear with added in the rear? (M. Kowalski – Those will be carports.)

442
443 **Public Comment** – (One letter submitted and read into the record – recommends rejection of
444 this petition.)

445
446 **Discussion by the Board**

447
448 D. Gregorka – I'm struggling a bit with the proposed addition and why it has to go into the side
449 setback. If you look at the plans, it's part of a bedroom on the first and second floors and part
450 of the kitchen on the basement level. Couldn't it be done without the addition encroaching?

451
452 M. Van Goor – Part of the geometry of this house and part of the character we're trying to
453 preserve is the central stairwell that runs up all the way through the home – so for me to
454 provide proper planning for fire separation, we're getting rid of all of the small, scattered
455 bedrooms and are providing one bedroom.

456
457 *(Discussion between the Board & Petitioner regarding possible options of maintaining the*
458 *home without intrusion into the setback and permission to alter a non-conforming structure.)*

459
460 W. Carman – Stated that she thought that this was a minimal intrusion into the setback, and
461 doubts that it would reduce the amount of bedrooms if it weren't approved. These are mutual
462 concerns that we share regarding high density and parking in these areas – it's a mute point as
463 they could have the same number of bedrooms. In approving permission to alter a non-
464 conforming structure, we don't insist that they build the minimal possible, so I'll vote for this.

465
466 S. Briere – Each of these bedrooms is much larger than my own (which holds two adults); so
467 the concept that these will be limited to one person each seems like such a luxury and
468 unbelievable. Those concerned about density in this area may have a valid point, however
469 that does not seem to be the purpose of this body. Having missed part of the discussion on
470 the last house and having been a part of this one, my biggest concerns would be the effects on
471 the adjoining properties, which seem minimal, so I'll be voting for this.

472 **MOTION**

473

474 Moved by K. Loomis, Seconded by C. Briere, "In regard to Appeal Number ZBA08-011, 808
 475 Tappan Street, that the Zoning Board of Appeals grants Permission to Alter a Non-
 476 Conforming Structure, based on the following findings of fact and in accordance with
 477 the established standards for approval, per the submitted plans:

478

479 a) The alteration complies as nearly as practicable with the requirements of the
 480 Zoning Chapter. Where the addition is small: and,

481

482 b) The alteration will not have a detrimental effect on neighboring property.

482

483 **On a Voice Vote – MOTION TO APPROVED - PASSED – (Permission to alter a Non-
 484 conforming Structure – Granted) - (1) Nay, (8) Yea**

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486

487

C-4 1012 Hill Street – ZBA08-012

488

489 Michael Van Goor is requesting permission to alter a non-conforming structure from
 490 Chapter 55 (Zoning), Section 5:86, in order to permit an addition to the rear of an
 491 existing house.

492

493

Description and Discussion

494

495 The subject parcel is located at 1012 Hill Street. The parcel is zoned R4C (Multiple-Family
 496 Residential District) and is located on the south side of Hill, just west of East University. The
 497 existing house is three-stories, 5,654 square feet, and was built in 1910. The existing house is
 498 a mix of a nine-bedroom boarding house, and two rental units containing a total of 6 bedrooms.
 499 The boarding house is a non-conforming use in the R4C district.

500

501 The petitioner is proposing to construct a three-story addition to the rear of the house
 502 containing a total of 1,816 square feet. After construction of the addition, the house will be
 503 7,470 square feet. The non-conforming boarding house and existing units will be removed and
 504 replace with four six bedroom units. The existing structure is non-conforming for the two side
 505 setbacks. On the eastern side, the existing house encroaches approximately 4 feet into the
 506 side setback, the proposed addition will not encroach into this side setback. When completed,
 507 the addition will be 23 feet 7 inches from the eastern side property line.

508

509 Along the western side the existing structure encroaches approximately 1 foot 9 inches into the
 510 side yard setback. The proposed addition will continue the existing building line, but will not
 511 increase the encroachment into the side yard setback. The structure was built at a slight angle
 512 on the property so the proposed rear addition is slightly further from the property line than the
 513 existing structure. At most, the proposed addition encroaches 6 inches into the western side
 514 setback. When completed the addition is set back over 42 feet from the rear property line and
 515 does not increase the encroachment into any required setback, therefore only permission to
 516 Alter a Non-Conforming structure is needed and not a variance.

517

518 The proposed addition requires a site plan for City Council approval due to the addition of floor
 519 area to a multiple-family structure. This project was recommended for approval at the
 520 December 16, 2008 Planning Commission meeting.

521

522 **Questions to Staff by the Board** - None.

523

524

525 **Petitioner Presentation**

526

527 Mr. Michael Van Goor, Petitioner for this property, was present to speak on behalf of the
 528 appeal. He stated once again that they are really trying to 'clean-up' this property and make it
 529 conforming to the Zoning and Building codes. The staff reports there is 20 feet of living space
 530 within the side setback – it actually goes from 4 inches where we're connecting to the existing
 531 side wall on the west side, which is half the thickness of the wall, that wall being brick and
 532 tapered to 2 inches, for a total of 3 square feet, not 20 square feet per floor – so what is asked
 533 for is a total of 9 square feet (3 floors times 3 square feet). The idea is the same as the other
 534 properties, by following the same lines of the home.

535

536 **Questions of the Petitioner by the Board**

537

538 D. Gregorka – What is the current legal occupancy? (M. Van Goor – The current number of
 539 bedrooms is 16, only one of those rooms is a 'two person' room.)

540

541 J. Carlberg – On the west side of your home you're showing window wells for egress windows.
 542 You appear to have a twelve foot driveway, how much do those window wells intrude into the
 543 driveway? (M. Van Goor – Three feet and there are existing 3 foot window wells there now.)
 544 Is there some kind of a grate around them to at ground level? (There are bollards, approved
 545 by the Planning Commission, which are required to have them built up around them with a rail
 546 to prevent someone from falling into them.)

547

548 This makes your drive actually 9 feet wide. I hope that no one inebriated has to use this.

549

550 **Public Comment** – None.

551

552

553 **Discussion by the Board**

554

555 D. Tope - I like this as it gives me a graphic example of 'minimal.'

556

557 **MOTION**

558

559 Moved by D. Tope, Seconded by K. Loomis, "In regard to Appeal Number ZBA08-012,
 560 **1012 Hill Street, that the Zoning Board of Appeals grants Permission to Alter a Non-**
 561 **Conforming Structure, based on the following findings of fact and in accordance with**
 562 **the established standards for approval, Chapter 55, Section 5:86 per the submitted**
 563 **plans:**

564

565 a) The alteration complies as nearly as practicable with the requirements of the
 566 Zoning Chapter. Where the addition is small: and,

567

568 b) The alteration will not have a detrimental effect on neighboring property.

569

570 **On a Voice Vote – MOTION TO APPROVED - PASSED – UNANIMOUS (Permission to**
 571 **alter a Non-conforming Structure – Granted)**

572

573

574

D. **OLD BUSINESS**

575

576

E. **NEW BUSINESS** - None.

577

578 F. **REPORTS & COMMUNICATIONS** - Included under each appeal.

579
580 G. **AUDIENCE PARTICIPATION – GENERAL**


581
582 **ADJOURNMENT**

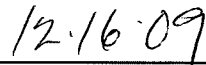
583
584 Moved by D. Gregorka, Seconded by C. Carver, “that the meeting be adjourned.”

585
586 **On a Voice Vote – MOTION TO ADJOURN - PASSED - UNANIMOUS**

587
588 Chairperson Carol Kuhnke adjourned the meeting at 7:59 p.m.

589
590 *(Submitted by: Brenda Acquaviva, Administrative Support Specialist V –*
591 *Zoning Board of Appeals)*

592
593 
594 _____
595 Carol Kuhnke, Chairperson



Dated ZBA Minutes