

CITY OF PONTIAC
ZONING BOARD OF APPEALS
MONDAY, AUGUST 20, 2018
7:00 P.M.

Meeting before the Zoning Board of Appeals, at
47450 Woodward Avenue, 2nd Floor, Council Chambers,
Pontiac, Michigan 48342.

BOARD COMMISSIONERS:

Carlos Bueno, Vice Chairman
Elcine Kirkendolph, Commissioner
Joseph Sinclair, Commissioner
Lucy Payne, Commissioner
Laurie Bishop, Commissioner
Sam Anderson, Commissioner

CITY OFFICIALS PRESENT:

Vern Gustafsson, Planning Manager
Donovan Smith, Assistant City Planner

MEMBERS OF THE PUBLIC ADDRESSING THE ZBA:

Marlon May
Michael Wilson
Douglas Meyer
Teri Trombley

MINUTES RECORDED BY:

Quentina R. Snowden, (CSR-5519)
Certified Shorthand Reporter

1. CALL TO ORDER: Vice Chair Bueno called the meeting to order at 7:01 p.m.

2. ROLL CALL:

PRESENT: Carlos Bueno, Vice Chairman
Elcine Kirkendolph, Commissioner
Joseph Sinclair, Commissioner
Lucy Payne, Commissioner
Laurie Bishop, Commissioner

EXCUSED: Sam Anderson, Commissioner

Mr. Gustafsson reported a quorum is present.

3. COMMUNICATIONS: (None.)

4. ADOPTION OF MINUTES: July 16, 2018.

Motion to approve by Commissioner Bishop;
Seconded by Commissioner Kirkendolph.

(All eyes to approve the minutes, except
Commissioner Kirkendolph abstained.)

5. OLD BUSINESS:

(Motion by Commissioner Payne; Seconded by
Commissioner Sinclair to bring item ZBA 18-06
back to the floor.)

5.1 ZBA 18-06

Applicant: Marlon May

Property Address: 695 3rd Avenue

Zoning: R-1 Single-Family Dwelling
District

Variance Request: Dimensional variance for
existing accessory garage structure

(Presentation of facts provided by Mr. Gustafsson.)

Mr. Marlon May approached.

Vice Chair Bueno indicated they are faced with the
same situation as the month prior with five voting
members present out of seven.

Mr. May indicated the difficulties with the
contractor, and how he is a victim in this.
He stated he feels it falls on the

contractor.

Vice Chair Bueno indicated the fact findings of last month was he was sent notices of violations and he proceeded with construction.

(Vice Chair Bueno opened the public hearing.)

Mr. Michael Wilson, building official, City of Pontiac approached. He stated he's very familiar with the property. He stated he filed a complaint on the owner's behalf with the State of Michigan against the builder. He stated in early 2017 he spoke with Mr. May about the project and explained he had to go to the Zoning Board of Appeals for a variance, couldn't continue until that happened and then they would issue a building permit. He stated it went from a shell to a completed structure with no permits, no approvals, no inspections. He stated in the State Building Code it's an illegal structure that has to be removed, unless and until such time he goes through the process and gets the proper approvals.

He stated they still have not seen plans for the structure and have no idea how it is constructed.

(Public comment was closed.)

Commissioner Sinclair stated he has no questions, but discussed other properties that have gone far beyond a cease and desist with the City. He stated he's at this impasse now again. He stated he's all for going forward to make sure everything within the City is looked at equally. He stated the builder is incarcerated for 50 plus years, and he doubts a plan can be dug up from anything he's done based on how he was charged even by the State.

He stated again he sent out an e-mail. He stated points 2 and 3 were already mitigated when the garage was built. He referred to comments he made at the previous meeting. He feels like he was cut off by staff and the Chairperson at the last meeting when he was trying to explain that the drainage has already been placed into the ground, and there is no

run-off, otherwise the grass would not be existing in the area.

He stated as far as shrubbery again on the opposite side of the fence that is his sister's property. He stated the rocks going there have controlled the drainage and there's never been a problem since they have seen anything other than in the spring during the thaw.

He stated he's all for going forward and being fair. He stated he has seen too much coming across where have been slapped in the face and disrespected, but he is seeking to be fair for the citizens and businesses alike.

Mr. Gustafsson stated he appreciates Commissioner Sinclair's comments, however, as a Zoning Board they need to focus on the ordinance to determine what the practical difficulty is. He pointed out the issues which are laid out in the report as far as the structure being oversized, etc. He stated he does not believe the ZBA can legally grant the variance. He stated it does not meet the intent of the ordinance as relates to practical difficulty or unnecessary hardship, that it was self-created.

Commissioner Sinclair stated they legally can allow the additional feet over the ordinance.

Mr. Gustafsson confirmed that the garage is 5 feet over height. He stated an accessory structure must not measure more than 50 percent of the total area, which is 975 square feet. He stated the home is 750 square feet.

Commissioner Payne inquired if there were plans or any materials confiscated from the builder's office.

Mr. May stated he did not know if they were seized or not. He stated if the builder would have informed him of the non-conformance, he would not have started building.

Commissioner Payne inquired of Mr. Wilson if he needed the blueprints for the garage.

Mr. Wilson stated a set of drawings for the construction of the garage with the completed application. He stated they received nothing.

Commissioner Payne inquired if the applicant would hire another builder to come in and draw the prints, and put in the application, if that would be acceptable.

Mr. Wilson stated as it stands today, it's still oversized and too high.

Commissioner Payne stated this is a difficult case. She stated this is obviously an improvement.

Mr. Wilson stated once the plans are received for an accessory structure, the first place they go is either the Planning Manager or the Assistant Planner.

Commissioner Payne inquired as to whose responsibility it is to submit the plans.

Mr. Wilson stated the applicant is responsible for it; ultimately the property owner is responsible. He pointed out again, that if they had received plans, they would have informed the applicant that it was too large and that it needed to go to the ZBA. He stated that would automatically stop the whole process.

Mr. May stated the builder stated he was taking care of it, and he paid him \$1,000 to do all of it so he wouldn't have to deal with the City at all. Mr. May wanted to show a video, but Vice Chair Bueno stated it was not the appropriate time to show the video.

Commissioner Payne discussed whether there could be a fee or penalty, as had been discussed previously.

Mr. Gustafsson indicated as a Board they cannot apply any fees or penalties on the property,

from the City's ordinance nor charter standpoint.

Commissioner Bishop stated this is a tough case and stated she thought last month she just couldn't order that the garage be taken down, that she was pretty firm on that. She stated, however, with the facts that have been presented by Mr. Wilson, that the applicant was told personally that he cannot build the garage as-is, and the applicant did so anyway, and that notices were sent to the house, she stated she feels like the applicant just neglected his responsibility to have it done according to the ordinance. She stated it's a horrible situation, but they are outside the law of approving it and it's troublesome to her.

Vice Chair Bueno asked for clarification on the height, and Mr. Gustafsson discussed that it was measured from the front.

Commissioner Payne discussed in the past they have made allowances for variances that are over the allowed size.

Vice Chair Bueno indicated they have depending on the size of the lot and different issues.

Commissioner Sinclair made a motion to pass with the height and the dimension variances as-is based on that it would be unreasonable to have this man tear this job down backwards. He stated they keep throwing the word legal out to cause a drawback. He stated if they were going to be legal, again, they should have been legal on other instances.

His motion is to approve the variance request with the height and the dimension.

Seconded by Commissioner Payne.

There was further discussion. Vice Chair Bueno stated this is strictly on the zoning size. He stated the applicant would still have to go through the legal process.

Commissioner Bishop inquired as to what that process would be. She stated she would like conditions as part of the motion: To confirm the blueprints and let the inspector in and pay for anything as far as permits.

Commissioner Sinclair stated he agrees with that.

He clarified his motion as follows: Motion to approve the variance request for the height and the dimensional variance contingent that plans are submitted, permit fees are paid and any other fines that are addressed by the Planning Department and Building and Safety in order for him to have the variance request, in addition to application fees.

Mr. Gustafsson requested an additional condition that all building permits are approved.

Commissioner Sinclair agreed with that, in addition to it being completed within 30 calendar days.

AYES: Sinclair, Payne.

NAYS: Kirkendolph, Bueno, Bishop

ABSTAIN: (None.)

MOTION FAILS 2-3-0

6. NEW BUSINESS:

6.1 ZBA 18-08

Applicant: Douglas Meyer

Address: 631 Brooks Ave

Zoning: R-1 Single-Family Dwelling
District

Variance Request: Dimensional variance for
accessory garage
structure

(Presentation of facts provided by Mr. Gustafsson.)

Mr. Douglas Meyer approached and stated he has an RV and a classic car and is looking for a facility to put them in. He stated at first he had a misunderstanding of what was allowed. He stated Mr. Wilson came out and approved the slab. He was informed he

needed to combine his two properties and he did so.

(Vice Chair Bueno opened the public hearing; no one approached.)

Commissioner Payne asked if the applicant spoke to the neighbors.

Mr. Meyer stated he talked to all of them and none of them have a problem with it.

Commissioner Sinclair stated he is the applicant's neighbor about five blocks down. He stated he knows the yards and has seen the pad.

Vice Chair Bueno stated this is a larger lot. He stated how commercial doors tend to lead to commercial activities later on down the road. He questioned whether there would be any plumbing or heating going into the structure.

Mr. Meyer stated there would only be electrical going in. He showed some pictures of what it would look like.

Motion made by Commissioner Bishop to approve the request for dimensional variance for the property at 631 Brooks to build a second 800-square foot accessory-type structure.

Seconded by Commissioner Kirkendolph.

AYES: Kirkendolph, Bueno, Bishop, Payne, Sinclair

NAYS: (None.)

ABSTAIN: (None.)

MOTION CARRIES 5-0-0

6.2 ZBA 18-10

Applicant: Signs & Engraving

Address: 2000 Centerpoint

Zoning: M-2 Heavy Manufacturing

Variance Request: Sign height & size
dimensional variance

(Presentation of facts provided by Mr. Gustafsson.)

Ms. Teri Trombley approached. She stated

she believes they have all the facts and it seems pretty clear. She stated it matches the two signs on the adjacent corners. She stated she believes it will be an upgrade to the surrounding area.

(Vice Chair Bueno opened the public hearing; no one approached.)

Motion made by Commissioner Kirkendolph to approve the variance request for the feet height from 70 square feet sign of 2000 Centerpoint Plaza Parkway to build a ground size 12 feet high with 150 square feet sign area.

Seconded by Commissioner Bishop.

AYES: Bishop, Bueno, Kirkendolph, Payne, Sinclair

NAYS: (None.)

ABSTAIN: (None.)

MOTION CARRIES 5-0-0

7. PUBLIC COMMENT: (None.)

8. MISCELLANEOUS: (None.)

9. ADJOURNMENT:

Motion by Commissioner Payne to adjourn.

(Seconded by Commissioner Kirkendolph.)

Adjourned at 8:03 p.m.

Minutes certified by:



/s/ Quentina Rochelle Snowden, CSR-5519
QRS Court Reporting, LLC
800.308.0068