

ZONING BOARD OF APPEALS
TUESDAY, AUGUST 19, 2014 @ 7:00P.M.

CALL TO ORDER: 7:10 p.m.

COMMISSIONERS: Chairman - Mr. Lee Todd
Mr. Ahmad Taylor
Mr. Sam Anderson, Jr.
Ms. Elcine Kirkendolph
Mr. Joseph Sinclair
Mr. Carlos Bueno
Mr. William Carrington

CHAIRMAN TODD: I will call the meeting to order. Roll call, please.

MR. SABO: Anderson?

MR. ANDERSON: Here.

MR. SABO: Chairman Todd.

MR. TODD: Here.

MR. SABO: Taylor?

MR. TAYLOR: Here.

MR. SABO: Kirkendolph?

MS. KIRKENDOLPH: Here.

MR. SABO: Carrington?

MR. CARRINGTON: Here.

MR. SABO: Sinclair?

MR. SINCLAIR: (Arrived at 7:30 p.m.)

MR.SABO: Bueno?

MR. BUENO: Here.

EXCUSED: None.

ABSENT: None.

ALSO PRESENT: Mr. James Sabo, Professional Planner
Mr. Gordan Bowdell, Associate Planner

COMMUNICATIONS: None.

ADOPTION OF MINUTES: June 17, 2014.

COMM. TAYLOR MADE A MOTION FOR APPROVAL OF THE MINUTES FOR June 17, 2014 AND COMM. CARRINGTON SUPPORTED.

CHAIRMAN TODD: Roll call, please.

VOTE: AYES: Taylor, Carrington, Anderson, Sinclair, Kirkendolph, Chairman Todd.

NAYS: None.

ABSTAIN: None.

Motion passes 6-0-0.

OLD BUSINESS: Mr. Bowdell stated the projector is currently down for repair, handouts of the power point presentations have been given to all commissioners.

NEW BUSINESS:

PUBLIC HEARING NUMBER: ZBA-14-12

Finding of facts presented by Mr. Sabo.

Address: 867 South Blvd. E.

Variance Request: Section 2.311(B) – Dimensional and design standards in a C-4, Suburban Business District and M-1, Limited District for Minimum Setback and Maximum Height

Present Use & Occupancy: Ultimate Soccer Arenas/Vancan Land

Proposed Use & Occupancy: **Ultimate Soccer Arenas and expansion**

Dimensional Variance Request:

Dimensional variances related to proposed construction of a new building addition and expansion at the existing soccer arena site. The applicant is requesting to construct a building addition and expansion at the existing soccer arena site. The applicant is requesting to construct a building addition approximately 260' x 375' (97,500 sf) onto the existing west side building of the soccer facility. Variance for Dimension requested as follows:

Dimensional variance requested for Section 2.311 Maximum Building Height; the maximum allowable building height in the C-4 business district is 35 feet. The proposed building height is 55 feet. It will match the existing building height of the facility. The applicant is requesting a dimensional variance of 20 feet in height.

Claimed Practical Difficulty:

(Dimensional Variance) Currently the site is an existing private recreational soccer facility along S. Boulevard.

The applicant has stated the variance request is based on practical difficulty related to the particular existing conditions at the site. The applicant claims that the current soccer facility buildings have been constructed and exist. At the time of construction (2007), a building permit was issued without the need for a height variance. They state that the existing buildings are in place, open and operational. The applicant wishes to construct and addition to match the existing building at the site. No other practical difficulty information was provided.

Staff Findings:

1. The subject site is zoned C-4, Suburban Business.
2. The proposed building addition will not meet the zoning ordinance provisions for building height.
3. The existing building and site was approved and constructed in 2007-2008.
4. The existing building height is 55 feet.
5. The existing building did not receive a height variance in 2006-2007.
6. Without a ZBA variance the maximum building height is 35 feet.

AUTHORIZATION: **Section 6.407 Dimensional Variance**

Authority – The Zoning Board of Appeals may grant a dimensional (nonuse) variance to provide relief from a specific standard in this Ordinance relating to an area, a dimension or a

construction requirement or limitation, upon the concurring vote of a majority of the members of the Zoning Board of Appeals.

Practical Difficulty – A nonuse variance shall not be granted unless the Zoning Board of Appeals finds that there is a practical difficulty in the way of carrying out the strict letter of this ordinance. In determining whether a practical difficulty exists, the Zoning Board of Appeals must find that:

1. Compliance with strict letter of the restrictions governing area, setback, frontage, height, bulk, lot coverage, density or other dimensional or construction standards will unreasonably prevent the owner from using the property for a permitted purpose or will render conformity with such restrictions unnecessarily burdensome.

Meets the standard - **The property owner will be unreasonably prevented from utilizing the property for a permitted purpose based on the existing building height and site operation.**

2. A grant of the variance will do substantial justice to the applicant as well as to the other property owners in the district, and a lesser variance will not give substantial relief to the applicant as well as be more consistent with justice to other property owners in the zoning district.

Meets the standard – **A variance will provide substantial justice to the applicant as the building height was not addressed previously. The applicant owns and operates a business in an existing building at the site.**

3. The plight of the applicant is due to the unique circumstances of the property.

Meets the standard – **There are unique circumstances at the property. The building height was not previously addressed and the existing building was constructed and is a nonconforming condition.**

4. The problem is not self-created.

Meets the standard – **The problem is self-created. The applicant has proposed to match the existing building with an addition that does not meet the zoning ordinance provisions. The existing nonconforming condition is not self-created.**

5. The spirit of the ordinance will be observed, public safety and welfare secured, and substantial justice done.

Meets the standard – **The spirit of the ordinance will be observed, public safety and welfare secured, and substantial justice done.**

6. There is compliance with the standards set forth in *Sect 6.401.B*.

Meets the standard for supply of light/air, traffic, safety, welfare.

7. Compliance with standards for discretionary decisions contained in *Sec 6.303*.

Not Applicable

RECOMMENDATION:

To approve the dimensional variance request for ZBA-14-12, 867 S. Boulevard for Section 2.311 Maximum Building Height, a variance of 20 feet in building height; as the request appears to meet the specific standards for practical difficulty from Section 6.407 of the Zoning Ordinance.

George Derderian, 867 South Boulevard, stated he was satisfied with the presentation and added he has been trying to acquire the property and roadway from Raceway Trucks for the last 3 years now. He is looking to have uniformity with all his buildings and states that construction will be completed by the end of November 2014.

Comm. Todd asked Mr. Sabo if by approving the variance request for the building height, this will rectify the height variance for the existing buildings. Mr. Sabo stated yes.

CHAIRMAN TODD DECLARED PUBLIC HEARING OPEN.

None.

CHAIRMAN TODD DECLARED PUBLIC HEARING CLOSED.

COMM. TAYLOR MADE A MOTION TO APPROVE THE DIMENSIONAL VARIANCE REQUEST FOR ZBA-14-12, 867 S. BOULEVARD FOR SECTION 2.311 MAXIMUM HEIGHT, A VARIANCE OF 20 FEET IN BUILDING HEIGHT; AS THE REQUEST APPEARS TO MEET THE SPECIFIC STANDARDS FOR PRACTICAL DIFFUCULTY FROM SECTION 6.407 OF THE ZONING ORDINANCE.

COMM. KIRKENDOLPH SUPPORTED.

VOTE: AYES: Taylor, Kirkendolph, Bueno, Carrington Anderson, Chairman Todd.

NAYS: None.

ABSTAIN: None.

Vote 6-0-0 motion passes.

PUBLIC HEARING NUMBER: ZBA-14-14

Address: 2501 Centerpoint Parkway
Variance Request: Section 4.303 Table 8 – Minimum Parking Requirements to Reduce the Number of Off-street Parking Requirements
Present Use & Occupancy: Vancant/Former GM Facility
Proposed Use & Occupancy: Challenge Manufacturing

Mr. Bowdell stated the applicant has requested postponement to reappear before the Board on September 16, 2014.

COMM. BUENO MADE A MOTION TO POST-PONE ZBA-14-14, 2501 CENTERPOINT PARKWAY, UNTIL THE SEPTEMBER 16, 2014 ZBA MEETING.

COMM. CARRINGTON SUPPORTED.

VOTE: AYES: Bueno, Carrington, Kirkendolph, Bueno, Anderson, Chairman Todd.
NAYS: None.
ABSTAIN: None.

Vote 6-0-0 motion passes.

PUBLIC HEARING NUMBER: ZBA-14-15

Address: 1285 E Walton Blvd. (1510 Nob Ln.)
Variance Request: Section 4.103(A)(1) – Fence Requirements in Residential Districts to Allow for a Six-foot Fence
Present Use & Occupancy: Residential
Proposed Use & Occupancy: Residential

Presentation of Facts presented by Mr. Bowdell.

Dimensional Variance Request:

Dimensional Variance Request:

Section 4.3103(A)(1) Fence or Wall Height in residential district. Applicant is seeking to construct a 6 ft. fence within the front setback of the property.

Claimed Practical Difficulty:

The proposed fence will be located on the front entrance to the apartment complex. The Zoning Ordinance appears to inadvertently penalize the applicant because although the fence is located on the “front yard” the development is not a typical single family home. It appears that the intent of this section of the ordinance is to help control the front and side yard fence height in residential neighborhoods and does not necessarily apply to larger complexes within the zoning district. The proposed fence is better compared to a landscape feature for the entrance of a larger development.

Staff Findings:

1. The subject site is zoned R-3, Multiple Family Dwelling district.
2. Maximum fence height in the “front yard” of residentially zoned property is 4 feet.
3. The proposed fence will connect to an existing 6 ft. wrought iron appearing fence.
4. The proposed fence will be located at the entrance to the apartment complex.
5. The proposed fence has a wrought iron appearance with stone posts, limestone cap, and decorative lanterns.

AUTHORIZATION: Section 6.407 Dimensional Variance

Authority – The Zoning Board of Appeals may grant a dimensional (nonuse) variance to provide relief from a specific standard in this Ordinance relating to an area, a dimension or a construction requirement or limitation, upon the concurring vote of a majority of the members of the Zoning Board of Appeals.

Practical Difficulty – A nonuse variance shall not be granted unless the Zoning Board of Appeals finds that there is a practical difficulty in the way of carrying out the strict letter of this ordinance. In determining whether a practical difficulty exists, the Zoning Board of Appeals must find that:

1. Compliance with strict letter of the restrictions governing area, setback, frontage, height, bulk, lot coverage, density or other dimensional or construction standards will

unreasonably prevent the owner from using the property for a permitted purpose or will render conformity with such restrictions unnecessarily burdensome.

May/May not meet this standard - The restriction is on the proposed fence does not prevent the applicant from using the property for a permitted use. However, the applicant is seeking to use the fence as a landscape element as the entrance to their residence complex which could be considered unnecessarily burdensome.

2. A grant of the variance will do substantial justice to the applicant as well as to the other property owners in the district, and a lesser variance will not give substantial relief to the applicant as well as be more consistent with justice to other property owners in the zoning district.

Meets the standard – The proposed variance appears to provide justice to the applicant. The proposed six foot fence appears to provide the applicant with the visual appearance they are seeking for the entrance of their site. The applicant has an existing six foot fence at the site. A variance of 6 ft. should be considered as one already exists at the site.

3. The plight of the applicant is due to the unique circumstances of the property.

May meet this standard – The plight of the applicant is unique due to the fact that the use of the property is not a single/residence, it is a residential complex. The proposed 6 foot high fence will be located in the front of the property as an entrance to the site.

4. The problem is not self-created.

May meet this standard – The problem is self-created from the stand point that the applicant is requesting a six foot fence, however, the fact that the fence is acting as a landscape entrance is not self-created.

5. The spirit of the ordinance will be observed, public safety and welfare secured, and substantial justice done.

Meets this standard – It appears that the spirit of the ordinance will be observed. Although the proposal meets the definition and classification of a fence, the proposal appears to be more comparable to a landscape element/decorative feature. The proposed fence does not appear to negatively affect public safety or welfare.

6. There is compliance with the standards set forth in *Sect 6.401.B*.

Meets this standard.

7. Compliance with standards for discretionary decisions contained in *Sec 6.303*.

Not Applicable

RECOMMENDATION:

To approve the proposed 2 ft. dimensional variance request (ZBA-14-15) for Section 4.103(A)(1) of the Pontiac Zoning Ordinance, as it appears to meet the approval standards for practical difficulty described in Section 6.407 of the Zoning Ordinance.

The applicant, 1510 Nub Lane, was present and had nothing to add to the presentation except that he wanted to make a grand entrance into the complex.

CHAIRMAN TODD DECLARED PUBLIC HEARING OPEN.

None.

CHAIRMAN TODD DECLARED PUBLIC HEARING CLOSED.

COMM. TAYLOR MADE A MOTION TO APPROVE THE PROPOSED 2 FT. DIMENSIONAL VARIANCE REQUEST (ZBA-14-15), FOR SECTION 4.103(A)(1) OF THE PONTIAC ZONING ORDINANCE, AS IT APPEARS TO MEET THE APPROVAL STANDARDS FOR PRACTICAL DIFFICULTY DESCRIBED IN SECTION 6.407 OF THE ZONING ORDINANCE.

COMM. ANDERSON SUPPORTED.

VOTE: AYES: Taylor, Anderson, Kirkendolph, Bueno, Carrington, Sinclair, Chairman Todd.

NAYS: None.

ABSTAIN: None.

Vote 6-0-0 motion passes.

PUBLIC COMMENT: None.

MISCELLANEOUS: None.

ADJOURNMENT: MOVED BY COMM. BUENO TO ADJOURN. COMM. SINCLAIR
SUPPORTED.

All in Favor: Ayes: All Nays: None Abstain: None

7:38 p.m.