CALL TO ORDER:  7:12 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:  Sinclair?
MR. SINCLAIR:  Here.

MR. SABO:  Bueno?
MR. BUENO:  Here.

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

Mr. Sabo stated a quorum was present.
COMMUNICATIONS: None.


COMM. TAYLOR MADE A MOTION FOR APPROVAL OF THE MINUTES FOR December 16, 2014 AND COMM. KIRKENDOLPH SUPPORTED.

CHAIRMAN TODD: Roll call, please.

NAYS: None.
ABSTAIN: None.

Motion passes 6-0-0.

OLD BUSINESS: None.

NEW BUSINESS:

PUBLIC HEARING NUMBER: ZBA-15-01

Finding of facts presented by Mr. Bowdell.

Address: 555 E Madison Ave.

Variance Request: Use Variance – State Licensed Residential Facility (7 or more clients)

Present Use & Occupancy: One-Family Dwelling
Proposed Use & Occupancy: State Licensed Residential Facility (7 or more clients)

Dimensional Variance Request:
Section 2.203 Permitted Land Use by District: The request is to allow a type of use that is not a principal permitted use in the R-1, One-Family Dwelling District. Child day care is permitted up to 6 children.

Proposed use is a State Licensed Residential Care Facility for 7 to 12 clients (Child Day Care Group Home).
**Claimed Undue Hardship:**

The applicant stated that she has had a State Residential License at this location for over 15 years and was not aware of any zoning requirements for approval.

**Staff Findings:**

1. The subject property is zoned R-1, One-Family Dwelling district
   a. The proposed use is not permitted use within this zoning classification (based on 7-12 children).

2. The proposed use meets the Pontiac Zoning Ordinance definition of a **State Licensed Residential Facility (7 or more clients).**
   a. **“State Licensed Residential Facility.”** Any structure constructed for residential purposes that is licensed by the State of Michigan pursuant to Michigan Public Act 116 of 1973 (the Child Care Licensing Act) or Michigan Public Act 218 of 1979 (the Adult Foster Care Facility Licensing Act). This definition includes adult foster care facilities, foster family homes, foster family group homes, family day care homes, and group day care homes.
      i. **Group Child Day Care Home** means a private home in which more than 6 but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group child day care home includes a home in which care is given to an unrelated minor child for more than 4 weeks during a calendar year.”

3. According to the State of Michigan Records, the applicant received approval for a Child Day Care Group Home (Capacity 7-12) in 2003.

4. No documentation of local jurisdiction zoning approval was found/granted for the proposed State Licensed Residential Care Facility.
   a. According to the June 3, 1999 and November 8, 2006 Pontiac Zoning Ordinances the proposed use was not permitted in the R-1, One-Family Dwelling district. Home day care facilities licensed by the State of Michigan were restricted to “no more than six (6) children.”

5. State Licensed Residential Facilities (6 or fewer clients) is a permitted use within the R-1, One-Family Dwelling district.

6. The proposed use is a Special Exception Use (Special Land Use) in an **R-2, Two-Family Dwelling district, R-3, Multiple-Family Dwelling district,** and **C-O, Residential and Office district.**

**AUTHORIZATION:** Section 6.408 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.

   **Does not meet the standard** – The property is zoned R-1, One-Family Dwelling district. The subject property contains a single family house and appears to be able to be used for a permitted use within the zoning classification.

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.

   **Does not meet the standard** – The site is a single family house located on a street that is zoned for residential purposes. There does not appear to be any circumstances to the property that would be unique.

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

   **May/May not meet the standard** – The use has been (nonconforming) operating out of the existing site since 2003. The Department of Building Safety has not received any nuisance complaints regarding the use.

4. The problem is not self-created.

   **Does not meet the standard** – The proposed use of the property of a State Licensed Residential Facility (7 or more clients) is not a permitted use in the zoning classification. Problem appears to self-created.

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

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

   **Meets the standard** – The proposed use does not appear to impair the supply of light, air, or congestion.

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

   **Not Applicable**

**RECOMMENDATION:**
Consider under what circumstances the proposed use for a State Licensed Residential Care Facility (7 or more clients) should be approved at this location.

Zina Coleman, 555 E. Madison Ave, Pontiac, stated she was unaware of the city approvals and is bewildered that the State would issue a license without meeting city zoning ordinances. When she originally applied for the license, there was no zoning approval in the packet given by the State. Since renewing her license, a zoning approval has been included in the packet but the applicant was under the understanding that only new applicants needed approval and not renewals.

CHAIRMAN TODD DECLARED PUBLIC HEARING OPEN.

None.

CHAIRMAN TODD DECLARED PUBLIC HEARING CLOSED.

Chair Todd informed the applicant that there are 6 commissioners present and the use variance would need to be approved by 5 of the 6 commissioners. Chair Todd has invited the applicant to postpone and come back when all commissioners will be present, if the applicant wishes.

Mr. Bowdell clarified the use would carry with the property forever through different owners if use variance is granted for zoning ordinance.

COMM. TAYLOR MADE A MOTION TO APPROVE THE VARIANCE REQUEST (PF-15-01) 555 E. MADSION AVE. WITH THE LIMITING FACTOR TO BE RESTRICTING TO A GROUP CHILD DAY CARE FACILITY ONLY.

COMM. ANDERSON SUPPORTED.

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

NAYS: Bueno.

ABSTAIN: None.
Vote 5-1-0 motion passes.

**PUBLIC COMMENT:** None.

**MISCELLANEOUS:** None.

**ADJOURNMENT:** MOVED BY COMM. TAYLOR TO ADJOURN. COMM. BUENO SUPPORTED.

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

8:02 p.m.