

ZONING BOARD OF APPEALS  
WEDNESDAY, JUNE 20, 2012 @ 7:00 P.M.

CALL TO ORDER: 7:10 p.m.

COMMISSIONERS: Chairperson Laurie Slade  
Mr. Carlos Bueno  
Ms. Patricia Hollis  
Ms. Debra Monroe  
Ms. Doris Taylor-Burks  
Mr. Ahmad Taylor  
Mr. Lee Todd

CHAIRPERSON SLADE: I will call the meeting to order. Roll call, please.

MR. SABO: Bueno?

MR. BUENO: Present.

MR. SABO: Taylor?

MR. TAYLOR: Here.

MR. SABO: Todd?

MR. TODD: Here.

MR. SABO: Hollis?

MS. HOLLIS: Present.

MR. SABO: Dr. Taylor?

MS. TAYLOR: Here.

MR. SABO: Slade?

MS. SLADE: Present.

EXCUSED: Monroe.

ABSENT: None.

ALSO PRESENT: Mr. James Sabo, Professional Planner  
Mr. Gordon Bowdell

**COMMUNICATIONS:** None.

**ADOPTION OF MINUTES:** May 15, 2012.

COMM. TAYLOR-BURKS MADE A MOTION FOR APPROVAL OF THE MINUTES FOR May 15, 2012 AND COMM. BUENO SUPPORTED.

CHAIRPERSON SLADE: Roll call, please.

VOTE: AYES: Taylor-Burks, Bueno, Taylor, Todd, Hollis,  
Slade.  
NAYS: None.  
ABSTAIN: None.

Vote 6-0-0 for approval of the May 15, 2012 Minutes.

**OLD BUSINESS:** ZBA-12-02.

Finding of Facts presented by Mr. Sabo.

MR. SABO: **Property Description:** 58 Park Place, Sidwell# 14-33-154-012

**Variance Request:** Variance from the use permitted is requested as follows:

Use Variance for Section 2.203 Uses, Home Day Care, to exceed the maximum allowable number of pre-school or school aged children of six (6) for a State of Michigan licensed facility. The request is to allow up to twelve (12) preschool or school aged children for the Group Child Day Care Home at 58 Park Place.

Note: This request was submitted for review as a dimensional variance at the march 20, 2012 ZBA meeting and was reviewed under the provisions of Ordinance #944 2006. At that time, the ZBA discussed ordinance interpretation for the case as it related to use variance or dimensional variance. It was determined that a use variance request was the appropriate action. The request was reviewed again at the April 17, 2012 ZBA meeting as a use variance, which requires a 2/3 majority vote (5 members). At that time, there were four (4) members of the ZABA present and no action could be taken. There was one ZBA member absent on 4/17/12.

Currently, there are seven (7) ZBA members and the item will be presented for review and action at the June 20, 2012 meeting.

**CLAIMED UNDUE HARDSHIP:** (Use Variance) Currently the site is an existing child care facility for six children. Nursery Rhymes Child Care states that the existing home can meet all State of Michigan requirements for home day care for 7-012 children, because the site and the house are large enough to accommodate

up to twelve children. They claim that the Pontiac Zoning Ordinance penalizes the use of larger homes as it relates to maximum number of children for a day care facility. As stated, their proposed location at 58 Park Place can otherwise meet state requirements. The City of Pontiac Zoning Ordinance use prohibition prevents her from operating. The claimed undue hardship is that they can otherwise meet all State of Michigan standards for day care facilities and the only impediment is the use prohibition in the Zoning Ordinance.

**STAFF FINDINGS:**

1. The subject site is zoned R-1. The proposed use does not comply with the Zoning Ordinance as State Licensed Residential Facilities for 7 or more are prohibited (Group Child Day Care Home).
2. The proposed/existing Nursery Rhymes Child Care home meets the zoning requirements for state Licensed Residential Facilities for 1-6 children only (Family Day Care Home).
3. The proposed/existing Nursery Rhymes Child Care home, if approved, would meet the State of Michigan licensing requirements for State Licensed Residential Facilities for 7-12 children (Family Day Care Home).
4. The only non-compliance issue is related to the number of children (7-12).

**AUTHORIZATION:**

Section 6.408 Use Variance

**Authority.** The Zoning Board of Appeals may grant a use variance to authorize a land use which is not otherwise permitted by this ordinance in the district where the property is located, upon the concurring vote of two-thirds (2/3) of the members of the Zoning Board of Appeals.

**Unnecessary Hardship.** A use variance shall not be granted unless the Zoning Board of Appeals finds, on the basis of substantial evidence presented by the applicant, that there is an unnecessary hardship in the way of carrying out the strict letter of this ordinance. In determining that an unnecessary hardship exists, the Zoning Board of Appeals must find that:

The property in question cannot be reasonably used or cannot yield a reasonable return on a prudent investment if the property would be used only for a purpose allowed in the zoning district.

Does not appear to meet the standard, as day care use is permitted for 1-6 children.

2. The plight is due to unique circumstances peculiar to the property and not to general neighborhood conditions.

*May meet the standard, it is a large home in an R-1 district. However, the ordinance standards apply to all R-1 homes.*

3. The use to be authorized by the variance will not alter the essential character of the area and locality.

*May meet the standard, a few additional children will not likely change essential character.*

4. The problem is not self-created.

*Does not meet the standard, self-created.*

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

*Does not appear to meet the standard, intent of ordinance is to limit number of children for day care home.*

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

*May meet the standard for supply of light/air, but opinions may vary on comfort or morals.*

7. There is compliance with any applicable standards for discretionary decisions contained in Section 6.303.

*N/A, no Special Exception Permit.*

The proposed use change does not appear to comply with #4 & #5 of considerations for findings in the Zoning Ordinance.

**Recommendation:** To carefully consider the use variance requests for State Licensed Residential Facility for 7-12 children (Family Day Care Home) ZBA 12-02 Nursery Rhymes Child Care as it may not specifically meet unnecessary hardship standards number 4 and 5.

Petitioner: Sherrell Stephens encouraged the Board to consider her request and indicated the application was under one ordinance and currently is under a new ordinance. Also, indicated a day care is 2-3 blocks away and the people in the neighborhood welcome her business.

CHAIRPERSON SLADE DECLARED PUBLIC HEARING OPEN.

Clyde Kemp, commented he attended previous hearing in support of the proposal, has lived in the neighborhood for 37 years and has been instrumental with Light House. Mr. Kemp indicated he has known the petitioner for years and she loves people, is a great volunteer and feels this proposal is positive for a previously drug infested neighborhood.

Ms. Stephens indicated she has a petition in support of her proposal containing 12 names.

CHAIRPERSON SLADE DECLARED PUBLIC HEARING CLOSED.

Comm. Hollis inquired of the existence of the day car. Petitioner indicated since January 2012, but she had been the child care business for 14 years and she also lives in the home. The hours of operation are from 5 a.m. to 12 a.m. Monday thru Friday; Saturday 9 a.m. to 6 p.m. Her child care operates mainly by referrals and it's geared towards a learning center. She accepts DHS and she loves working with children.

Dr. Taylor commented that group homes and day cares do not get authorization from the ZBA to operate and are in business.

Comm. Todd inquired of the square footage. Petitioner was unsure, but indicated it was on the application. The home has 4 bedrooms and the whole downstairs has been converted into a day care. There is a separate driveway next to Mr. Kemp's residence and it will accommodate two vehicles and the workers take the children out to the cars. She provides transportation for the majority of the children, so there is no back up of cars at the resident.

Comm. Taylor inquired of the number of children currently. Petitioner indicated seven.

Chairperson Slade inquired of the long hours and outdoor time for the children. Petitioner indicated there are two shifts a.m. and p.m. and the parents are mostly high school students. The children will have outdoor time and she is only allowed four

infants. There is minimum overlap with the children staying over, maybe 1-2 hours.

Comm. Todd concerned with the size of the home and the amount of children, plus increased traffic flow.

Comm. Hollis inquired of overnight stays. Petitioner indicated no, she does not have a license for overnight care.

DR. TAYLOR MADE A MOTION TO APPROVE THE USE VARIANCE TO ALLOW UP TO 12 PRESCHOOL OR SCHOOL AGE CHILDREN FOR THE GROUP CHILD DAY CARE HOME AT 58 PARK PLACE AND COMM. TODD SUPPORTED.

Question on the Motion:

Comm. Hollis concerned with the square footage. Petitioner indicated every child is allotted a certain amount of space and it is indicated on the application and the consultant reviewing the application was satisfied those requirements had been met.

Comm. Hollis commented the limit for children is six. Petitioner indicated the state can approve up to 12 children, once she acquires the variance.

VOTE:           AYES:           Taylor-Burks, Lee, Taylor, Hollis, Slade.  
                  NAYS:            Bueno.  
                  ABSTAIN:       None.

Vote 5-1-0 for Approval of the Use Variance.

**NEW BUSINESS:**   ZBA-12-08

Finding of Facts presented by Mr. Sabo.

MR. SABO:   Property Description:   165 Telegraph Road, Sidwell#  
14-31-104-020

**Variance Request:**   Variance for Dimensions requested as follows:

Dimensional Variance for Section 5.105(c)(1) Maximum Sign Area  
Section 5.105(c)(1) states "Each building may have building  
mounted signs with a maximum total area as follows. Where more  
than one tenant share a building, there shall be permitted one  
wall sign per tenant. The wall sign shall be allocated on a

generally equal basis with the total area of all signs not exceeding that permitted in the district." In C-1 districts, the maximum allowable sign area is two square feet per lineal foot of ground floor frontage or 100 square feet, whichever is less.

The applicant is requesting to exceed the maximum allowable area and to install a sign that measures 4' x50' across three separate tenant spaces. The proposed sign area is 200 square feet. The variance request is 100 additional square feet.

**CLAIMED PRACTICAL DIFFICULTY:** (Dimensional Variance) The applicant has stated that the existing sign ordinance does not allow for or contemplate the combination of tenant spaces. The applicant has stated that if each of the existing tenant spaces were to be leased separately, each of the spaces would be allowed 100 square feet of signage. The total for the three spaces would be 300 square feet. They have pointed out that the total allowable sign area for three separate spaces would exceed the total sign area that is proposed as part of the sign variance request.

The applicant further states that when all three tenant spaces are considered together, the variance request could actually be considered a reduction of sign area and not an increase in sign area. The applicant wishes to utilize three tenant spaces as one and claims that the Zoning ordinance inadvertently penalizes such a condition and creates a practical difficulty.

As stated, the applicant appeared before the Planning Commission on June 6, 2012 for Special Exception Permit and Site Plan approval for retail sales of alcoholic beverages. The Special Exception Permit and Site Plan application was not approved because it did not comply with all pertinent Zoning Ordinance provisions. However, the applicant stated they want to proceed with ZBA variance request for maximum sign area as the sign area request and the Special Exception Permit are not directly connected.

**STAFF FINDINGS:**

1. The subject site is zoned C-1. The proposed use for retail sales of alcoholic beverages requires Special Exception Permit approval by the Planning Commission and was denied on June 6, 2012. However, the lack of a Special Exception Permit does not preclude a different use. A sign area variance request is not dependent on Special Exception Permit approval.

2. The proposed sign does not meet the maximum area requirements of the Zoning Ordinance.
3. It does appear that the Zoning Ordinance does not anticipate the combining of tenant spaces in a multi-tenant commercial strip center. There may be a reasonable compromise that will address the variance request.

**AUTHORIZATION:** Section 6.407 Dimensional Variance Authority-The Zoning Board of Appeals may grant a dimensional (non-use) 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 non-use 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 the 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 meet the standard, a lesser strict letter of the ordinance may be unreasonable under certain conditions.***

2. A grant of the variance will do substantial justice to the applicant as well as to 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.

***May meet the standard, a lesser variance can provide relief to the applicant and be consistent with the intent of the ordinance provisions.***

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

***May meet the standard, it is a large multi-tenant building. The ratio of allowable sign area decreases as more tenant spaces are***



*combined. However, the intent of the ordinance is to limit maximum sign area to a reasonable level.*

4. The problem is not self-created.

*Does not meet the standard, combination of tenant spaces is self-created. The effect of the ordinance on combined tenant spaces is not self-created.*

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

*May meet the standard, a reasonable compromise could be achieved.*

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

*Meets the standard.*

7. Compliance with any standards for discretionary decisions contained in Section 6.303.

**N/A**

**RECOMMENDATION:** To consider a reasonable compromise and to consider a lesser variance that will address the combination of tenant spaces and remain consistent with the intent of the Zoning Ordinance for ZBA-12-08, 165 South Telegraph, Marshall Isso.

Petitioner, Marshall Isso, commented his proposal is very unique and he would like for the frontage to have the appearance of one tenant.

CHAIRPERSON SLADE DECLARED PUBLIC HEARING OPEN.

None.

CHAIRPERSON SLADE DECLARED PUBLIC HEARING CLOSED.

Comm. Taylor commented he felt it was a reasonable compromise and petitioner will be occupying all three units.

Comm. Todd inquired of the intention of the sign. Petitioner indicated to expand it and it will look like all one business instead three businesses.

Comm. Bueno inquired of Mr. Sabo concerning 24 inches maximum on sign height. Mr. Sabo indicated it will comply.

Comm. Bueno commented the sign is unique and close to Telegraph, willing to compromise, but does not want the banner. Also, Comm. Bueno feels the sign does not compliment the building.

Dr. Taylor inquired if tobacco and beer would be sold out of the facility. Applicant indicated yes.

Comm. Hollis commented she does not like the banner and inquired why do they keep asking for a variance when the Special Exception Permit has been denied. Mr. Sabo indicated these are separate issues from the Special Exception Permit.

Comm. Hollis inquired if they are currently selling beer and wine. Petitioner indicated no, waiting to obtain license once variance is approved. Mr. Sabo indicated the petitioner needs municipal approval.

Chairperson Slade inquired if there were any other signs larger than the proposed sign. Mr. Sabo indicated no.

Comm. Bueno inquired if the sign will light up. Petitioner indicated yes. Comm. Bueno does not feel it will blend in with the strip mall.

Comm. Hollis inquired if petitioner was the owner of the mall. Petitioner indicated yes, and will need more combined signs in the future, but willing to stay within the allotted square footage.

Comm. Taylor concerned with the marketing aspect of the business and having access to all three buildings under the canopy. Mr. Sabo indicated yes. It will be one space, one entrance, one building.

COMM. BUENO MADE A MOTION TO DENY THE DIMENSIONAL VARIANCE TO INCREASE THE MAXIMUM ALLOWABLE SIGN AREA IN THE C-1 DISTRICT FROM 100 SQUARE FEET TO 200 SQUARE FEET AND COMM. TAYLOR SUPPORTED.

VOTE:           AYES:           Bueno, Taylor, Taylor-Burks, Hollis, Slade.  
                  NAYS:           None.  
                  ABSTAIN:       None.

Vote 6-0-0 for Denial of the Dimensional Variance.

ZBA-12-09

Finding of Facts presented by Mr. Sabo.

MR. SABO: Property Description: 56 North Eastway Drive,  
Sidwell# 14-27-332-007

Variance Request: Variance for Dimension requested as follows:

Dimensional Variance for Section 2.304 (f)(2) Maximum Floor Area for Accessory Structures.

Section 2.304(f)2) states "The aggregate area of accessory buildings on any lot shall not exceed fifteen percent(15%) of the total lot area, the floor area of the first floor of the principal dwelling or 800 square feet in R-1/900 square feet in R-1A and R-1B districts, whichever is least.

Currently, there is an existing accessory structure (detached garage) on the lot at 56 North Eastway. The existing garage building is 24' x 24' x or 576 square feet in area. The applicant is proposing a garage addition that measures 30' x 40' or 1200 square feet. The finished size of the proposed accessory structure (garage) would be 1776 square feet. A variance of 976 square feet is requested.

CLAIMED PRACTICAL DIFFICULTY: (Dimensional Variance) The applicant has stated that the Zoning Ordinance does not allow him to use the entire 15% of the lot area calculation to construct an addition to his detached garage. Additionally, the ordinance does not allow him to use the floor area of the first floor standard to calculate the area for his addition. The existing lot area at 56 North Eastway is 39,639 square feet or 0.91 acres. The Zoning Ordinance limits the applicant to 800 square feet maximum area for an accessory structure.

The applicant claims that the practical difficulty is the size of his lot, which could easily accommodate an accessory structure with a floor area of 1,776 square feet. He claims that the Zoning Ordinance unfairly prevents him from reasonably adding floor area to his garage because the ordinance is designed to regulate residential lots in R-1 that are between 6,000 and 10,000 square feet in area.

For example, he states that the 15% lot area calculation would permit an accessory structure floor area of 5,945 square feet. The first floor area calculation would permit an accessory structure of 3,958 square feet. The applicant has a very, very large lot in an R-1 zone district. He claims that an 800 square foot maximum makes sense on smaller lots in the R-1 district. However, the applicant states that his lot of 56 North Eastway is approximately 400% larger than the lots the Zoning Ordinance is designed to regulate. The request is a dimensional variance of 976 square feet to allow an addition to the existing garage.

**STAFF FINDINGS:**

1. The subject site is zoned R-1. The existing detached garage/accessory structure is 576 square feet in area.
2. The Zoning Ordinance limits the floor area of accessory structures to 800 square feet for the residential lots along North Eastway Drive.
3. It appears that the Zoning Ordinance is designed to regulate R-1 lots that are between 6,000 and 15,000. However, there are very few R-1 residential lots in Pontiac that are greater than 15,000 square feet.
4. The minimum lot area in the R1-B district (largest residential lots) is 16,000 square feet. The lot at 56 North Eastway is more than double the size of an R1-B lot.

**AUTHORIZATION:**

Section 6.407 Dimensional Variance.

**Authority**-The Zoning Board of Appeals may grant a dimensional (non-use) 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 non-use 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 the 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, strict letter of the ordinance will be unreasonable for the property owner under certain conditions.*

2. A grant of the variance will do substantial justice to the applicant as well as to 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 in this case will not adversely affect the other property owners and provides substantial justice.*

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

*Meets the standard, the existing lot size is significantly larger than most lots in the R-1 district.*

4. The problem is not self-created.

*May meet the standard, the problem is self-created to the extent the property owner wishes to add floor area to his garage. The effect of the ordinance on the subject parcel is not self-created.*

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

*Meets the standard, a variance in this case is reasonable.*

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

*Meets the standard.*

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

**N/A**

**RECOMMENDATION:** To approve the dimensional variance request of 976 square feet for an accessory structure addition for ZBA-12-09, 56 North Eastway Drive, Mildred Carr.

Petitioner, Mildred Car, property owner in the City of Pontiac and this property will be used for equipment related to her rental properties and storage of classic cars.

CHAIRPERSON SLADE DECLARED PUBLIC HEARING OPEN.

None.

CHAIRPERSON SLADE DECLARED PUBLIC HEARING CLOSED.

Comm. Hollis commended the petitioner on the nice, well-kept appearance of her home.

Comm. Bueno commented the previous ordinance was 600 square feet, and now 800 square feet. Comm. Bueno inquired if the square footage of the garage was considered. Mr. Sabo indicated yes, but there were no provisions for accessory structures for accessory structures; 900 square feet for accessory structures.

Comm. Bueno inquired of the location and proposed height. Petitioner indicated it will be located on the north side of the house and Mr. Sabo indicated no specific plans were submitted.

Comm. Bueno concerned about neighbors to the north vision of the building. Petitioner indicated the north neighbors had no objection and she owns property to the north also.

COMM. DR. TAYLOR MADE A MOTION FOR APPROVAL OF THE DIMENSIONAL VARIANCE SECTION 2.304(F)(2) TO EXCEED MAXIMUM AREA FOR ACCESSORY STRUCTURES IN R-1 PERMITTED AREA IS 800 SQUARE FEET. REQUESTED AREA IS 1776 SQUARE FEET. VARIANCE REQUEST IS 976 SQUARE FEET. COMM. HOLLIS SUPPORTED.

Question on the motion: Comm. Bueno added the structure follows with the property with no commercial use.

VOTE: AYES: Taylor-Burks, Hollis, Todd, Taylor, Bueno, Slade.

NAYS: None.

ABSTAIN: None.

Vote 6-0-0 for Approval of the Dimensional Variance.

ZBA-12-10

Finding of Facts presented by Mr. Sabo.

MR. SABO: Property Description: 50 North Perry Street,  
Sidwell# 14-29-435-005

Variance Request: Variance for Dimension requested as follows:

Dimensional Variance for Section 5.105(c)(1)(c) Maximum Sign Area.

Section 5.105(c)(1) states "Each building may have building mounted signs with a maximum total area as follows. Where more than one tenant share a building, there shall be permitted one wall sign per tenant. The wall sign shall be allocated on a generally equal basis with the total area of all signs not exceeding that permitted in the district." C-2 Districts, three square feet, whichever is less. Buildings or uses with more than one street frontage may have additional wall signs with an area equal to 50% of that permitted for the primary frontage.

The applicant is requesting to exceed the maximum allowable area for both principal/primary signs and secondary signs. There are two signs proposed for the main tower portion of the hospital at the top edge of the building. Both signs are the same size and area. They will be placed in similar locations on opposite sides of the building at approximately the north and south elevations respectively. The proposed signs measure 69.5 inches by 395.5 inches or the 191 square feet in area. The variance request is 111 square feet for principal sign and 151 square feet for secondary sign.

**CLAIMED UNDUE HARDSHIP:** (Dimensional Variance) The applicant has stated that the existing sign ordinance does not allow for large signs on large buildings. The maximum allowable sign area for the entire POH compass is 80 square feet and 40 square feet for a secondary sign. The applicant states that the practical

difficulty is that the Zoning Ordinance does not at all consider or allow for building signage in the scale needed for high rise buildings like those located in and round downtown. The applicant states that McLaren cannot provide the necessary building and site identification signage under the c-2 provisions of the current Zoning Ordinance. They claim that if McLaren installed signs that met the C-2 ordinance provisions, they would be illegible from nearly any distance. The applicant is requesting dimensional variances to install business identification signs at the top of McLaren Oakland Hospital building.

**STAFF FINDINGS:**

1. The subject site is zoned C-2 and is the location of the former POH, current McLaren Oakland Hospital location.
2. The requested variances are intended for the large 10-story tower portion of the hospital building.
3. The proposed signs exceed the maximum area requirements of the Zoning Ordinance. However, it appears that the ordinance does not consider the large high rise buildings in its regulations/calculations of sign area for such buildings.
4. The variance request seems reasonable and valid under the circumstances presented.

**AUTHORIZATION:** Section 6.407 Dimensional Variance

**Authority**-The Zoning Board of Appeals may grant a dimensional (non-use) 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 non-use 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 the 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, compliance with the strict letter of the ordinance will be unreasonable for the existing conditions.***

2. A grant of the variance will do substantial justice to the applicant as well as to 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 lesser variance will provide little or no relief to the applicant and granting the variance will provide substantial justice.***

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

***Meets the standard, it is a large high rise condition building.***

4. The problem is not self-created.

***Meets the standard, the existing high rise condition is not self-created.***

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

***Meets the standard.***

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

***Meets the standard.***

7. Compliance with any standards for discretionary decisions contained in Section 6.303.

***N/A***

**RECOMMENDATION:** To approve the variance requests for maximum sign area (111 square feet primary) and (151 square feet secondary) for ZBA-12-11, 50 North Perry Street McLaren Oakland Hospital.

Petitioner, Rick Kabasa, commented he was originally asking for four signs, only asking for two signs. Petitioner is repositioning two signs with same letter size and also to create more visibility for the hospital, also a name change.

CHAIRPERSON SLADE DECLARED PUBLIC HEARING OPEN.

None.

CHAIRPERSON SLADE DECLARED PUBLIC HEARING CLOSED.

Chairperson Slade commented for the petitioner to be in compliance with the old sign they would have to change the name.

Comm. Bueno inquired if this was approved by the DDA. Mr. Sabo indicated the DDA no longer exists; but it is in the Historic District and will be meeting with that commission.

COMM. TODD MADE A MOTION FOR APPROVAL OF THE DIMENSIONAL VARIANCE, SECTION 5.105(C) (C) MAXIMUM SIGN AREA TO INCREASE THE MAXIMUM ALLOWABLE SIGN AREA IN THE C-2 DISTRICT FOR PRINCIPAL AND SECONDARY SIGNS FROM 80 SQUARE FEET (PRINCIPAL SIGNS) AND 40 SQUARE FEET (SECONDARY SIGNS) TO 191 SQUARE FEET FOR PRINCIPAL SIGNS AND SECONDARY SIGNS AND COMM. TAYLOR SUPPORTED.

VOTE:	AYES:	Todd, Taylor, Bueno, Hollis, Taylor-Burks, Slade.
	NAYS:	None.
	ABSTAIN:	None.

Vote 6-0-0 for Approval of the Dimensional Variance.

**PUBLIC COMMENT:** None.

**MISCELLANEOUS:** Chairperson Slade reminded Mr. Sabo they need one more board member and one alternate board member. Mr. Sabo agreed and indicated the process is continuing.

**ADJOURNMENT:** 8:29 p.m.