

ZONING BOARD OF APPEALS  
TUESDAY, NOVEMBER 18, 2014 @ 7:00P.M.

CALL TO ORDER: 7:04 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.

EXCUSED: Carrington.

MR. SINCLAIR: (Arrived at 7:15)

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.

**ADOPTION OF MINUTES:** September 16, 2014.

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

CHAIRMAN TODD: Roll call, please.

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

Motion passes 5-0-0.

**OLD BUSINESS:** Mr. Sabo stated the projector is borrowed from Wade Trim and installation of new projector is set for next month.

**NEW BUSINESS:**

**PUBLIC HEARING NUMBER: ZBA-14-19**

Finding of facts presented by Mr. Sabo.

**Address: 121 Branch St.**

**Variance Request: Section 2.304(B) *Dimension and Design Standards***

**Present Use & Occupancy: Tennis Club**

**Proposed Use & Occupancy: Tennis Club**

**Dimensional Variance Request:**

Dimensional variances related to proposed construction a new parking area and new seasonal/temporary tennis dome structures at the new Wesson Tennis Club site. The applicant is requesting dimensional variances as follows:

Dimensional Variance requested for Section 2.304(B) Dimensional and Design Standards, Minimum Setback Requirements; the minimum required setback is 25 feet, the minimum required rear setback is 30 feet. The applicant is requesting to reduce the front setback to 12.38 feet, a variance of 12.17 feet is requested. The applicant is requesting to reduce the rear setback to 6.23 feet, a variance of 23.77 feet is requested.

Dimensional Variance requested for Section 4.303 Table 8 Minimum Parking Requirements; the minimum number of required parking spaces for the Branch Street Tennis Club site is 81 spaces (1 space for 243 max occup / 3). The applicant is requesting to reduce the number of required spaces to 70 parking spaces. The applicant has requested a variance of 11 parking spaces.

Dimensional Variance requested for Section 4.407(a) Street Frontage Landscaping; the minimum number of required street trees for the site is 1 tree/35 linear feet or 23 street trees. The applicant is requesting to reduce the number of required street to zero trees. A variance of 23 trees is requested.

**Claimed Practical Difficulty:**

(Dimensional Variance) The site is under construction for the Wesson Tennis Club project and facility.

The applicant has stated that based on the square footage size and configuration of the parcel, it is in fact very possible to complete the tennis court facilities and the temporary dome structures at the site. However, meeting the total number of parking spaces required and the setbacks is not possible. The difficulty is related to the amount of square footage required for tennis courts and the remaining land area available after they are constructed. The applicant states; as they build more tennis courts, they require more parking spaces and there is not enough room left to provide all the needed parking and the needed landscape and the required setbacks. There is additional difficulty in that the Fire Code requires space large enough for fire truck access and that eliminates space available for parking areas and landscape requirements. With respect to street trees, the applicant states that it would be difficult to provide the street trees, the applicant states that it would be difficult to provide the street trees as well. Therefore, they are requesting the variances listed in the report.

**Staff Findings:**

1. The subject is zoned R-1, One-Family residential.
2. The proposed setbacks for front and rear yard do not meet the zoning ordinance provisions.
3. The proposed number of parking spaces does not meet the zoning ordinance provisions for number of parking spaces required for a Private Club Tennis use.

4. The parking area as proposed does not include a required buffer abutting a public road right-of-way.
5. The number of street trees proposed at the site does not meet the zoning ordinance provisions for required number of street trees.
6. The existing site is currently under construction and a Use Variance was granted by the Zoning Board of Appeals on March 18, 2014.
7. Base on Fire Code requirements and landscape requirements, the proposed parking lot area cannot be larger.
8. The site and parcel dimensions do not prevent installation of some portion of the required street trees.
9. Without a ZBA variance, there is practical difficulty for the applicant to meet all ordinance requirements.

**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 not be able to reasonably use the property with respect to some of the variances requested.**

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 there is practical difficulty in meeting all zoning ordinance requirements, with exception of street trees.**

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

**Meets the standard** – There is unique circumstances at the property. The size of the facilities required to operate the tennis function require additional land area that is not available to the applicant.

4. The problem is not self-created.

**Meets the standard** – The problem is not self-created. The applicant has proposed sufficient parking to meet the demands of the property according to their standards. The ordinance requires more parking than the applicant needs.

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 as the proposed parking area will meet the needs of the constructed building.

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

**Meets the standard**

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

**Not Applicable**

### **RECOMMENDATION:**

To approve the dimensional variance request for ZBA-14-19, 121 Branch and grant only the following dimensional variances: as the request appears to meet the specific standards for practical difficulty from Section 6.407 of the Zoning Ordinance.

1. Section 2.304(b) Dimension and Design Standards, Minimum Setback Requirements; Variance of 12.17 feet for front setback and Variance of 23.77 feet for rear setback.
2. Section 4.303 Table 8 Minimum Parking Requirements; the minimum number of required parking spaces; Variance of 11 parking spaces.
3. Section 4.406(a) Parking Lots Abutting a Public Right-of-Way; the minimum required buffer width and plantings for parking lots abutting a public right-of-way; Variance of 8 feet width and 1,840 square feet.

Keith Phillips, the architect and Chris Dobson, 121 Grant St. Pontiac, stated they are excited about the venture and understand they might have over developed the property. They stated that the tennis courts needs to be positioned against the sun and have faced many challenges along the way. They stated it is in their best interest to create something attractive for their clients and are not opposed to trees, shrubs or wild grasses.

CHAIRMAN TODD DECLARED PUBLIC HEARING OPEN.

None.

CHAIRMAN TODD DECLARED PUBLIC HEARING CLOSED.

COMM. TAYLOR MADE A MOTION TO APPROVE THE PROPOSED DIMENSIONAL VARIANCE REQUEST (ZBA-14-19), 121 BRANCH AND GRANT ONLY THE FOLLOWING DIMENSIONAL VARIANCES: AS THE REQUEST APPEARS TO MEET THE SPECIFIC STANDARDS FOR PRACTICAL DIFFICULTY FROM SECTION 6.407 OF THE ZONING ORDINANCE.

1. SECTION 2.304(B) DIMENSION AND DESIGN STANDARDS, MINIMUM SETBACK REQUIREMENTS; VARIANCE OF 12.17 FEET FOR FRONT SETBACK AND VARIANCE OF 23.77 FEET FOR REAR SETBACK.
2. SECTION 4.303 TABLE 8 MINIMUM PARKING REQUIREMENTS; THE MINIMUM NUMBER OF REQUIRED PARKING SPACES; VARIANCE OF 11 PARKING SPACES.
3. SECTION 4.406(A) PARKING LOT ABUTTING A PUBLIC RIGHT-OF-WAY; THE MINIMUM REQUIRED BUFFER WIDTH AND PLANTINGS FOR PARKING LOTS ABUTTING A PUBLIC RIGHT-OF-WAY; VARIANCE OF 8 FEET WIDTH AND 1,840 SQUARE FEET.

COMM. ANDERSON SUPPORTED.

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

NAYS: Bueno.

ABSTAIN: None.

Vote 5-1-0 motion passes.

**PUBLIC HEARING NUMBER: ZBA-14-20**

**Address: 1251 Joslyn Ave.**

**Variance Request: Section 5.105(B) Table 15 – Dimension and Design Standards for Ground Signs**

**Present Use & Occupancy: GM Customer Care and Aftersales**

**Proposed Use & Occupancy: GM Customer Care and Aftersales**

Presentation of Facts given by Mr. Bowdell.

**Dimensional Variance Request:**

Dimensional (Non-use) Variance for Section 5.105 Table 15 Dimension and Design Standards for Ground Signs

**Claimed Practical Difficulty:**

The applicant stated the purpose of the request is to remove the existing non-conforming sign and replace it with a new-look pylon sign. Proposed sign is 110.7 sq. ft. and 18.7 feet in height. The code allows 80 sq. ft. and 10 feet in height, thus requesting 30.7 sq. ft. size variance and 8.7 feet height variance from sign code.

The existing non-conformity is to be mitigated with smaller sign, this property’s huge expanse of land area (approximately 1/2 square mile) and extensive street frontage (approximately 1,100 along Joslyn Ave.) necessitates a sign larger than the code permits.

**Staff Findings:**

1. The property is zoned M-2 General Industrial district.
2. According to Section 5.105(B) Table 15
  - a. Maximum height is 10 feet (18.7’ proposed; 8.7’ variance)
  - b. Maximum area is 80 sq. ft. (110.7 sq. ft. proposed; 30.7 sq. ft. variance)
3. The street front of the site is very large at 1,220.31 feet.
4. The proposed ground sign will be replacing a much larger existing non-conforming sign.

**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 proposed sign is located on Joslyn Ave. The site has 1.220 feet of frontage on Joslyn Ave. The site is very large; to comply with the height and area requirement appears to be 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.

**Appears to meet the standard – The applicant is removing an existing non-conforming sign that was much larger than the proposed sign. The proposed sign is better in compliance than the previous/existing sign.**

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

**Meets the standard – The site is unique as it is a very large property with a large street frontage.**

4. The problem is not self-created.

**Appears to meet the standard – The problem is self-created from the standpoint that the applicant is seeking a new sign; however the size of the site is not self-created.**

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

**May meet the standard – Although the proposed sign does not comply with the height and area requirements, compared to the existing sign, the proposed sign better complies with the intent of the sign ordinance.**

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

**Meets the standard**

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

**Not Applicable**



**RECOMMENDATION:**

To approve the proposed sign variance (ZBA-14-20) for GM CC&A Pontiac, 1251 Joslyn Ave. to increase the maximum area to 110.7 sq. ft. (30 sq. ft. variance) and to increase the maximum height to 18.7 feet (8.7 ft. variance) as the proposed request appears to meet the standards for practical difficulty described in Section 6.407 of the Zoning Ordinance.

The applicant, Roger Briddick of Fairmont Sign Company, 3750 E Outer Drive, Detroit was present and stated that GM is looking to change all signs to better fit a new image. The sign will be an LED sign thus a green sign.

CHAIRMAN TODD DECLARD PUBLIC HEARING OPEN.

Mike McGuiness encouraged a vote to pass the variance for the new sign, stating it would be esthetically pleasing for the City.

CHAIRMAN TODD DECLARED PUBLIC HEARING CLOSED.

COMM. BUENO MADE A MOTION TO APPROVE THE PROPOSED SIGN VARIANCE (ZBA-14-20) FOR GM CC&A PONTIAC, 1251 JOSLYN AVE. TO INCREASE THE MAXIMUM AREA TO 110.7 SQ. FT. (30.7 SQ. FT. VARIANCE) AND TO INCREASE THE MAXIMUM HEIGHT TO 18.7 FEET (8.7 FT. VARIANCE) AS THE PROPOSED REQUEST APPEARS TO MEET THE STANDARDS FOR PRACTICAL DIFFICULTY DESCRIBED IN SECTION 6.407 OF THE ZONING ORDINANCE.

COMM. TAYLOR SUPPORTED.

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|-------------|---|
| VOTE: AYES: | Bueno, Taylor, Anderson, Kirkendolph, Sinclair,Chairman Todd. |
| NAYS:       | None.   |
| ABSTAIN:    | None.   |

Vote 6-0-0 motion passes.

**PUBLIC COMMENT:** None.

**MISCELLANEOUS:** Mr. Bowdell stated that Pontiac is a One Stop Ready community and asked that any Commissioner who has not signed the poster to please do so.

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

All in Favor: Ayes: All

Nays: None

Abstain: None

7:50 p.m.