

ZONING BOARD OF APPEALS  
TUESDAY, SEPTEMBER 18, 2012 @ 7:00 P.M.

CALL TO ORDER: 7:10 p.m.

COMMISSIONERS: Chairperson Laurie Slade  
Mr. Carlos Bueno (Excused)  
Ms. Patricia Hollis  
Ms. Debra Monroe  
Ms. ~~Deris Taylor-Burks~~  
Mr. Ahmad Taylor  
Mr. Lee Todd  
MR. *SAM ANDERSON*

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

MR. SABO: Taylor?  
MR. TAYLOR: Here.

MR. SABO: Todd?  
MR. TODD: Here.

MR. SABO: Monroe?  
MS. MONROE: Present.

MR. SABO: Anderson?  
MR. ANDERSON: Here.

MR. SABO: Hollis?  
MS. HOLLIS: Present.

MR. SABO: Slade?  
MS. SLADE: Present.

EXCUSED: Bueno.  
ABSENT: None.

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

COMMUNICATIONS: None.

ADOPTION OF MINUTES: August 21, 2012.

COMM. TAYLOR MADE A MOTION FOR APPROVAL OF THE MINUTES FOR AUGUST 21, 2012 AND COMM. HOLLIS SUPPORTED.

CHAIRPERSON SLADE: Roll call, please.

VOTE: AYES: Taylor, Hollis, Todd, Anderson, Monroe,  
Slade.  
NAYS: None.  
ABSTAIN: None.

Vote 6-0-0 for approval of the August 21, 2012 Minutes.

OLD BUSINESS: None.

NEW BUSINESS: 6.1 ZBA-12-16.

Finding of Facts presented by Mr. Sabo.

MR. SABO: Property Description: 872 Stanley Avenue, Sidwell#  
14-20-101-083

Variance Request: Variances for Dimension requested as follows:

Dimensional Variance for Section 2.304(B) Minimum lot width, minimum lot area, minimum side setback and minimum setback for detached accessory structures.

The request is for dimensional variances as follows:

Section 2.304(B) Minimum lot width, to decrease the minimum lot width in R-2 from 60 feet to 40 feet; a variance of 20 feet is requested.

Section 2.304(B) Minimum lot area, to decrease the minimum lot area in R-1 from 7,200 square feet to 5,700 square feet; a variance of 1,500 square feet for each lot is requested.

Section 2.304(B) Minimum side setback in R-1 from 5 feet to 3 feet; a variance of 2 feet is requested.

Section 2.304(B) Minimum setback for detached accessory buildings in R-2 from 3 feet to 2 feet 4-inches; a variance of 8 inches is requested.

The applicant has requested a lot split related to foreclosure proceedings for the property at 872 Stanley. The applicant has

proposed to split the existing 80 foot lot and create two new 40 foot lots with the 872 house remaining on one lot.

**CLAIMED UNDUE HARDSHIP:** (Dimensional Variance) The applicant has stated that the practical difficulty related to their lot split request is the absence of an "original platted lot of record" for Assessor's Plat Number 101 subdivision. Specifically, the applicant states that while there is not an original plat showing 40 foot lots in this particular subdivision, nearly the entire subdivisions was at one point (split) into more than 50 separate lots.

All the lots in that large lot split were created at 40 feet in width. The applicant states that the historical lot split had the effect of being an "original plat with 40 foot lots of record."

They claim that if Assessors Plat Number 101 was platted as a series of lots 40 feet wide, there would be no need to seek any zoning variances, because the zoning ordinance allows lots at 40 feet wide from an original platted subdivision.

The applicant claims further practical difficulty because the house was constructed in a non-conforming condition and that any new lot configuration would require a zoning variance. For these reasons, the applicant is requested dimensional variances.

**STAFF FINDINGS:**

1. The subject site is zoned R-1.
2. It appears that Assessor's Plat Number 101 was originally platted with several 40 foot lots and a few very large lots at 300 feet to 400 feet in width.
3. It appears that Assessor's Plat Number 101 was split or divided at some point in time into approximately 40 to 40 lots. Most lots were 40 feet wide and some were 80 feet.
4. The existing house at 872 Stanley is already non-conforming with respect to the north property line setback and any lot split would require a zoning variance approval.
5. 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 lot conditions at 872 Stanley.*

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 no relief to the applicant. Granting the variance will provide substantial justice and will eliminate an existing non-conforming condition.*

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

*Meets the standard, the house is already in a non-conforming condition.*

4. The problem is not self-created.

*Meets the standard, the existing house footprint and detached garage configuration 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 dimensional variance requests for 872 Stanley for Section 2.304(B) for ZBA 12-16, Wells Fargo Bank, NA and Trott and Trott; as detailed here:

Section 2.304(B) Minimum lot width, to decrease the minimum lot width in R-2 from 60 feet to 40 feet; a variance of 20 feet is approved.

Section 2.304(B) Minimum lot area, to decrease the minimum lot area in R-1 from 7,200 square feet to 5,700 square feet; a variance of 1,500 square feet for each lot is approved.

Section 2.304(B) Minimum side setback in R-1 from 5 feet to 3 feet; a variance of 2 feet is approved.

Section 2.304(B) Minimum setback for detached accessory buildings in R-2 from 3 feet to 2 feet 4-inches; a variance of 8 inches is approved.

Chairperson Slade inquired if the garage would overlap if the lot is split. Mr. Sabo indicated yes and a portion of the garage was removed.

Trott and Trott attorney representative appeared and had no additional comments.

CHAIRPERSON SLADE DECLARED PUBLIC HEARING OPEN.

Troy Robertson, 859 Woodland, concerned if lot is split that the lot will remain empty for a long period of time and concerned with its upkeep.

Attorney for Wells Fargo indicated they own the lot with the house and do not own the vacant lot, two parties own two different parcels.

CHAIRPERSON SLADE DECLARED PUBLIC HEARING CLOSED.

Mr. Sabo indicated it is one taxable parcel and Wells Fargo is trying to extract themselves from the vacant lot.

Chairperson Slade indicated common ownership goes towards the larger lot and these are two separate lots. Chairperson Slade indicated there is nothing to rule on in this particular situation.

Comm. Todd commented the board is not being asked to consider two lots. The above variance is only for one lot.

Attorney explained that Braithwaite got the mortgage and did not split the lots; Ma. Alvarado was foreclosed on the property and it was turned into a single lot by Braithwaite. Wells Fargo owns the mortgage on the house.

Comm. Monroe commented between Braithwaite and Ms. Alvarado taxes were being paid and that would identify ownership. Attorney indicated Wells Fargo has been paying the taxes since 2010 and previously Ms. Alvarado had been paying the taxes.

Comm. Hollis inquired if Ms. Alvarado could have been paying taxes for the lot and inquired of the contacts with Braithwaite. Attorney indicated he tried to contact Mr. Braithwaite in 2010 with no success.

Comm. Taylor inquired if the split was dependent on the variances. Mr. Sabo indicated yes.

Comm. Todd indicated Mr. Braithwaite is a local investor in Waterford and can easily be located.

Comm. Todd inquired if a quiet title was obtained. Attorney indicated that was his first route of business with no success.



The applicant is requesting to reduce the minimum allowable ground sign setback at the southeast corner of North Perry and Huron Street (M-59) from 10 feet to 2 feet. The applicant proposes to install a ground sign within the small landscaped area at the corner of the building. The proposed ground sign base will be constructed 2 feet from the property line. A variance of 8 feet is requested.

**Claimed Practical Difficulty:**

(Dimensional Variance) The applicant has stated that the existing sign ordinance does not allow for construction of ground signs for unique building conditions in the C-2 zone district.

Specifically, the applicant states that there is a minimum ground sign setback of 10 feet in the C-2 zone district, but their building has a zero setback line for the entire length of the building with the exception of two small landscape areas along Huron Street.

According to the applicant, there is room for a small ground sign at this location, but it is absolutely impossible to meet the minimum ground sign setback without demolishing part of the hospital building.

The applicant states that the practical difficulty is that the Zoning Ordinance does not at all consider or allow for such conditions.

The applicant is requesting a dimensional setback variance of 8 feet to install an otherwise compliant ground sign for the McLaren Oakland Hospital building at the corner of North Perry and Huron.

**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 proposed ground sign will encroach the required minimum setback. However, it appears that the ordinance does not consider the possibility of a ground sign location at a zero setback building in its regulations/calculations for such buildings.
3. The variance request seems reasonable and valid under the circumstances presented.

**AUTHORIZATION:**



Section 6.407 Dimensional Variance

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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 at the downtown hospital building.*

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 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 zero setback building with the exception of the two small landscape areas along Huron.*

4. The problem is not self-created.

*Meets the standard, the existing building footprint configuration 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 setback variance of 8 feet for Section 5.105(b)(1) minimum ground sign setback for ZBA 12-18, McLaren Oakland Hospital, 50 North Perry Street.

Petitioner, Robert Pickup, had no additional comments.

CHAIRPERSON SLADE DECLARED PUBLIC HEARING OPEN.

None.

CHAIRPERSON SLADE DECLARED PUBLIC HEARING CLOSED.

Comm. Anderson commented it is in a good place and it gives direction.

Comm. Monroe commented it was a better sign.

Comm. Todd inquired if this proposed sign was replacing the current sign. Mr. Pickup indicated yes and the old sign has been removed.

COMM. TODD MADE A MOTION TO APPROVE THE SETBACK VARIANCE REQUEST OF 8 FEET FOR SECTION 5.105(B)(1) MINIMUM GROUND SIGN SETBACK FOR ZBA 12-18, MC LAREN OAKLAND HOSPITAL, 50 NORTH PERRY STREET AND COMM. HOLLIS SUPPORTED.



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 2,096 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-2 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. However, the applicant states that his lot at 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:

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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 provide 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.



PUBLIC COMMENT: None.

MISCELLANEOUS: Currently have a full board, still need an alternate.

ADJOURNMENT: 8:07 p.m.

