

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

CALL TO ORDER: 7:05 p.m.

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

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

MR. SABO: Sinclair?

MR. SINCLAIR: (Arrived at 7:08)

MR. SABO: Kirkendolph?

MS. KIRKENDOLPH: Here.

MR. SABO: Anderson?

MR. ANDERSON: Here.

MR. SABO: Hollis?

MS. HOLLIS: Here.

MR. SABO: Todd?

MR. TODD: Here.

MR. SABO: Taylor?

MR. TAYLOR: Here.

MR. SABO: Bueno.

CHAIRMAN BUENO: Here.

EXCUSED: None.

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

COMMUNICATIONS: None.

ADOPTION OF MINUTES: February 18, 2014.

COMM. TAYLOR MADE A MOTION FOR APPROVAL OF THE MINUTES FOR February 18, 2014 AND COMM. HOLLIS SUPPORTED.

CHAIRMAN BUENO: Roll call, please.

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

Vote 6-0-0 for approval of the February 18, 2014 Minutes.

OLD BUSINESS: None.

Finding of Facts presented by Mr. Bowdell.

NEW BUSINESS:

A. PUBLIC HEARING NUMBER: ZBA-14-03

Property Description: 140 North Saginaw Street. Parcel Number: 14-29-426-007
Applicant/Property Owner: Mark Thweni

Dimensional Variance Request:

Section 5.105(C)(8)(c) – Building Mounted Signs – Maximum Area: Projecting signs may have a maximum area of 12 feet. (54 square feet requested)

Section 5.105(C)(3) – Building Mounted Signs – Wall Sign Projection. No sign shall project above any wall it is placed upon (2 feet variance requested)

Claimed Practical Difficulty:

The applicant provided no claim practical difficulty.

Staff Findings:

1. The property is zoned C-2, Downtown Mixed Use district.
2. The proposed sign meets the definition of a Building-Mounted Sign: A display sign that is painted on, adjacent to or attached to a building wall, door, window or related architectural feature. Such signs include, but are not limited to awning, canopy, projecting, and wall signs.
3. According to Section 5.105(C)(8)(c) – Projecting signs may have a maximum area of 12 square feet.
4. According to Section 5.105(C)(3) – No sign shall project above any wall it is placed upon nor shall it project out from the wall more than six inches.
5. Section 5.102(C)(2) states that where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign, except that where two such faces are placed back to back and are at no point more than two feet from one another.
 - a. Total Sign area 66 sq. ft. (includes both faces)

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:

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 restrictions of the zoning ordinance does not unreasonably prevent the owner from using the property for a permitted purpose. The business was “existing” prior to this sign variance request.

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 appear to meet this standard – The zoning ordinance does not restrict the applicant from having a sign or advertising the business. An 80 sq. ft. Building Mount sign (that is projecting) would be permitted under the zoning ordinance.

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

Does not meet the standard – The property is a standard downtown building. There does not appear to be any unique circumstances to the property that would require a variance.

4. The problem is not self-created.

Does not meet the standard - The problem is self-created. The applicant is seeking to have a projecting sign that exceeds 12 sq. ft. and that extends over the building façade.

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

Does not meet the standard – The spirit/intent of this ordinance is to allow building-mounted signs and restrict the areas of projecting signs.

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

Meets the standard – The proposed variance will not impair an adequate supply of light and air to adjacent property or will unreasonably increase congestion in public streets or increase the danger of fire or endanger the public safety or unreasonably diminish or impair the public health, safety, comfort, morals, or welfare of the inhabitants of the City.

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

Not Applicable.

RECOMMENDATION: To deny to proposed sign variance request (ZBA-14-03), as it does not meet the standards for practical difficulty from Section 6.407 of the zoning ordinance.

The applicant stated that he and his brother have owned the building for some years and during ownership of the business, they have experienced some hardships. With reconstruction of the downtown area, his customers were confused or would get lost in locating his business. Prior to the present sign, there was an old plastic yellow canopy that was three times as large as the present sign. The applicant was only trying to make the sign and business more appealing and easily recognizable to his customers. He was not aware that the sign would be so big and apologized for the oversight.

CHAIRMAN BUENO DECLARED PUBLIC HEARING OPEN.

Chuck Johnson, Pontiac resident. Mr. Johnson commended the applicant and his brother for opening up business in the downtown corridor. He stated that the sign only improves and enhances the property and makes it easier for visitors and citizens to locate the store. He stated that he does not see the sign as a future problem or detriment and approves of it.

CHAIRMAN BUENO DECLARED PUBLIC HEARING CLOSED.

Comm. Sinclair inquired when the sign permit was pulled, were the dimensions submitted. Mr. Bowdell stated that the sign was put up prior to acquiring a permit, which was a code violation.

Comm. Kirkendolph asked the applicant why the ZBA should consider the variance request if the proper procedure was not taken (pulling a permit). The applicant stated he had to make a drastic decision for his business to stay viable. He needed his customers and citizens to know where his store was and that it was still in business.

Comm. Anderson stated he has no problem with the sign but that the applicant should learn from this experience and acquire the proper permits.

Chairman Bueno stated that signs for the downtown area should have special exceptions but also has reservations with the applicant asking for permission after the fact and does not see a reason to grant the sign variance.

COMM. TODD MADE A MOTION TO APPROVE THE DIMENSIONAL VARIANCE REQUEST FOR ZBA-14-03, 140 NORTH SAGINAW.

COMM. TAYLOR SUPPORTED.

CHAIRMAN BUENO: Roll call please.

VOTE: AYES: Todd, Taylor, Sinclair, Anderson, Kirkendolph, Hollis, Bueno

NAYS: None.

ABSTAIN: None.

Vote 7-0-0 for approval of the dimensional variance request.

B. PUBLIC HEARING NUMBER: ZBA-14-04

Facts of Findings presented by Mr. Bowdell.

Property Description: 105 Pinegrove Avenue. Parcel Number: 14-29-104-015
Applicant/Property Owner: LaRhonda Ford

Dimensional Variance Request:

Section 2.305(F)(2) – Accessory Building Area: The aggregated area of accessory buildings on any lot shall not exceed the littlest of fifteen percent (15%) of the total lot area, the floor area of the first floor of the principal dwelling, or 660 sq. ft. per dwelling units, whichever is least.

The applicant has an existing 384 sq. ft. detached garage. The applicant is proposing a 1,216.6 sq. ft. (22' x 55.3') addition to the rear of the existing garage. **A 1,343 sq. ft. variance is requested.**

Claimed Practical Difficulty:

The applicant stated:

“I have many collector cars and because of the area, I can’t park on the street, and when I do park on the street, because of the narrow space, my cars get dinged up, which is very costly.”

Staff Findings:

1. The property is zoned R-2, Two Family Dwelling District.
2. Accessory Buildings located in an R-2 zoning district shall not exceed 15 percent of the total lot area, the floor area of the first floor principle dwelling, or 660 sq. ft., whichever is less.

3. The existing detached garage has an area of 384 sq. ft.
 - a. The proposed 1,216.6 sq. ft. garage addition exceeds the maximum area permitted. **(1,343 sq. ft. variance request)**
4. Fifteen percent of the total lot area is 2,250 sq. ft.
5. The proposed detached garage/accessory building complies with all other high, bulk, and setback requirements.
6. The lot is 50' wide and has an area of 15,00 sq. ft.

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:

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 restrictions of this ordinance do not prevent the owner from using the property as a permitted purpose. The ordinance allows the owner/applicant to have an accessory structure; however, it restricts the size. Due to the large size of the residential lot, to conform to the 660 sq. ft. requirement may be unnecessarily burdensome to the owner of the property.**

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 proposed accessory structure addition will provide substantial justice to the applicant. It does not appear to necessarily provide justice to other property owners in the zoning district. Although the property is much larger than a “typical” Two-Family Dwelling district lot, the proposed accessory structure addition appears to be designed and placed in a way not to be detrimental to surrounding properties; however, the intent of accessory structures (garages) are to be**

incidental to the primary use. The proposed 6 car garage appears to be excessive to the intent of the ordinance. Should a variance be granted, the planning department believes a lesser variance would provide substantial relief to the applicant.

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

May meet this standard – The property is very large. The total area of the property is 15,000 sq. ft. The lot well exceeds the minimum lot requirements for a property in an R-2 zoning district. This large lot appears to be able to accommodate a garage larger than 660 sq. ft.

4. The problem is not self-created.

May/may not meet this standard – the problem is self-created from the standpoint that the applicant is seeking a larger accessory structure (garage). However, the oversized lot is unique to the property and is not 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 this standard – The spirit/intent of the ordinance for accessory structures in an R-2, zoning district is to provide reasonable sized structure(s) that are intended to be used in a manner that is “clearly incidental” to the principal use to which it is exclusively related. The principal use of the property is for residential purposes, not for personal storage of vehicles.

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

Appears to meet this standard – The proposed accessory building addition (garage) does not seem to impair light or air to the property, nor does the proposal produce an increase in traffic congestion.

7. There is compliance with the standards for discretionary decisions as contained in Section 6.303.

Not applicable.

Recommendation:

To deny the proposed variance request (ZBA-14-04) for 105 Pinegrove as the request does not seem to meet the standards of approval from Section 6.407 of the Zoning Ordinance; specifically 2 and 5.

- or -

To approve a lesser variance that better conforms to the intent of the zoning ordinance.

The applicant, LaRhonda Ford, 105 Pinegrove Ave. stated that the narrow driveway is shared with the neighbor and that it is nearly impossible for her to park her car in the driveway because of this reason, therefore having to park on the narrow street. She also stated the alley behind her property would be used to access this garage. She stated that she does not see a problem with requesting a smaller variance for the garage. She also stated that the area is a distressed neighborhood and that she has owned the property for 5 years as a rental property. Since the property has been vacant for over a year, she is in the process of renovating it and needs to do what is best for her and her family's safety in order to live there.

CHAIRMAN BUENO DECLARED PUBLIC HEARING OPEN.

Public comment in the form a letter was submitted and read on record by Mr. Bowdell.

March 17, 2014

From: Anne Liimatta

26 Wisner St.

Pontiac, MI 48342

To: Pontiac Zoning Board of Appeals

47450 Woodward Ave.

Pontiac, MI 48342

Re: Pontiac Zoning Board of Appeals

Public hearing for Tuesday, March 18 – 7:00 pm

In City Council Chambers concerning

Dimensional Variance for ZBA-14-04

“The Pontiac Zoning Board of Appeals will hold a public hearing to consider a Dimensional Variance for Section 2.305(F)(2) Accessory Buildings – Area to allow a 1,210 sq. ft. garage addition at 105 Pine Grove on Tuesday March 18, 2014 at 7:00 pm in the Council Chambers of City Hall, Pontiac, 47450 Woodward Avenue, Pontiac, Michigan.”

Thank you for your letter of notice and the opportunity to submit written comments to the Department of Building Safety and Planning on this request for a dimensional variance at 105 Pine Grove. These comments are being submitted, per your request, at least 24 hours prior to hearing date.

My thoughts as a homeowner in the neighborhood within 300 ft. of Pine Grove are as follows:

1. There has been a large dumpster in the driveway of 105 Pine Grove for the last two months or more. It appears to be filled all the way and is surrounded by snow. A view into the house through the upstairs windows at night with the lights turned on shows only 2 x 4's with all the plaster and lath removed. I wonder what is going on with this “renovation” – the house is approximately 100 years old and might be getting insulation? But the outside looks rather messy at the moment.
2. Two empty and gutted houses on Wisner St. were demolished last fall. I believe Wisner St. now has all but two houses owned and occupied by owners. The other two are rentals. Pine Grove has at least 2 houses owned and occupied by owners with the remainder rentals in various stages of disrepair. This neighborhood definitely has challenges, but there are several historical homes here that are still quite lovely and I would like to investigate the possibility of getting historical designation for some if not all of the neighborhood.
3. There are 4-5 alleys in this neighborhood which I have always considered quaint and country and have enjoyed walking through as well as letting the children ride bikes there...drugs from time to time have made this somewhat dangerous. But the allies still make nice shortcuts through area for residents and associated traffic. 105 Pine Grove borders on one of these alleys and could possibly be used for access to the property. I am concerned that a large

storage garage placed on this comparatively small lot on an alley in the midst of our neighborhood could eventually be part of a request to change our residential designation to commercial. Storage for vehicles is one thing but who needs to store this many vehicles when where there is already a two-door garage present? The five houses on my stretch of Wisner St. are all over or close to 100 years old. I would like to investigate the opportunities of preserving them through the Pontiac Historical Commission as well as the Michigan Tax Tribunal. I am in contact with the historical commission director about this...

4. Lee Contracting, Inc., a very professional commercial enterprise in our area located alone Cesar Chavez, has recently purchased a 15-20 year lease of the Wisner School, Stadium, track and sports field from Pontiac Schools and is doing a very nice job maintaining and landscaping the property. There has been talk of a trade school coming to Pontiac and I wonder if this is the property being considered for the venture.

5. Lee Contracting, Inc. is a great commercial concern. It occupies most of the land mass from Montcalm/Chavez intersection bordered by Cass and Chavez down to Wisner St. It has expressed interest in also buying properties on Short St., the small dead end street off Wisner that goes down to the football field. It was stated they have plans for Wisner St. also. My concern is that this large garage "addition" at 105 Pine Grove may end up leading our neighborhood (from Wisner St. to North Johnson) into designation as a commercial zone. I realize this is "just" a hearing about variance but I feel it could be a step in the direction of asking also for a zone change further on down the road, should future commercial plans and conditions surface.

There is an old carpet cleaners on Wisner St. which has probably been here since the 40's and must have a grandfathered property use. It has affected homeowners adversely... also there are three large warehouses in the vicinity along Cass Ave. which have been used mainly for warehouse storage, with no commercial traffic. (One of them is open in the back to the elements and located on an overgrown alley.) I am very happy with the lovely work done by Lee in our area to make this section of Pontiac lovelier and hopefully more useful to the city, but I am very anxious about the thought of this Wisner-Pine Grove neighborhood being gobbled up or destroyed by commercial concerns. I am just trying to figure out what is going on, before I am told that my street and home are no longer viable and there is nothing we can do to halt their demise. Yes, Pontiac homes have suffered from the real estate collapse, but valuations have gone up this year for the first time.

6. The five 100-year-old houses on the west side of Wisner St. share back property lines with the Oakland County Pioneer and Historical Society. This 4.5 acre section of land houses the Governor Moses Wisner Mansion, rebuilt Carriage Barn – now an office and farm museum – the Drayton Plains One Room School House, Root cellar, Summer Kitchen, and Smoke House where the society runs a research library, conducts tours for the public and host two large community open house events every year for the last 50 years. I am very concerned that the historical treasure will be adversely affected by the loss of a neighborhood that was built here on property once belonging to the Wisner family. Wisner St. and Pine Grove and Florence St. all in this area, are names from the family history of Moses Wisner. We have been asked to change our parking lot lines and put in a gate opening onto the Wisner School property for the mutual use by OCPHS and Lee Contracting events at their sports venues. The Wisner board decided against making any of these changes at this time.

Thank you – Anne Liimatta 248-332-1247

Letter submitted Monday, March 17, 2014 to the Dept. of Building Safety & Planning, Pontiac, MI

Mike Willis, 405 Oakland Ave, Wisner Home, stated he was concerned with the possibility of running illegal businesses out of such an excessive garage. He opposes the dimensional variance request and would like to preserve the neighborhood integrity of the area.

Anne Liimatta, 26 Wisner St, stated that the street is narrow but that all residents have a problem with parking. She does not want this excessive garage to degrade the neighborhood. She also stated that upon speaking with other neighbors on the street, she was the only one opposed to this variance request.

Chuck Johnson, 21 Paddock, applauded Ms. Ford’s courage for coming before the board with her plan. He stated he was not for or against the request but is hopeful that the board can review and give Ms. Ford the best suggestion.

CHAIRMAN BUENO DECLARED PUBLIC HEARING CLOSED.

COMM. TAYLOR MADE A MOTION TO FOR APPLICANT (ZBA-14-04), 105 PINEGROVE AVE. TO WORK WITH STAFF TO ACCOMMODATE TO A LESSER VARIANCE THAT BETTER CONFORMS TO THE INTENT OF THE ZONING ORDINANCE BY THE JUNE 17TH, 2014 ZBA MEETING.

COMM. ANDERSON SUPPORTED.

CHAIRMAN BUENO: Roll call please.

VOTE: AYES: Taylor, Anderson, Todd, Sinclair, Kirkendolph, Hollis, Chair Bueno
NAYS: None.
ABSTAIN: None.

Vote 7-0-0 for tabling request to accommodate to a lesser variance until the June 17th, 2014 ZBA meeting.

C. PUBLIC HEARING NUMBER ZBA-14-06

Property Description: 235 Wesson Street. Sidwell 14-32-178-003
Applicant/Property Owner: PLTC Realty Investment 1, LLC –
Wesson Lawn Tennis Club

Request For Use Variance: Variance from the use permitted is requested as follows:
Section 2.203 Permitted Use by District, Community, Education, and Institution Uses. The request is to allow a type of use that is not a principal permitted use in R-1, One-Family Dwelling zone district. The proposed use is a private lawn tennis club facility at the former Hayes Jones Community Center. The use is identified in the zoning ordinance as a private club or fraternal organization use. The applicant intends to repurpose the former community center building and occupy the space for a private lawn tennis club use. The proposed tennis use is mostly outdoors. The proposed project is proposed in phases and the applicant intends to expand the private tennis club use to the south around the existing residential neighborhood and nearby open space by the Clinton River. The applicant requests a use of variance to cover the future phases and potential expansion of the tennis club use. The project area is detailed on the attached plan drawings.

Planning Commission Hearing Date: March 5, 2014

In accordance with Section 6.204 of the Zoning Ordinance, on March 5, 2014, the Planning Commission reviewed the preliminary site plan for the proposed private lawn tennis club at 235 Wesson Street. The meeting minutes are not yet available. However, the Planning Commission took action as follows:

To provide Preliminary Site Plan Approval and concept approval for PF-14-08, 235 Wesson Street, PLTC Realty Investment 1, LLC subject to the following ordinance compliance conditions:

1. Approval of a Use Variance by the Zoning Board of Appeals for a private tennis club recreation facility in an R-1 One-Family Dwelling district at 235 Wesson Street.
2. Compliance with all development standards identified in the City of Pontiac Zoning Ordinance as amended, including all bulk and area requirements.
3. Final Site Plan Review in accordance with the Preliminary Site Plan conditions by the Planning Department.
4. Compliance with specific City of Pontiac Departmental requirements and standards.
5. Compliance with all BOCA codes and permitting requirements.
6. Compliance with all City of Pontiac business licensing requirements.
7. Compliance with all State of Michigan MDEQ requirements related to Clinton River.

The applicant has made application to the Zoning Board of Appeals in order to comply with condition (1) for PF-14-08 above.

Claimed Undue Hardship:

(Use Variance) As stated, the site was the former Hayes Jones Community Center and was previously vacant. The applicant claims that the undue hardship is that they are proposing a use that is nearly identical to the former community recreation use. It will operate and look the same as it did when Hayes Jones was open. The intensity of the use will be reduced because it is now private property and would be limited to tennis club member use.

The applicant claims that the Zoning Ordinance inadvertently penalizes and restricts their proposed use because a larger and much more intense use would be permitted under the ordinance. However, a smaller more limited recreational use is prohibited only because it is private property use versus public property use. The applicant claims that using the site for a public property tennis facility complex could result in a project that is double or triple the size they propose without any special land use approval. The applicant believes that his proposed use is more appropriately sized and scaled for the neighborhood. The applicant states that his proposed use as a lawn tennis club is consistent with the prior use at the site. Additionally, without a use variance for private recreation type use, the property could never be used for recreation because it is no longer a publicly owned property or facility.

The applicant states that their proposed private club recreation use of the Hayes Jones Center will reoccupy a vacant and underutilized building. The applicant states that they understand the intent of the Zoning Ordinance to separate public and private uses. However, the applicant

believes that the ordinance does not intend to imply that a private club recreation use at the former Hayes Jones Community Center is not an appropriate use under these unique circumstances.

Staff Findings of Fact:

1. The subject site is zoned R-1 One-Family Dwelling District. The proposed use does not comply with the Zoning Ordinance as a Private Club, Fraternal Organization use is not a principal permitted use in the R-1 zone district.
2. The proposed Wesson Street Lawn Tennis Club use meets the Zoning Ordinance definition of a Private Club, Fraternal Organization use.
3. The proposed Wesson Street lawn tennis use includes 24 lawn tennis courts, 6 hard surface tennis courts, and 3 clay courts.
4. The existing Hayes Jones structure will remain mostly unchanged and will be renovated.
5. A new parking lot access drive is proposed at the south portion of the site adjacent to Hess Street.
6. A new parking lot access drive is proposed at the east side of the proposed parking area which fronts onto Bagley Street.

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:

1. 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:

Meets the standard, the zoning ordinance provides a limited number of permitted principal uses in the R-1 district, such as one-family dwellings, state licensed residential, community centers, parks, and minor utilities. Additionally, the applicant claims that a portion of the property was former industrial use and may require environmental remediation.

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

Meets the standard, the plight of the property is peculiar and unique because it is a former community center building and a former industrial site (1963 aerial photo shows unpaved vehicle scrap yard). Bowen Carter on Bagley Street remains a city owned public property building.

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

Meets the standard, the proposed use will be very similar to the previous historical use as a community recreation center. Such a use and the general activities related to tennis club use will not likely alter the essential character of the neighborhood.

4. The problem is not self-created.

Does not meet the standard, the problem is self-created. If the applicant had proposed single family residential use for the property, a use variance would not be required. Note: standard number one does not note the limited number of permitted uses, but there are permitted uses that are not available to the applicant.

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

Meets the standard, the intent of ordinance is to permit community center and recreation type uses in the R-1 zone district. A tennis club recreation use appears to be consistent with the intent. The use is not permitted in R-1, however, the proposed use does not appear to have negative effects on public safety or welfare.

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

Meets the standard for supply of light/air, but may not meet standards for the comfort or morals.

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

N/A, no Special Exception Permit

The proposed use variance request appears to comply with 5 or 7 considerations for findings in the Zoning Ordinance. However, the decision for a use variance lies with the Zoning Board of Appeals and the ZBA may wish to discuss use variance details in greater detail when making a determination for a use variance.

Recommendation:

To consider under what circumstances a use variance request may be appropriate for ZBA-14-06 sidwell #14-32-178-003, PLTC Realty Group LLC, Wesson Street Lawn Tennis Club 235 Wesson Street for a Private Club, Fraternal Organization type use in the R-1 zone district.

Applicant William Masie, 39221 Woodward Avenue, Bloomfield Hills, stated he would to reconstruct the old Hayes Jones Community Center to a private tennis club. This would be the first and largest grass tennis courts in North America. The applicant states that recommendations from the Planning Commission have been taken into consideration for this project. There are future plans to hold an annual ATP level grass tournament that could possibly bring millions of dollars to the economy to the surrounding areas. The applicant also states they will open a non-

profit to provide tennis lessons to the kids of the community who are not financially able to join the private club. The applicant also states that Hubert Price fully endorses this project and that the applicant is incredibly sensitive to the property's history.

CHAIRMAN BUENO DECLARED PUBLIC HEARING OPEN.

Anne Liimetta, 26 Wisner Street, expressed the importance of the initial purpose of this property was to serve the African American community. She is concerned with the fact that this will be a private club and therefore eliminating a lot of Pontiac citizens from being able to utilize this facility because they will not be able to financially afford to.

Mike Willis, 405 Oakland Avenue, stated he was glad to hear that this project would be coming to the city and teaching kids the sport of tennis. He stated that this project is something the city of Pontiac needs in order to move forward.

George Devarian, Ultimate Soccer Arena, stated that he loves the idea and is fully in support of this plan to bring tax dollars to the city and help revitalize the area. He stated that the city's past is nice to talk about but the reality is the city of Pontiac needs to be reborn. He sees Pontiac being the city with state of the art sporting facilities.

Jacklyn Hunt, Crawford Street, stated that she likes the idea of the facility but worries about it being a private facility. She is more at ease with the project knowing that a non-profit will be set up servicing the kids of Pontiac.

Chuck Johnson, 21 Paddock, stated he was pleased and happy to see this development come to the city of Pontiac.

Ken Corr, 2429 Tall Oaks, Auburn Hills, stated he was happy to see the development.

CHAIRMAN BUENO DECLARED PUBLIC HEARING CLOSED.

COMM. TODD MADE A MOTION TO APPROVE THE VARIANCE USE REQUEST (ZBA-14-06), 235 WESSON STREET.

COMM. HOLLIS SUPPORTED.

CHAIRMAN BUENO: Roll call please.

VOTE: AYES: Todd, Hollis, Taylor, Anderson, Kirkendolph, Sinclair, Chair Bueno

NAYS: None.

ABSTAIN: None.

Vote 7-0-0 for approval of the variance use request.

PUBLIC COMMENT: Chuck Johnson, 21 Paddock, expressed the importance of this meeting as well as the Planning Commission meetings to the citizens of Pontiac. It allows for the citizens to know what is going on or coming to their city.

CHAIRMAN BUENO DECLARED PUBLIC COMMENTS CLOSED.

MISCELLANEOUS: Chairman Bueno stated that an email was distributed to unofficially open nominations for Chair of the ZBA.

CHAIRMAN BUENO DECLARED NOMINATIONS FOR CHAIRMAN OFFICIALLY OPEN.

COMM. TODD ACCEPTED THE NOMINATION FOR CHAIRMAN.

CHAIRMAN BUENO DECLARED NOMINATIONS FOR CHAIRMAN OFFICIALLY CLOSED.

CHAIRMAN BUENO: Roll call please.

VOTE: AYES: Taylor, Sinclair, Anderson, Kirkendolph, Hollis, Chair Bueno

NAYS: None.

ABSTAIN: Todd.

Vote 6-0-1 for approval of Commissioner Todd as the newly elected Chairman of the ZBA.

CHAIRMAN BUENO DECLARED NOMINATIONS FOR VICE CHAIR OFFICIALLY OPEN.

COMM. TAYLOR ACCEPTED THE NOMINATION FOR VICE CHAIR.

CHAIRMAN BUENO DECLARED NOMINATIONS FOR VICE CHAIR OFFICIALLY CLOSED.

CHAIRMAN BUENO: Roll call please.

VOTE: AYES: Todd, Sinclair, Anderson, Kirkendolph, Hollis, Chair Bueno

NAYS: None.

ABSTAIN: Taylor.

Vote 6-0-1 for approval of Commissioner Taylor as the newly elected Vice Chair of the ZBA.

There are currently no alternates. All potential alternates would need to contact the Mayor's office.

MOVED BY COMM. HOLLIS TO ADJOURN.

COMM. ANDERSON SUPPORTED.

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

ADJOURNMENT: 9:05 p.m.