



Mayor Tim Greimel

CITY OF PONTIAC

Planning & Zoning Division

City Hall - 47450 Woodward Avenue

Pontiac, Michigan 48342-5009

248-758-2811 | FAX 248-758-2827

Mark Yandrick
Planning Manager

PONTIAC ZONING BOARD OF APPEALS

February 27, 2023 6:30PM

CITY HALL – 2ND FLOOR – COUNCIL CHAMBERS

47450 WOODWARD AVENUE – PONTIAC, MICHIGAN

1. CALL TO ORDER:
2. ROLL CALL:
3. OFFICIAL COMMUNICATIONS:
4. ADOPTION OF MINUTES: January 23, 2023 ZBA Minutes
5. OLD BUSINESS:
6. NEW BUSINESS:
 - a. Case: Variance ZBA 23-03
Applicant: Fairway Engineering on behalf of WJH, LLC
Address: 318 Tom Avenue
Parcel ID: 14-30-252-055
Request: 22' Front Yard Setback
 - b. Case: Variance ZBA 23-04
Applicant: Fairway Engineering on behalf of WJH, LLC
Address: 296 Alhambra Street
Parcel ID: 14-30-252-118
Request: 22' Front Yard Setback
 - c. Case: Variance ZBA 23-05
Applicant: Fairway Engineering on behalf of WJH, LLC
Address: 310 Alhambra Street
Parcel ID: 14-30-252-121
Request: 22' Front Yard Setback
 - d. Case: Variance ZBA 23-08
Applicant: Felicia Robinson
Address: 99 Norton Street
Parcel ID: 14-29-328-015
Request: Use Variance for Childcare Center in R-1 Zoning District



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- e. Case: Variance ZBA 23-09
Applicant: Sarah Soulliere (SDS Stone Paving)
Address: 435 and 451 Auburn
Parcel ID: 14-28-460-029 and 14-28-460-035
Request: Use Variance for a Landscaping Company in a C-1 Zoning District
- f. Case: Variance ZBA 23-10
Applicant: Sarah Soulliere (SDS Stone Paving)
Address: 435 Auburn
Parcel ID: 14-28-460-029
Request: 6' Fence in Front Yard

7. PUBLIC COMMENT:

8. MISCELLANEOUS:

9. STAFF COMMUNICATIONS:

10. ADJOURNMENT:

CITY OF PONTIAC, MICHIGAN

ZONING BOARD OF APPEALS
REGULAR MEETING MINUTES
MONDAY, JANUARY 23, 2023
6:00 P.M.

ZBA BOARD MEMBERS:

Dean Bevacqua, Chairperson
Elcine Kirkendolph, Vice Chairperson
Sam Anderson, Member
Sonya May, Member
Arthur F. McClellan, Jr., Member
Jenny Burk, Member
Gloria Harris-Ford, Member
Carlos Bueno, Member

FROM THE CITY:

Mark Yandrick, Planning Manager

MINUTES RECORDED BY:

Quentina R. Snowden, (CSR-5519)
Certified Shorthand Reporter & Notary Public
QRS Court Reporting, LLC
800.308.0068 (o)
810.691.4226 (after hours)

Request: 22' front yard setback

(Presentation of facts given by Mr. Yandrick.)

Mr. Yandrick stated the building department approved the project in June of 2021, and in finishing construction of the home, surveyors discovered the house was built three feet into the front yard setback. He stated there are 8 or 9 lots, and perhaps several others that are going to need variances, and they would be coming forward in future meetings.

He described this as a mixed-use district, and spoke about flexibility in this district. He stated the perimeter setback around the MUD is consistent, but that is not flexible. He stated where the flexibility lies is within the front and side yard setbacks.

He stated in doing the research here, there is no difference between the front yard setbacks of this particular house with what they see in typical R-1 homes. He stated they are looking at a 25 foot setback from the road on Lake Laura.

He described the applicant's practical difficulty. He stated the lot is abutting the railroad tracks. He stated you don't notice the encroachment because of the bend in the road.

He stated they are required to get a variance; that this is the only legal means, otherwise the property would be legally non-conforming. He stated the applicant is trying to bring the property into compliance.

He discussed the 7 conditions of approval contained in the staff report. He stated staff is not providing a recommendation for, or against, that that's for the Board to decide.

Mark Mahajan, Fairway Engineering, 28525 Beck Road, Suite 124, Wixom, Michigan. He stated during the staking of the house, some areas were not exactly defined, and that they could not trace it back to when the error occurred.

He stated the house is already built and it would be very expensive to demolish.

(Open public comment at 6:51 p.m.; no one approached; public comment was closed.)

Member May asked what the applicant meant by many years they okay'd the house to be built.

Mr. Mahajan stated the plans which were prepared showed the house was within the setback.

Mr. Yandrick indicated he had not seen the plans; that the City has no record of it.

Mr. Steve Karhnak stated March of 2021.

Mr. Yandrick stated the site plan in 2021 called out for 22 feet.

Mr. Mahajan stated it was 25 feet.

Member May clarified when it was time to build the home, everything was correct and now there's a difference.

Mr. Mahajan affirmed.

Member Bueno stated that apparently nobody knew it was built in the wrong spot, and it was only found with the survey, that it's built 3 feet closer. He stated whoever did the foundation work must have made the error. He discussed the other lots which may be coming before them in the future. He asked why they are only discussing one this evening.

Mr. Yandrick stated this is the only one they have an application for at the moment.

Member Bueno asked of Mr. Yandrick what the responsibility is of the building department.

Mr. Yandrick stated the City does not have a professional surveyor on site, and that's why it was missed. He stated the building department does inspect the building foundations. He stated, yes, they are the eyes and ears, but often not checking for setbacks. He said part of that is you don't always

know where the property line is and that's the challenge with that.

Member Bueno discussed the sidewalks and how normally that gives someone a reference point.

Mr. Yandrick stated, in his experience, the property line is not always a good indicator with sidewalks.

Member Anderson stated he built a house in Pontiac and explained his experience. He stated whoever did this project didn't do their job on this; they should have measured it. He stated this should have been caught beforehand. He wanted to know the stage of the other homes that will be coming before them.

Mr. Mahajan stated two others are 5.75 feet from the property line.

Member Anderson asked how far along they are.

Mr. KarhnaK stated the others also have foundations poured.

Anderson stated something has to be settled before these guys get too far. He's questioning how three or four got by the planning department

Member Bueno stated the issue is not with the planning department; plans are the plans. He stated it's more on the inspections and that end of it than the planning.

Member McClelland stated it's between the engineering company and inspections.

Member Anderson stated they need to get people out there to inspect these things, make sure they are in compliance before these homes are fully built.

Member Harris-Ford asks if this sets a precedence for the other 3 or 4 houses that have already started.

Mr. Yandrick stated there is a perception of precedence when something like this gets approved, but there is not a legal precedent with variances. He stated a variance talks about unique circumstances and each parcel is unique; so a variance is not precedent-setting.

Member May asked if the setbacks on the other homes are on the front or side.

Mr. Mahajan clarified the setbacks.

Member May asked what the construction company is saying about this.

Mr. Karhnaak stated they're the construction company. He stated he's not really sure what happened, perhaps just human error. He stated this home is framed; and they are starting to do mechanicals and the house has been purchased. He stated it's not something that was necessarily wrong on the plan; it was one person who made an error with the way the houses were plotted. He stated since then, as the builder, they have taken some additional steps to ensure this does not happen moving forward.

Member May thanked them for coming forward and being honest with pointing out the issue.

Mr. Yandrick stated the applicant provided a full list of the survey of each of the homes they are working on. He stated anything that was under a foot of the setback didn't qualify enough to require a variance.

Acting Chair Kirkendolph thanked the applicant for coming before them and providing the information. She stated for anyone building a home within the City, they need to do their due diligence, and as far as the City making sure the contractors are doing their job.

Motion to approve variance ZBA 23-001 for the 22 foot setback.

Motion: Harris-Ford

Support: Bueno

**Ayes: Anderson, Harris-Ford, McClellan, May, Bueno,
Kirkendolph**

Abstained: NONE

Opposed: NONE

(Motion passes 6-0-0)

**7. Public Comment: (Opened and closed at 7:15 p.m.; no one
approached.)**

8 Miscellaneous: (None.)

9 Staff Communications:

Mr. Yandrick discussed they are looking for senior planners and interviewing. He stated he's running on fumes. He discussed the importance of City inspections as well. He stated the Planning Commission is very full making some changes to the Adult Use Marijuana Ordinance, and City Council as well.

He described they are looking at doing a master plan later this year; and along with that may be making a grouping of zoning changes, more of a cleanup process.

10 Adjournment at 7:19 p.m.

Minutes certified by:



/s/ Quentina Rochelle Snowden, CSR-5519

Certified on: February 10, 2023

QRS Court Reporting, LLC

800.308.0068 (o)

810.691.4226 (after hours)



Carlisle | Wortman
ASSOCIATES, INC.

117 NORTH FIRST STREET SUITE 70 ANN ARBOR, MI 48104 734.662.2200 734.662.1935 FAX

TO: Planning Division

CC: Mark Yandrick, Planning Manager

FROM: Richard K. Carlisle, FAICP, Planning Consultant to the City of Pontiac

DATE: February 24, 2023

RE: Variance Request for 318 Tom Avenue (ZBA-23-003)

Executive Summary:

The applicant is Fairway Engineering LLC acting on behalf of the property owner, WJH LLC. The applicant is requesting a variance from the side setback of a residential dwelling that is currently under construction within a Mixed Use District.

Overview:

The subject dwelling is partially constructed. At present, the dwelling encroaches on the required side setback, to the south, where in one location the dwelling is 2.7 feet closer to the lot line than the MUD Development Agreement allows. The error was self- created but occurred during construction, which appears to be unintentional. The remedy would be to demolish a portion of the house to meet setback requirements or request a variance. Further, the encroachment in question is the result of the foundation being erroneously laid at a slight diagonal. As a result of the diagonal, the side setback to the dwelling's south varies from 7 to 5.3 feet.

Requirements:

Required Side Yard Setback: 7'

Requested Side Yard Setback: 5.3'

Exhibits:

Exhibit A - Building Envelope(dashed line) and Existing Foundation (solid line)

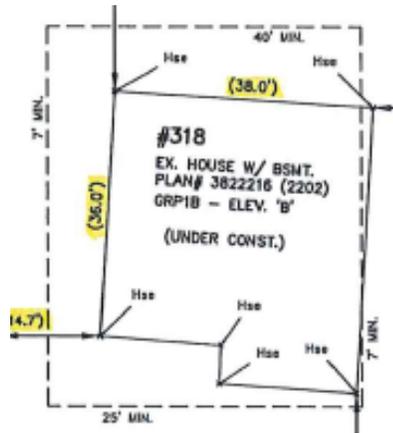


Exhibit B – Parcel View of the Property



Exhibit C - Aerial View of the Property



Statement of Practical Difficulty

The applicant states their hardship as follows: “The house is sold and construction of (the) house is projected for April completion for delivery to the buyer. It would be extremely difficult to remove and re-start the process and deliver (the) house in (this) time frame.” The Planning Manager has further commented that the applicant demolished/ remedied other foundations that were poured incorrectly but has chosen to apply for variances at three (3) locations, including this one, where construction is further along.

Analysis:

The variance request is necessary to permit the ongoing construction of the subject dwelling and to allow the purchaser of the dwelling to occupy the home within the time frame agreed upon.

While the side yard setback in the City of Pontiac is five feet (5') for properties in R-1 zoning districts, the subject property is zoned MUD (Mixed Use Development). In a MUD Development such as this, City Council approves the interior setbacks. Perimeter setbacks are established in the Zoning code. This allows for flexibility in the approved development standards. As part of the subject development, the side yard setback was established at seven feet (7') , which is greater than the setback required for dwellings in the R-1 district.

Zoning Code Regulations & Standards of Approval

Authority-

The zoning board of appeals may grant a dimensional (non-use) variance to provide relief from a specific standard in the City Zoning Ordinance, such as the setback in question, upon the concurring vote of a majority of the members of the Zoning Board of Appeals.

Practical Difficulty-

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.

Compliance with the required front yard setback will prevent the new owner from moving into the property as planned; during the spring of 2023. Because the majority of construction is already complete and because the encroachment into the front setback is small in scale, compliance with the standard set by the Zoning Ordinance will be unnecessarily burdensome to the applicant and all who have a legal interest in the property.

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.

The reason for the variance is due to an error made during construction. Although the ZBA is authorized to grant a lesser variance, 1) such a decision will not provide relief to the applicant, 2)

the developer of the site is the owner of surrounding properties, and 3) denial of the variance will cause harm to the future occupant of the site.

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

The issue appears to be unrelated to the inherent characteristics of the property.

4. The problem is not self-created.

The problem is self-created and appears to be unintentional. The applicant states, "It was not (an) intentionally created hardship, but the error has occurred during construction of the subject house." However, the ZBA should be aware that the standard for granting a dimensional variance is a showing of practical difficulty, not hardship.

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

While the discrepancy is small in size, it is a result of the erroneous and diagonal orientation of the subject dwelling. The ZBA should discuss whether the resulting orientation remains compatible with the balance of the neighborhood design. It should be noted that portions of the house do comply with the side yard setback. Further, the ZBA should consider that denial of the variance will negatively impact the purchaser of the home.

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

Section 6.401.B seeks to protect the surrounding vicinity from any detrimental effect on property values, public health, and welfare. If permitted, the side setback in question will be approximately equal to what is typically required and can be found in the City's R-1 district. The discrepancy noted at this particular site will not likely be noticeable to surrounding residents.

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

The variance request is in compliance with each subsection of 6.303. In summary, the discrepancy in question will not cause change to the character of the surrounding neighborhood.

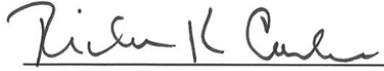
Summary:

The ZBA should consider whether encroachment of the proposed dwelling, based upon the Development Agreement, fails to meet the test of a practical difficulty. On the other hand, the ZBA may consider the fact that the deviation may not be noticeable and would have no negative impact on the neighboring residences. Portions of the structure do meet the 7' side yard setback.

318 Tom Avenue – Non Use Variance
February 24, 2023

Recommendation:

As a matter of practice, staff only provides analysis and not a recommendation on variances.



CARLISLE/WORTMAN ASSOC., INC
Richard K. Carlisle, FAICP
Past President/Senior Principal



Application for Zoning Board of Appeals

City of Pontiac

Office of Land Use and Strategic Planning

47450 Woodward Ave, Pontiac, MI 48342

T: 248.758.2800

F: 248.758.2827

Property/Project Address: 318 TOM AVENUE

Sidwell Number: 14-30-252-055

Date: 12-27-2022

Office Use Only

PF Number: _____

Instructions: Applications for Zoning Board of Appeals shall be filed with the Office of Land Use and Strategic Planning at least 30 days before the regularly scheduled Zoning Board of Appeals Meeting. Incomplete applications will delay the review process.

Applicant (please print or type)

Name	FAIRWAY ENGINEERING LLC		
Address	28525 BECK ROAD, SUITE 114		
City	WIXOM		
State	MI		
ZIP Code	48393		
Telephone	Main: 2489384902	Cell: 2482145913	Fax:
E-Mail	markm@fairwayeng.com		

Property Owner – if different (please print or type)

Name	WJH LLC		
Address	8373 W GRAND RIVER AVE		
City	BRIGHTON		
State	MI		
ZIP Code	48116		
Telephone	Main: 8337910192	Cell: 2483069226	Fax:
E-Mail	steve.karhnaek@centurycommunities.com		

Property Information:

Property Address: 318 TOM AVE., PONTIAC, MI 48341

Zoning of Property: MUD mixed use district (RESIDENTIAL)

The subject property is legally described as follows (include sidwell numbers):

LOT 67 OF "THE PARKS AT STONEGATE POINTE"

SIDWELL NO 14-30-252-055

318 TOM AVE., PONTIAC, MI 48341

Purpose of request:

THE HOUSE OVERHANGS (ENCROACHES) 1.7 FEET INTO THE SIDE SETBACK SETBACK

THE HOUSE IS PARTIALLY BUILT

WE ARE REQUESTING VARIANCE FOR SIDEYARD SETBACK OF 5 FEET (REQUIRED IS 7 FEET)

Please explain the nature of your hardship in accordance with the conditions listed above:

THE HOUSE IS SOLD AND CONSTRUCTION OF HOUSE IS PROJECTED FOR APRIL COMPLETION FOR DELIVERY TO THE BUYER. IT WOULD BE EXTREAMLY DIFFICULT TO REMOVE AND RE START THE PROCESS AND DELIVER HOUSE IN TIME FRAME. THE ENCROACHMENT DOES NOT IMPACT ANYONE ADVERSLY INCLUDING NEIGHBORS, IT ISM OUR SINCERE REQUEST FOR VARIANCE. BUYER HAS MADE PLANS TO MOVE IN SPRING 2023

Has a request ever been submitted to/or reject by the Planning Commission? Yes No

If yes, state cirumstances:

Signature of Applicant

Signature of Owner

State of Michigan
County of Oakland

On this ___ day of _____, A.D., 20___, before me personally appeared the above named person, who being duly sworn, stated he/she has read the foregoing application, by him/her signed, and know the contents thereof, and that the same is true of his/her own knowledge, except as to the matters therein stated to be upon information and belief and so as to those matters he/she believes it to be true.

Notary Public, Oakland County, Michigan
My Commission Expires: _____



Zoning Board of Appeals Information

City of Pontiac

Office of Land Use and Strategic Planning

47450 Woodward Ave, Pontiac, MI 48342

T: 248.758.2800

F: 248.758.2827

Act 207, P.A. of 1921 provides that a City may establish a Board of Appeals to hear requests for variances to the literal application of the provision of the Zoning Ordinance where, by reason of peculiar conditions unnecessary hardship may result from strict conformity.

The Board of Appeals has not power to legislate. Its purpose is to provide a measure of flexibility for the Zoning Ordinance. The Board has the authority upon appeal, to vary the provisions of the Zoning Ordinance where practical difficulty and unnecessary hardship would result by rigid application of the regulations.

The Board of Appeals can grant a variance only where an unusual circumstance leads to unnecessary hardship for the particular property owner.

It has been upheld in the courts that merely because an owner can secure a greater return from his property by changing its uses is not sufficient grounds for requesting a variance. A hardship must be something other than of a financial nature.

If you wish to appear before the Board of Appeals, you must show that the following conditions exist, and so indicate of the attached application form.

- 1.) That there are exceptional or extraordinary circumstances or conditions applying to the property in question as to the intended use of the property that do not generally apply to the other properties in the same Zoning District.
- 2.) That such a variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same Zoning District and in the vicinity.
- 3.) That the authorizing of such a variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purposes of the Ordinance.
- 4.) Plans drawn to scale showing shape and dimension of lots, buildings and lines of proposed building to be erected, altered or use change, Such other information with regard to lot or neighboring lots, proposed uses, as may be deemed necessary.
- 5.) Filing fee to be paid to the Office of Land Use and Strategic Planning, when the application for hearing is submitted. Checks should be made payable to the 'City of Pontiac.'

**PROPERTY ADDRESSES AND SIDWELL NUMBER FOR LOT 67
AT “ THE PARKS AT STONEGATE POINTE”**

LOT 67, SIDWELL NO. 14-30-252-055
318 TOM AVE., PONTIAC, MI
PLANS FOR EACH LOT ARE ATTACHED

NARRATIVE FOR VARIANCE REQUEST

The house as-built condition encroaches into the side yard setback by 1.7 feet. During construction of the subject lot 67, mishap occurred and minor variation occurred during home installation from the proposed setbacks.

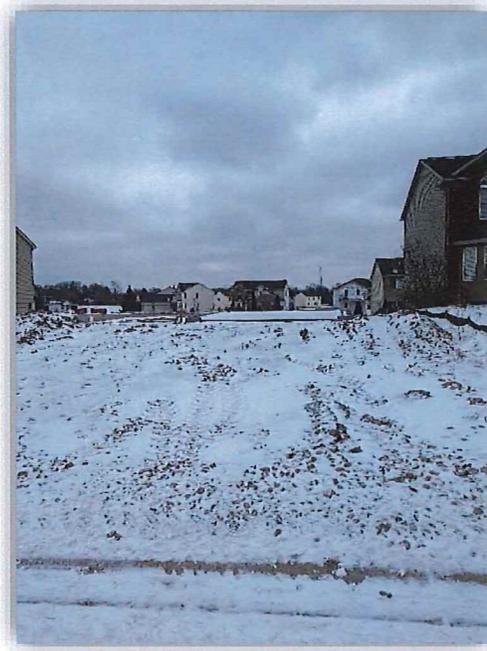
It is very difficult to correct these since houses are so far into the construction process. Also this home is sold items and need to be delivered on time to the customer by WJH. The house is sold and the owner has made arrangemnet to move in house in spring of 2023. The house construction needs to continue to be able to deliver it in time for the buyer/home owner.

The encroachments in the setbacks do not impact the neighbors or create any hardship. There is no impact on the enjoyment of the subject house/lot or neighboring properties. It does not impact general public.

It was not intentionally created hardship but the error has occurred during construction of the subject house.

We are sincerely requesting the Board to consider the situation on this project for granting the variance.

Project Name: LOT 67

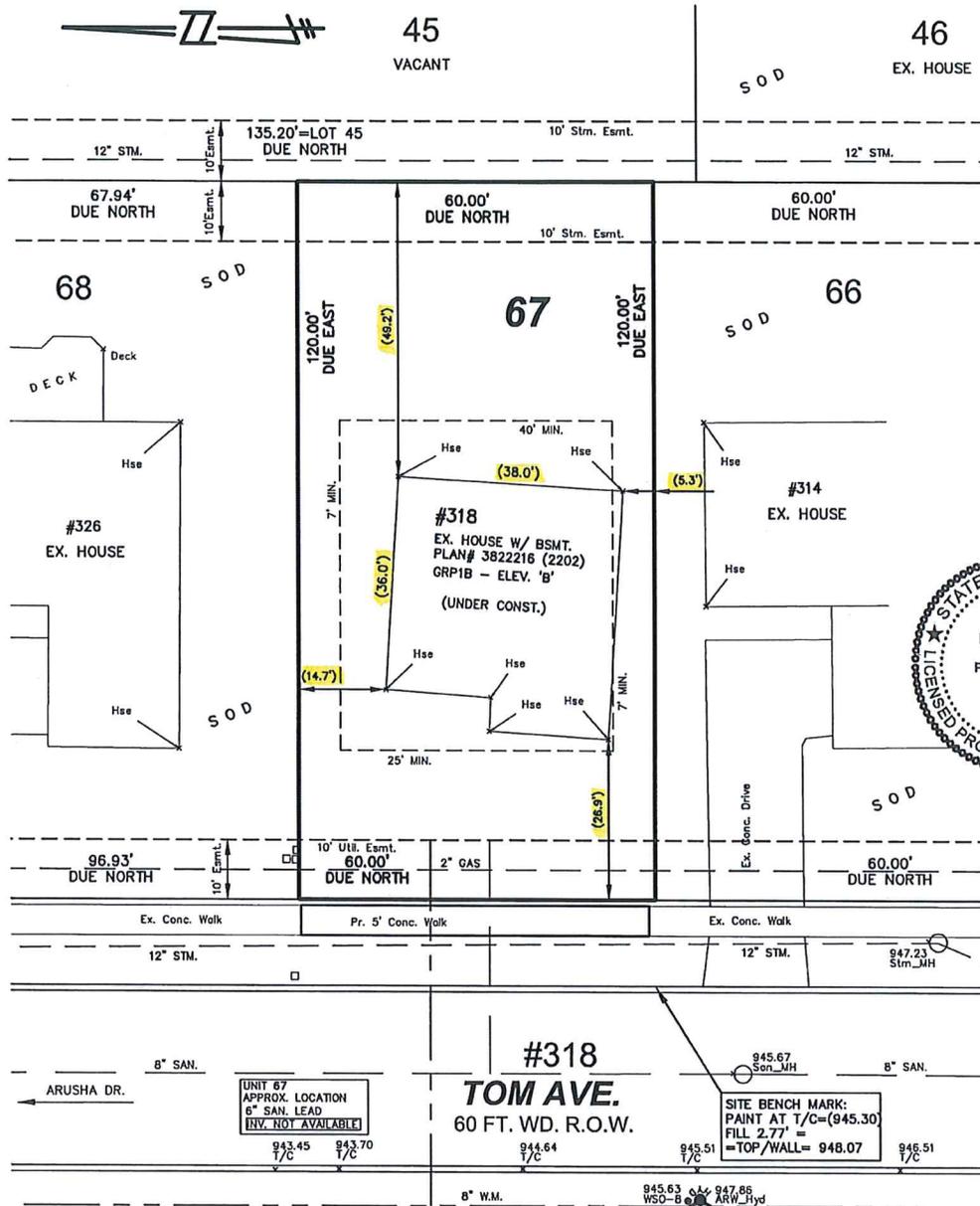


UNIT 67 "THE PARKS AT STONEGATE POINTE"

PART OF THE NW 1/4 OF SECTION 29 AND NE 1/4 OF SECTION 30, T3N, R10E,
CITY OF PONTIAC, OAKLAND COUNTY, MICHIGAN
PARCEL #14-30-252-055



UTILITY WARNING
Know what's below.
Call before you dig.



Proposed 4" Thick Sidewalk (2% Max Cross Slope)
Proposed 4" Thick Driveway
Proposed 6" Thick Approach (Through Sidewalk)

CONTACT THE CITY OF PONTIAC ENGINEERING DIVISION, A MINIMUM OF 48 HOURS PRIOR TO ANY WORK PERFORMED WITHIN THE RIGHT-OF-WAY.

A RIGHT-OF-WAY PERMIT IS REQUIRED FOR ALL PROPOSED WORK WITHIN THE LAKE LAURA RIGHT-OF-WAY.

NOTE: MAINTAIN 10' HORIZONTAL SEPARATION BETWEEN WATER SERVICE AND SANITARY LEAD.

NOTE: (CITY OF PONTIAC) CONTRACTOR SHALL CONTACT THE CITY OF PONTIAC ENGINEERING DIVISION TO SCHEDULE REQUIRED SIDEWALK INSPECTION, A MINIMUM OF 48 HOURS PRIOR TO PROPOSED INSTALLATION.

PRIOR TO CONSTRUCTION, A GEOTECHNICAL REPORT SHALL BE OBTAINED BY THE BUILDER. AMBIT ASSUMES NO RESPONSIBILITY FOR SOIL CONDITIONS.

BUILDER SHALL PROVIDE POSITIVE DRAINAGE AROUND AND AWAY FROM THE HOUSES.

CONTRACTOR IS TO VERIFY LOCATION AND DEPTH OF WATER AND UTILITY SERVICES BEFORE CONSTRUCTION.

NOTE: IT IS THE CLIENT'S RESPONSIBILITY TO REVIEW THIS DRAWING FOR ALL HOUSE PLAN DATA, INCLUDING (BUT NOT LIMITED TO) ELEVATION, HOUSE AND BASEMENT SIZES, CANTILEVERS, ETC., AND, THE HOUSE LOCATION AND ORIENTATION ON THE PARCEL. ANY DISCREPANCIES NOT BROUGHT TO OUR ATTENTION, SHALL BE THE SOLE RESPONSIBILITY OF THE CLIENT.
* FOUNDATION DIMENSIONS SHOWN SHOULD BE USED FOR BASEMENT EXCAVATION PURPOSES ONLY. FOUNDATION CONTRACTOR SHALL USE THE ARCHITECTURAL FOUNDATION PLAN DIMENSIONS FOR LAYOUT AND CONSTRUCTION OF FOUNDATIONS.

NOTE: PRIOR TO BASEMENT EXCAVATION, CONTRACTOR SHALL EXPOSE AND VERIFY SANITARY LEAD ELEVATION. A HIGHER BASEMENT FLOOR ELEVATION MAY BE NEEDED TO MAINTAIN GRAVITY FLOW WITHOUT HUNG PLUMBING.

CONTACT OAKLAND COUNTY WATER RESOURCE COMMISSIONER'S OFFICE FOR INFORMATION CONCERNING EXISTING UTILITY LEADS AND CONNECTION FEES.

WE CERTIFY THAT ON DEC. 20, 2022 ELEVATIONS WERE TAKEN FOR THE EXISTING HOUSE, AS SHOWN ON THIS PLAN. AS-BUILT GRADE (00.0) MAY DIFFER FROM PROPOSED GRADE SHOWN ON PLOT PLAN.

PROPOSED
F.G. = 947.4
± 0.67
TOP/WALL = 948.07
AS-BUILT
TOP/WALL = 948.37

MINIMUM SETBACKS:
FRONT = 25'
REAR = 40'
SIDE = 7'

UNIT SQ. FT. = 7,200

- ESTIMATED / PROPOSED QUANTITIES:
1. PR. CONCRETE DRIVE AREA 448 S.F.
 2. PR. CONC. DRIVE (APRON) AREA 152 S.F.
 3. PR. CONC. HOUSE WALK AREA 47 S.F.
 4. PR. CONC. ROAD SIDEWALK AREA 293 S.F.
 5. PR. HOUSE COVERAGE AREA 1,483 S.F.

PR. HOUSE UNIT 67
FINISH FLOOR = 949.25 +1.85'
11'-7/8" FLOOR JOISTS
TOP/WALL = 948.07 +0.67'
FINISH GRADE = 947.4 +0.00
7'-10" BSMT. WALL
BSMT. FLOOR = 940.57 -6.83'
TOP/SPREAD FOOTING = 940.24 -7.16'

LEGEND

- 0.00 = EXISTING ELEVATION
- 00.0 = PROPOSED GRADE
- 00.00 = ADJUSTED PR. F.G.
- = DRAINAGE
- (0.00) = AS-BUILT GRADE
- F.G. = FINISH GRADE
- F.F. = FINISH FLOOR GRADE
- DROP = DROP FINISH GRADE
- D.L.G. = DAYLIGHT FINISH GRADE
- T/C = TOP OF CURB
- T/W = TOP OF WALK
- WSO = WATER SHUT-OFF

FOUNDATION AS-BUILT 12-20-22

FDN. AS-BUILT: 12-20-22	CLIENT: WJH LLC 3091 GOVERNORS LAKE DRIVE -- STE. 300 NORCROSS, GA 30071 PHONE: 1.833.791.0192
REVISION: 6-8-21	
PLOT PLAN: 5-4-21	
JOB NO.: 21-02-027	
SCALE: 1"=20'	
691 WING STREET Plymouth, MI 48170 ph. 800.221.5263 ph. 734.455.5501 fax 877.837.5267 www.ambitsurveyors.com	
DRAWN BY: DP	CHECKED: P3
SHEET: 1/1	



Carlisle | Wortman
ASSOCIATES, INC.

117 NORTH FIRST STREET SUITE 70 ANN ARBOR, MI 48104 734.662.2200 734.662.1935 FAX

TO: Planning Division

CC: Mark Yandrick, Planning Manager

FROM: Richard K. Carlisle, FAICP, Planning Consultant to the City of Pontiac

DATE: February 15, 2023

RE: Variance Request for 296 Alhambra Street (ZBA-23-004)

Executive Summary:

The applicant is Fairway Engineering LLC acting on behalf of property owner, WJH LLC. The applicant is requesting a variance from the front setback of a residential dwelling that is currently under construction within a Mixed Use District.

Overview:

The subject dwelling is partially constructed. At present, the dwelling encroaches on the required front setback and is 1.4 feet closer to the property line than approval as an MUD (Mixed Use District) allows. The error was self-created but occurred during construction, which appears to be unintentional. The remedy would be to demolish a portion of the house to meet setback requirements or request a variance.

Requirements:

Required Front Setback: 25'

Requested Front Setback: 23.6'

Exhibits:

Exhibit A – Building Envelope (dashed line) and Existing Foundation (solid line)



Exhibit B- Parcel View of the Property



Exhibit C- Aerial View of the Property



Statement of Practical Difficulty

The applicant states their hardship as follows: “The house is sold and construction of (the) house is projected for April completion for delivery to the buyer. It would be extremely difficult to remove and re-start the process and deliver (the) house in (this) time frame.” The Planning Manager has further commented that the applicant demolished/ remedied other foundations that were poured incorrectly but has chosen to apply for variances at three (3) locations, including the subject site, where construction is further along.

Analysis:

The variance request is necessary to permit the ongoing construction of the subject residential dwelling and to allow the purchaser of the dwelling to occupy the home within the time frame agreed upon.

While the front yard setback in the City of Pontiac is 25’ for properties in R-1 zoning districts, this property is zoned Mixed Use Development (MUD). In a Planned Unit Development such as this, City council approves the interior setbacks, while the perimeter setbacks are established in the City’s Zoning code. This allows for flexibility in the approved development standards. As part of the subject development, the front yard setback was 25’ for this subdivision.

Zoning Code Regulations & Standards of Approval

Authority- The zoning board of appeals may grant a dimensional (non-use) variance to provide relief from a specific standard in the City Zoning Ordinance, such as the setback in question, upon the concurring vote of a majority of the members of the Zoning Board of Appeals.

Practical Difficulty-

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.

Compliance with the required front yard setback will prevent the new owner from moving into the property as planned; during the spring of 2023. Because the majority of construction is already complete and because the encroachment is small in scale, compliance with the standard set by the Zoning Ordinance will be unnecessarily burdensome to the applicant and all who have a legal interest in the property.

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.

The reason for the variance is due to an error made during construction. Although the ZBA is authorized to grant a lesser variance, 1) such a decision will not provide relief to the applicant, 2) the developer of the site is the owner of surrounding properties, and 3) denial of the variance will cause harm to the future occupant of the site.

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

The issue is unrelated to the inherent characteristics of the property. The issue was created during the construction process.

4. The problem is not self-created.

The problem is self-created though appears to be unintentional. The applicant states, "It was not (an) intentionally created hardship, but the error has occurred during construction of the subject house." However, the ZBA should be aware that the standard for granting a dimensional variance is a showing of practical difficulty, not hardship.

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

While the discrepancy is small in size, it is a result of the erroneous and diagonal orientation of the subject dwelling. The ZBA should discuss whether the resulting orientation remains compatible with the balance of the neighborhood design. It should be noted that portions of the house do comply with the side yard setback. Further, the ZBA should consider that denial of the variance will negatively impact the purchaser of the home.

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

Section 6.401.B seeks to protect the surrounding vicinity from any detrimental effect on property values, public health, and welfare. The discrepancy noted at this particular site will not likely be noticeable to surrounding residents.

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

The variance request is in compliance with each subsection of 6.303. In summary, the discrepancy in question will not cause change to the character of the surrounding neighborhood.

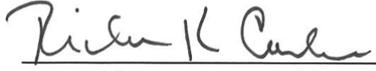
Summary:

The ZBA should consider whether encroachment of the proposed dwelling, based upon the Development Agreement, fails to meet the test of a practical difficulty. On the other hand, the ZBA may consider the fact that the deviation may not be noticeable and would have no negative impact on the neighboring residences.

296 Alhambra Street – Non Use Variance
February 15, 2023

Recommendation:

As a matter of practice, staff only provides analysis and not a recommendation on variances.



CARLISLE/WORTMAN ASSOC., INC

Richard K. Carlisle, FAICP

Past President/Senior Principal

ZBA23-004



Application for Zoning Board of Appeals

City of Pontiac

Office of Land Use and Strategic Planning

47450 Woodward Ave, Pontiac, MI 48342

T: 248.758.2800

F: 248.758.2827

Property/Project Address: 296 ALHAMBRA ST.

Sidwell Number: 14-30-252-118

Date: 12-27-2022

Office Use Only

PF Number: _____

Instructions: Applications for Zoning Board of Appeals shall be filed with the Office of Land Use and Strategic Planning at least 30 days before the regularly scheduled Zoning Board of Appeals Meeting. Incomplete applications will delay the review process.

Applicant (please print or type)

Name	FAIRWAY ENGINEERING LLC		
Address	28525 BECK ROAD, SUITE 114		
City	WIXOM		
State	MI		
ZIP Code	48393		
Telephone	Main: 2489384902	Cell: 2482145913	Fax:
E-Mail	markm@fairwayeng.com		

Property Owner – if different (please print or type)

Name	WJH LLC		
Address	8373 W GRAND RIVER AVE		
City	BRIGHTON		
State	MI		
ZIP Code	48116		
Telephone	Main: 8337910192	Cell: 2483069226	Fax:
E-Mail	steve.karhnak@centurycommunities.com		

Property Information:

Property Address: 296 ALHAMBRA ST, PONTIAC, MI 48341

Zoning of Property: MUD mixed use district (RESIDENTIAL)

The subject property is legally described as follows (include sidwell numbers):

LOT 130 OF "THE PARKS AT STONEGATE POINTE"

SIDWELL NO 14-30-252-118

296 ALHAMBRA ST., PONTIAC, MI 48341

Purpose of request:

THE HOUSE OVERHANGS (ENCROACHES) 1.4 FEET INTO THE FRONT YARD SETBACK

THE HOUSE IS PARTIALLY BUILT

WE ARE REQUESTING VARIANCE FOR FRONT YARD SETBACK OF 23.6 FEET (REQUIRED IS 25 FEET)

Please explain the nature of your hardship in accordance with the conditions listed above:

THE HOUSE IS SOLD AND CONSTRUCTION OF HOUSE IS PROJECTED FOR APRIL COMPLETION FOR DELIVERY TO THE BUYER. IT WOULD BE EXTREAMLY DIFFICULT TO REMOVE AND RE START THE PROCESS AND DELIVER HOUSE IN TIME FRAME. THE ENCROACHMENT DOES NOT IMPACT ANYONE ADVERSLY INCLUDING NEIGHBORS, IT ISM OUR SINCERE REQUEST FOR VARIANCE. BUYER HAS MADE PLANS TO MOVE IN SPRING 2023

Has a request ever been submitted to/or reject by the Planning Commission? Yes No

If yes, state cirumstances:

Signature of Applicant

Signature of Owner

State of Michigan
County of Oakland

On this ___ day of _____, A.D., 20___, before me personally appeared the above named person, who being duly sworn, stated he/she has read the foregoing application, by him/her signed, and know the contents thereof, and that the same is true of his/her own knowledge, except as to the matters therein stated to be upon information and belief and so as to those matters he/she believes it to be true.

Notary Public, Oakland County, Michigan
My Commission Expires: _____



Zoning Board of Appeals Information

City of Pontiac

Office of Land Use and Strategic Planning

47450 Woodward Ave, Pontiac, MI 48342

T: 248.758.2800

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Act 207, P.A. of 1921 provides that a City may establish a Board of Appeals to hear requests for variances to the literal application of the provision of the Zoning Ordinance where, by reason of peculiar conditions unnecessary hardship may result from strict conformity.

The Board of Appeals has not power to legislate. Its purpose is to provide a measure of flexibility for the Zoning Ordinance. The Board has the authority upon appeal, to vary the provisions of the Zoning Ordinance where practical difficulty and unnecessary hardship would result by rigid application of the regulations.

The Board of Appeals can grant a variance only where an unusual circumstance leads to unnecessary hardship for the particular property owner.

It has been upheld in the courts that merely because an owner can secure a greater return from his property by changing its uses is not sufficient grounds for requesting a variance. A hardship must be something other than of a financial nature.

If you wish to appear before the Board of Appeals, you must show that the following conditions exist, and so indicate of the attached application form.

- 1.) That there are exceptional or extraordinary circumstances or conditions applying to the property in question as to the intended use of the property that do not generally apply to the other properties in the same Zoning District.
- 2.) That such a variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same Zoning District and in the vicinity.
- 3.) That the authorizing of such a variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purposes of the Ordinance.
- 4.) Plans drawn to scale showing shape and dimension of lots, buildings and lines of proposed building to be erected, altered or use change, Such other information with regard to lot or neighboring lots, proposed uses, as may be deemed necessary.
- 5.) Filing fee to be paid to the Office of Land Use and Strategic Planning, when the application for hearing is submitted. Checks should be made payable to the 'City of Pontiac.'

**PROPERTY ADDRESSES AND SIDWELL NUMBER FOR LOT 85
AT “ THE PARKS AT STONEGATE POINTE”**

LOT 130, SIDWELL NO. 14-30-252-118
296 ALHAMBRA ST., PONTIAC, MI 48341
PLANS FOR LOT IS ATTACHED

NARRATIVE FOR VARIANCE REQUEST

The house as-built condition encroaches into the front yard setback by 1.4 feet. During construction of the subject lot 130, mishap occurred and minor variation occurred during home installation from the proposed setbacks.

It is very difficult to correct these since houses are so far into the construction process. Also this home is sold items and need to be delivered on time to the customer by WJH. The house is sold and the owner has made arrangemnet to move in house in spring of 2023. The house construction needs to continue to be able to deliver it in time for the buyer/home owner.

The encroachments in the setbacks do not impact the neighbors or create any hardship. There is no impact on the enjoyment of the subject house/lot or neighboring properties. It does not impact general public.

It was not intentionally created hardship but the error has occurred during construction of the subject house.

We are sincerely requesting the Board to consider the situation on this project for granting the variance.

Project Name: LOT 130

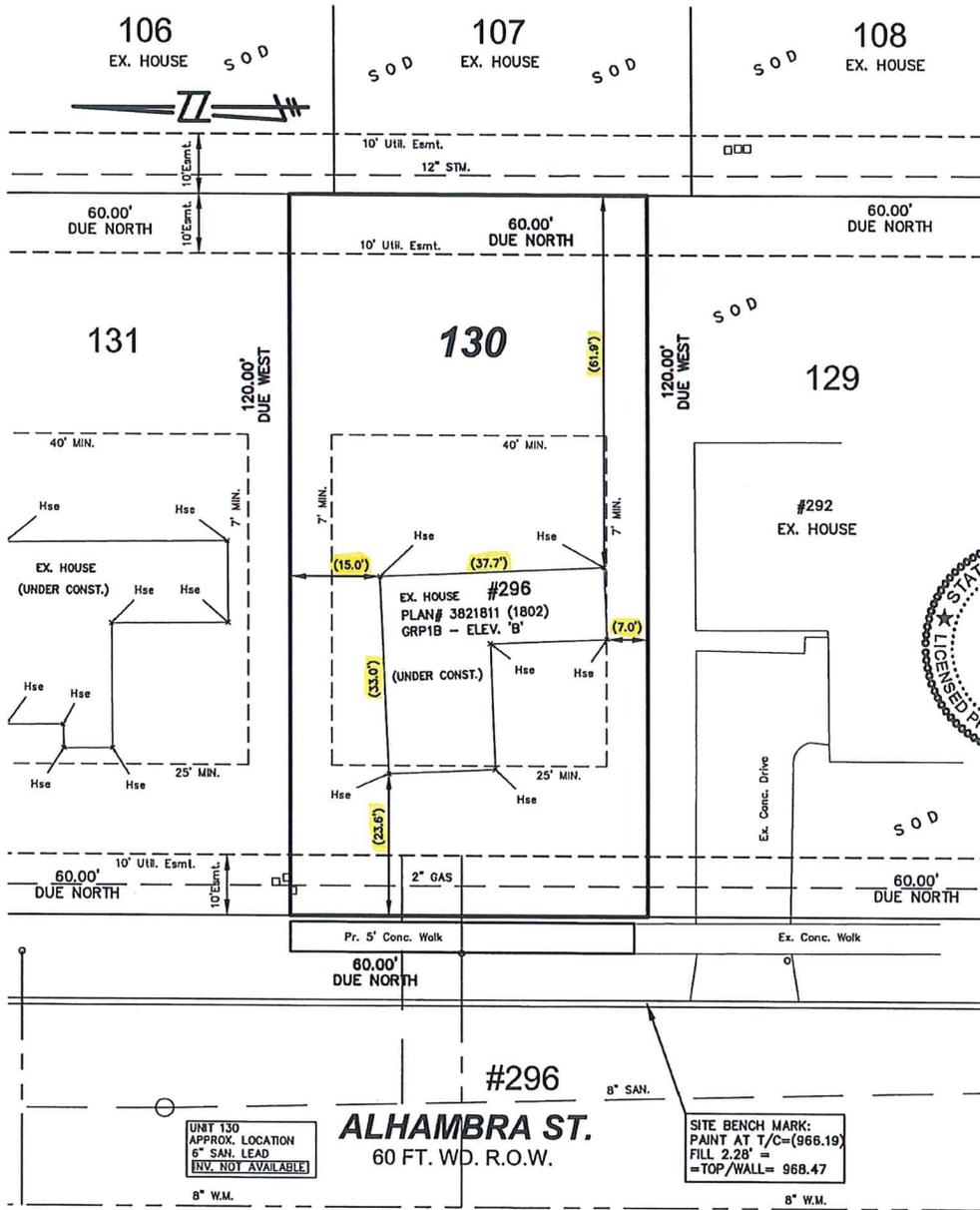


UNIT 130 "THE PARKS AT STONEGATE POINTE"

PART OF THE NW 1/4 OF SECTION 29 AND NE 1/4 OF SECTION 30, T3N, R10E,
CITY OF PONTIAC, OAKLAND COUNTY, MICHIGAN
PARCEL #14-30-252-118



UTILITY WARNING
Know what's below.
Call before you dig.



Proposed 4" Thick Sidewalk (2% Max Cross Slope)
Proposed 4" Thick Driveway
Proposed 6" Thick Approach (Through Sidewalk)

CONTACT THE CITY OF PONTIAC ENGINEERING DIVISION, A MINIMUM OF 48 HOURS PRIOR TO ANY WORK PERFORMED WITHIN THE RIGHT-OF-WAY.

A RIGHT-OF-WAY PERMIT IS REQUIRED FOR ALL PROPOSED WORK WITHIN THE LAKE LAURA RIGHT-OF-WAY.

NOTE: MAINTAIN 10' HORIZONTAL SEPARATION BETWEEN WATER SERVICE AND SANITARY LEAD.

NOTE: (CITY OF PONTIAC) CONTRACTOR SHALL CONTACT THE CITY OF PONTIAC ENGINEERING DIVISION TO SCHEDULE REQUIRED SIDEWALK INSPECTION, A MINIMUM OF 48 HOURS PRIOR TO PROPOSED INSTALLATION.

PRIOR TO CONSTRUCTION, A GEOTECHNICAL REPORT SHALL BE OBTAINED BY THE BUILDER. AMBIT ASSUMES NO RESPONSIBILITY FOR SOIL CONDITIONS.

BUILDER SHALL PROVIDE POSITIVE DRAINAGE AROUND AND AWAY FROM THE HOUSES.

CONTRACTOR IS TO VERIFY LOCATION AND DEPTH OF WATER AND UTILITY SERVICES BEFORE CONSTRUCTION.

NOTE: IT IS THE CLIENTS RESPONSIBILITY TO REVIEW THIS DRAWING FOR ALL HOUSE PLAN DATA, INCLUDING (BUT NOT LIMITED TO) ELEVATION, HOUSE AND BASEMENT SIZES, CANTILEVERS, ETC., AND, THE HOUSE LOCATION AND ORIENTATION ON THE PARCEL. ANY DISCREPANCIES NOT BROUGHT TO OUR ATTENTION, SHALL BE THE SOLE RESPONSIBILITY OF THE CLIENT.
* FOUNDATION DIMENSIONS SHOWN SHOULD BE USED FOR BASEMENT EXCAVATION PURPOSES ONLY. FOUNDATION CONTRACTOR SHALL USE THE ARCHITECTURAL FOUNDATION PLAN DIMENSIONS FOR LAYOUT AND CONSTRUCTION OF FOUNDATIONS.

NOTE: PRIOR TO BASEMENT EXCAVATION, CONTRACTOR SHALL EXPOSE AND VERIFY SANITARY LEAD ELEVATION. A HIGHER BASEMENT FLOOR ELEVATION MAY BE NEEDED TO MAINTAIN GRAVITY FLOW WITHOUT HUNG PLUMBING.

CONTACT OAKLAND COUNTY WATER RESOURCE COMMISSIONER'S OFFICE FOR INFORMATION CONCERNING EXISTING UTILITY LEADS AND CONNECTION FEES.

WE CERTIFY THAT ON DEC. 20, 2022 ELEVATIONS WERE TAKEN FOR THE EXISTING HOUSE, AS SHOWN ON THIS PLAN. AS-BUILT GRADE (00.0) MAY DIFFER FROM PROPOSED GRADE SHOWN ON PLOT PLAN.

PROPOSED	
F.G. =	967.8
	+ 0.67
TOP/WALL =	968.47
AS-BUILT	
TOP/WALL =	(968.62)

UNIT SQ. FT. = 7,200

- ESTIMATED / PROPOSED QUANTITIES:
1. PR. CONCRETE DRIVE AREA 444 S.F.
 2. PR. CONC. DRIVE (APRON) AREA 144 S.F.
 3. PR. CONC. HOUSE WALK AREA 28 S.F.
 4. PR. CONC. ROAD SIDEWALK AREA 288 S.F.
 5. PR. HOUSE COVERAGE AREA 1,232 S.F.

PR. HOUSE UNIT 130
FINISH FLOOR= 969.65 +1.85'
11'-7/8" FLOOR JOISTS
TOP/WALL= 968.47 +0.67'
FINISH GRADE= 967.8 +0.00
7'-10" BSMT. WALL
BSMT. FLOOR= 960.97 -6.83'
TOP/SPREAD FOOTING= 960.64 -7.16'

LEGEND

- 0.00 = EXISTING ELEVATION
- 00.0 = PROPOSED GRADE
- 000.00 = ADJUSTED PR. F.G.
- = DRAINAGE
- (0.00) = AS-BUILT GRADE
- F.G. = FINISH GRADE
- F.F. = FINISH FLOOR GRADE
- DROP = DROP FINISH GRADE
- D.L.G. = DAYLIGHT FINISH GRADE
- T/C = TOP OF CURB
- T/W = TOP OF WALK
- W.S.O = WATER SHUT-OFF

FOUNDATION AS-BUILT 12-20-22

CLIENT: WJH LLC
3091 GOVERNORS LAKE DRIVE - STE. 300
NORCROSS, GA 30071
PHONE: 1.833.791.0192

FDN. AS-BUILT:
12-20-22
PLOT PLAN:
6-30-21
JOB NO.:
21-06-004
SCALE:
1"=20'



691 WING STREET
Plymouth, MI 48170
ph. 800.221.5263
ph. 734.455.5501
fax 877.837.5267
www.ambitsurveyors.com

DRAWN BY:
DP
CHECK:
P3
SHEET:
1/1



Carlisle | Wortman
ASSOCIATES, INC.

117 NORTH FIRST STREET SUITE 70 ANN ARBOR, MI 48104 734.662.2200 734.662.1935 FAX

TO: Planning Division

CC: Mark Yandrick, Planning Manager

FROM: Richard K. Carlisle, FAICP, Planning Consultant to the City of Pontiac

DATE: February 24, 2023

RE: Variance Request for 310 Alhambra Street (ZBA-23-005)

Executive Summary:

The applicant is Fairway Engineering LLC acting on behalf of property owner, WJH LLC. The applicant is requesting a variance to the front setback of a residential dwelling that is currently under construction within a Mixed Use District.

Overview:

The subject dwelling is partially constructed. At present, the dwelling encroaches on the required front setback and is 2.5 feet closer to the property line than the approval as an MUD allows. The error was self-created but occurred during construction, which appears to be unintentional. The remedy would be to demolish a portion of the house to meet the setback requirements or to request a variance.

Requirements:

Required Front Yard Setback: 25'

Requested Front Yard Setback: 22.5'

Exhibits:

Exhibit A – Building Envelope (dashed line) and Existing Foundation (solid line)

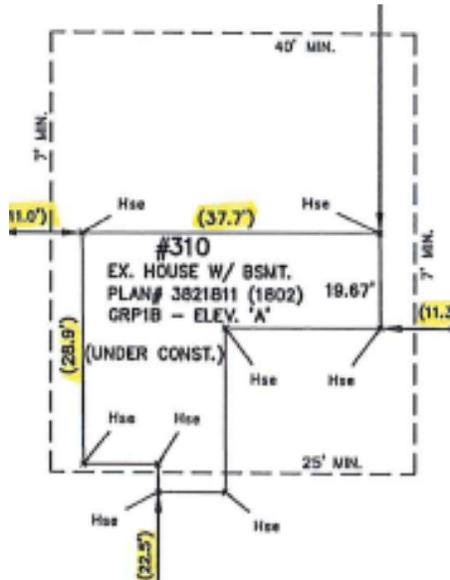


Exhibit B- Parcel View of the Property

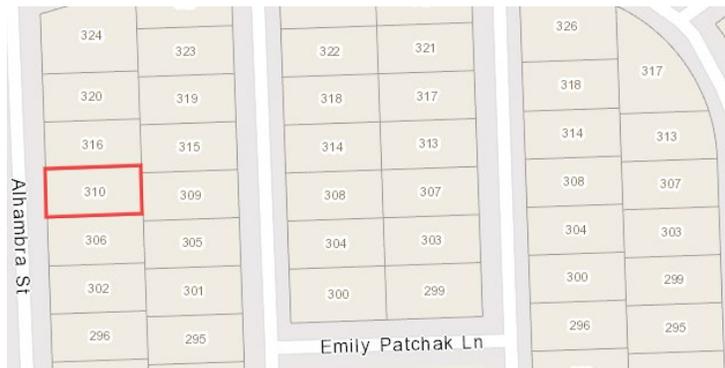


Exhibit C - Aerial View of the Property



Statement of Practical Difficulty

The applicant states their hardship as follows: “The house is sold and construction of (the) house is projected for April completion for delivery to the buyer. It would be extremely difficult to remove and re-start the process and deliver (the) house in (this) time frame.” The Planning Manager has further commented that the applicant demolished/ remedied other foundations that were poured incorrectly but has chosen to apply for variances at three (3) locations, including this location, where construction is further along.

Analysis:

The variance request is necessary to permit the ongoing construction of the subject dwelling and to allow the purchaser of the dwelling to home to occupy their future home within the time frame agreed upon.

While the front yard setback in the City of Pontiac is 25’ for properties in R-1 zoning districts, this property is zoned Mixed Use Development (MUD). In a Planned Unit Development such as this, City council approves the interior setbacks, while the perimeter setbacks are established in the City’s Zoning code. This allows for flexibility in the approved development, such as various lot sizes. As part of the development, staff found the front yard setback was 25’ for this subdivision, which is the same for dwellings in single family residential districts.

Zoning Code Regulations & Standards of Approval

Authority-

The zoning board of appeals may grant a dimensional (non-use) variance to provide relief from a specific standard in the City Zoning Ordinance, such as the setback in question, upon the concurring vote of a majority of the members of the Zoning Board of Appeals.

Practical Difficulty-

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.

Compliance with the required front yard setback will prevent the new owner from moving into the property as planned; during the spring of 2023. Because the majority of construction is already complete and because the encroachment into the front setback is small in scale, compliance with the standard set by the Zoning Ordinance will be unnecessarily burdensome to the applicant and all who have a legal interest in the property.

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.

The reason for the variance is due to an error made during construction. Although the ZBA is authorized to grant a lesser variance, 1) such a decision will not provide relief to the applicant, 2)

the developer of the site is the owner of surrounding properties, and 3) denial of the variance will cause harm to the future occupant of the site.

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

The issue appears to be unrelated to the inherent characteristics of the property and is self-created.

4. The problem is not self-created.

The problem is self-created though appears to be unintentional. The applicant states, "It was not (an) intentionally created hardship, but the error has occurred during construction of the subject house." However, the ZBA should be aware that the standard for granting a dimensional variance is a showing of practical difficulty, not hardship.

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

The discrepancy between the existing and required setback is relatively small in size. The ZBA should consider that denial of the variance will negatively impact the purchaser of the home.

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

Section 6.401.B seeks to protect the surrounding vicinity from any detrimental effect on property values, public health, and welfare. The discrepancy between the existing and the required front setback is likely not large enough to alter the appearance of consistency with the surrounding residential area.

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

The variance request is in compliance with each subsection of 6.303. In summary, the discrepancy in question will not cause change to the character of the surrounding neighborhood.

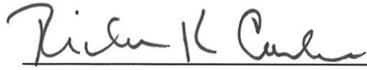
Summary:

The ZBA should consider whether encroachment of the proposed dwelling, based upon the Development Agreement, fails to meet the test of a practical difficulty. On the other hand, the ZBA may consider the fact that the deviation may not be noticeable and would have no negative impact on the neighboring residences.

310 Alhambra Street – Non Use Variance
February 24, 2023

Recommendation:

As a matter of practice, staff only provides analysis and not a recommendation on variances.



CARLISLE/WORTMAN ASSOC., INC

Richard K. Carlisle, FAICP

Past President/Senior Principal



Application for Zoning Board of Appeals

City of Pontiac

Office of Land Use and Strategic Planning

47450 Woodward Ave, Pontiac, MI 48342

T: 248.758.2800

F: 248.758.2827

Property/Project Address: 310 ALHAMBRA ST.

Sidwell Number: 14-30-252-121

Date: 12-27-2022

Office Use Only

PF Number: _____

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Applicant (please print or type)

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Address	28525 BECK ROAD, SUITE 114		
City	WIXOM		
State	MI		
ZIP Code	48393		
Telephone	Main: 2489384902	Cell: 2482145913	Fax:
E-Mail	markm@fairwayeng.com		

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Address	8373 W GRAND RIVER AVE		
City	BRIGHTON		
State	MI		
ZIP Code	48116		
Telephone	Main: 8337910192	Cell: 2483069226	Fax:
E-Mail	steve.karhnak@centurycommunities.com		

Property Information:

Property Address: 310 ALHAMBRA ST, PONTIAC, MI 48341

Zoning of Property: MUD mixed use district (RESIDENTIAL)

The subject property is legally described as follows (include sidwell numbers):

LOT 133 OF "THE PARKS AT STONEGATE POINTE"

SIDWELL NO 14-30-252-121

310 ALHAMBRA ST., PONTIAC, MI 48341

Purpose of request:

THE HOUSE OVERHANGS (ENCROACHES) 2.5 FEET INTO THE FRONT YARD SETBACK

THE HOUSE IS PARTIALLY BUILT

WE ARE REQUESTING VARIANCE FOR FRONT YARD SETBACK OF 22.50 FEET (REQUIRED IS 25 FEET)

Please explain the nature of your hardship in accordance with the conditions listed above:

THE HOUSE IS SOLD AND CONSTRUCTION OF HOUSE IS PROJECTED FOR APRIL COMPLETION FOR DELIVERY TO THE BUYER. IT WOULD BE EXTREAMLY DIFFICULT TO REMOVE AND RE START THE PROCESS AND DELIVER HOUSE IN TIME FRAME. THE ENCROACHMENT DOES NOT IMPACT ANYONE ADVERSLY INCLUDING NEIGHBORS, IT ISM OUR SINCERE REQUEST FOR VARIANCE. BUYER HAS MADE PLANS TO MOVE IN SPRING 2023

Has a request ever been submitted to/or reject by the Planning Commission? Yes No

If yes, state cirumstances:

Signature of Applicant

Signature of Owner

State of Michigan
County of Oakland

On this ___ day of _____, A.D., 20___, before me personally appeared the above named person, who being duly sworn, stated he/she has read the foregoing application, by him/her signed, and know the contents thereof, and that the same is true of his/her own knowledge, except as to the matters therein stated to be upon information and belief and so as to those matters he/she believes it to be true.

Notary Public, Oakland County, Michigan
My Commission Expires: _____



Zoning Board of Appeals Information

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**PROPERTY ADDRESSES AND SIDWELL NUMBER FOR LOT 85
AT “ THE PARKS AT STONEGATE POINTE”**

LOT 133, SIDWELL NO. 14-30-252-121
310 ALHAMBRA ST., PONTIAC, MI 48341
PLANS FOR LOT IS ATTACHED

NARRATIVE FOR VARIANCE REQUEST

The house as-built condition encroaches into the front yard setback by 2.5 feet. During construction of the subject lot 133, mishap occurred and minor variation occurred during home installation from the proposed setbacks.

It is very difficult to correct these since houses are so far into the construction process. Also this home is sold items and need to be delivered on time to the customer by WJH. The house is sold and the owner has made arrangemnet to move in house in spring of 2023. The house construction needs to continue to be able to deliver it in time for the buyer/home owner.

The encroachments in the setbacks do not impact the neighbors or create any hardship. There is no impact on the enjoyment of the subject house/lot or neighboring properties. It does not impact general public.

It was not intentionally created hardship but the error has occurred during construction of the subject house.

We are sincerely requesting the Board to consider the situation on this project for granting the variance.

Project Name: LOT 133

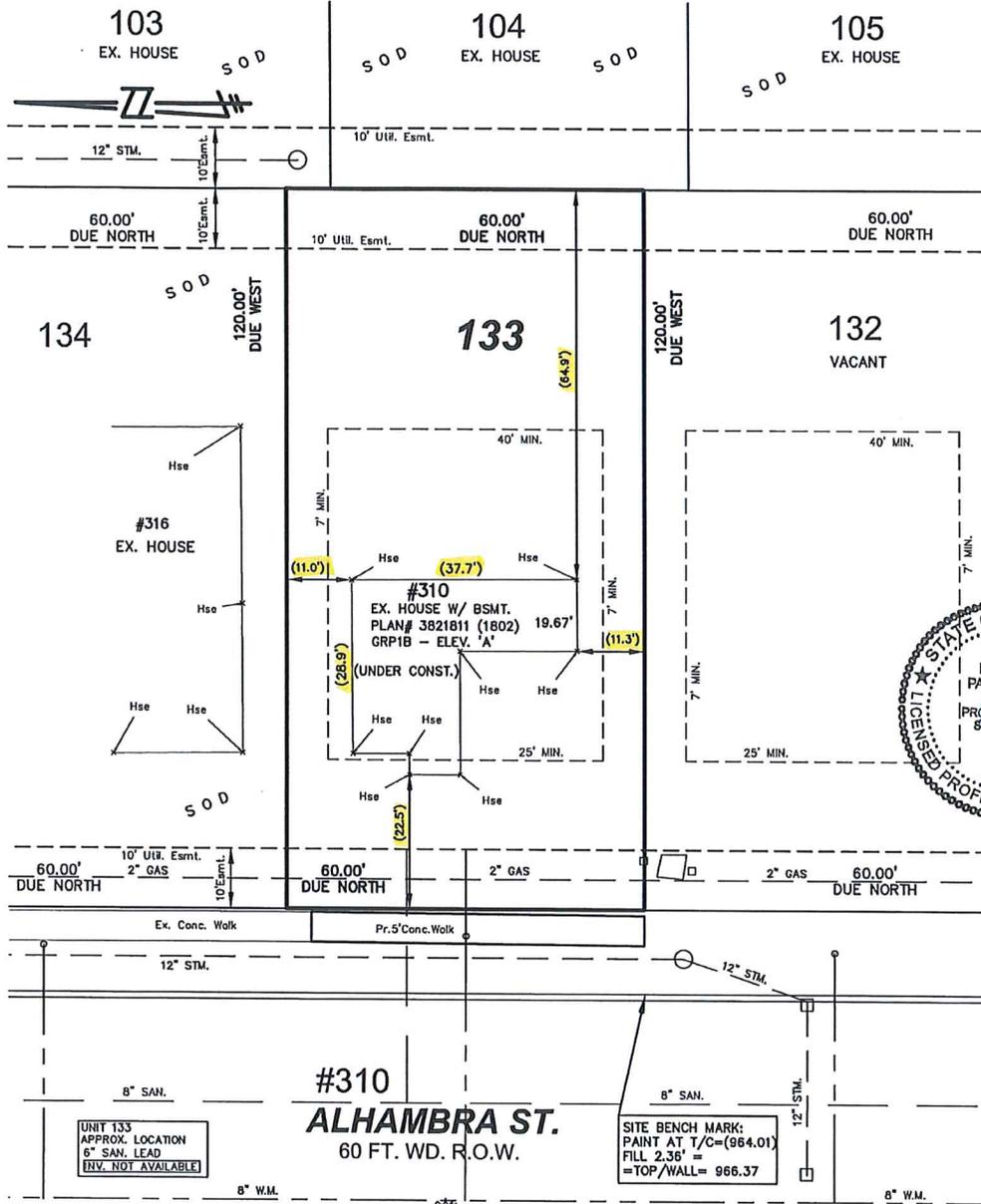


UNIT 133 "THE PARKS AT STONEGATE POINTE"

PART OF THE NW 1/4 OF SECTION 29 AND NE 1/4 OF SECTION 30, T3N, R10E,
CITY OF PONTIAC, OAKLAND COUNTY, MICHIGAN
PARCEL #14-30-252-121



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Call before you dig.



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BUILDER SHALL PROVIDE POSITIVE DRAINAGE AROUND AND AWAY FROM THE HOUSES.

CONTRACTOR IS TO VERIFY LOCATION AND DEPTH OF WATER AND UTILITY SERVICES BEFORE CONSTRUCTION.

NOTE: IT IS THE CLIENT'S RESPONSIBILITY TO REVIEW THIS DRAWING FOR ALL HOUSE PLAN DATA, INCLUDING (BUT NOT LIMITED TO) ELEVATION, HOUSE AND BASEMENT SIZES, CANTILEVERS, ETC., AND, THE HOUSE LOCATION AND ORIENTATION ON THE PARCEL. ANY DISCREPANCIES NOT BROUGHT TO OUR ATTENTION, SHALL BE THE SOLE RESPONSIBILITY OF THE CLIENT.
FOUNDATION DIMENSIONS SHOWN SHOULD BE USED FOR BASEMENT EXCAVATION PURPOSES ONLY. FOUNDATION CONTRACTOR SHALL USE THE ARCHITECTURAL FOUNDATION PLAN DIMENSIONS FOR LAYOUT AND CONSTRUCTION OF FOUNDATIONS.

WE CERTIFY THAT ON DEC. 20, 2022 ELEVATIONS WERE TAKEN FOR THE EXISTING HOUSE, AS SHOWN ON THIS PLAN. AS-BUILT GRADE (00.0) MAY DIFFER FROM PROPOSED GRADE SHOWN ON PLOT PLAN.

PROPOSED
F.G.= 965.7
+ 0.67
TOP/WALL= 966.37
AS-BUILT
TOP/WALL= (966.43)

UNIT SQ. FT. = 7,200

- ESTIMATED / PROPOSED QUANTITIES:
1. PR. CONCRETE DRIVE AREA 430 S.F.
 2. PR. CONC. DRIVE (APRON) AREA 149 S.F.
 3. PR. CONC. HOUSE WALK AREA 32 S.F.
 4. PR. CONC. ROAD SIDEWALK AREA 279 S.F.
 5. PR. HOUSE COVERAGE AREA 1,189 S.F.

PR. HOUSE UNIT 133
FINISH FLOOR= 967.55 +1.85'
11-7/8" FLOOR JOISTS
TOP/WALL= 966.37 +0.67'
FINISH GRADE= 965.7 0+00
7"-10" BSMT. WALL
BSMT. FLOOR= 958.87 -6.83'
TOP/SPREAD FOOTING= 958.54 -7.16'

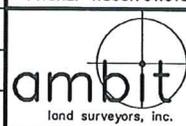
LEGEND

- 0.00 = EXISTING ELEVATION
- (00.0) = PROPOSED GRADE
- (00.0) = ADJUSTED PR. F.G.
- = DRAINAGE
- (0.00) = AS-BUILT GRADE
- F.G. = FINISH GRADE
- F.F. = FINISH FLOOR GRADE
- DROP = DROP FINISH GRADE
- D.L.G. = DAYLIGHT FINISH GRADE
- T/C = TOP OF CURB
- T/W = TOP OF WALK
- WSO = WATER SHUT-OFF

FOUNDATION AS-BUILT 12-20-22

CLIENT: WJH LLC
3091 GOVERNORS LAKE DRIVE - STE. 300
NORCROSS, GA 30071
PHONE: 1.833.791.0192

FDN. AS-BUILT:
12-20-22
PLOT PLAN:
6-30-21
JOB NO.:
21-06-007
SCALE:
1"=20'



691 WING STREET
Plymouth, MI 48170
ph. 800.221.5263
ph. 734.455.5501
fax 877.837.5267
www.ambitsurveyors.com

DRAWN BY:
DP
CHECK:
P3
SHEET:
1/1



Carlisle | Wortman
ASSOCIATES, INC.

117 NORTH FIRST STREET SUITE 70 ANN ARBOR, MI 48104 734.662.2200 734.662.1935 FAX

Date: February 17, 2023

Variance Analysis For the City of Pontiac, Michigan



Applicant: Felicia Robinson
Property Address: 99 Norton Street
Property I.D. #: 14-29-328-015
Zoning: R-1 One Family Dwelling
Action Requested: Consideration of a Use Variance

VARIANCE REQUEST

The applicant is seeking a Use Variance (Case #: ZBA-23-008) for permission to operate a *Group Child Day Care Home* in a single family residential district. The applicant proposes to use her private home for a childcare center that will operate on weekdays, from 8am – 5pm, and will serve up to twelve (12) children. The City Zoning Ordinance categorizes such Day Care Homes under “State Licensed Residential Facilities,” which are limited to R-2, R-3, and C-0 districts and are only permitted as a special exception use. The applicant has provided aerial and street level photography of the subject site. Additional images of the proposed site location are provided on the following page.

Figure 1: Aerial View of the Property

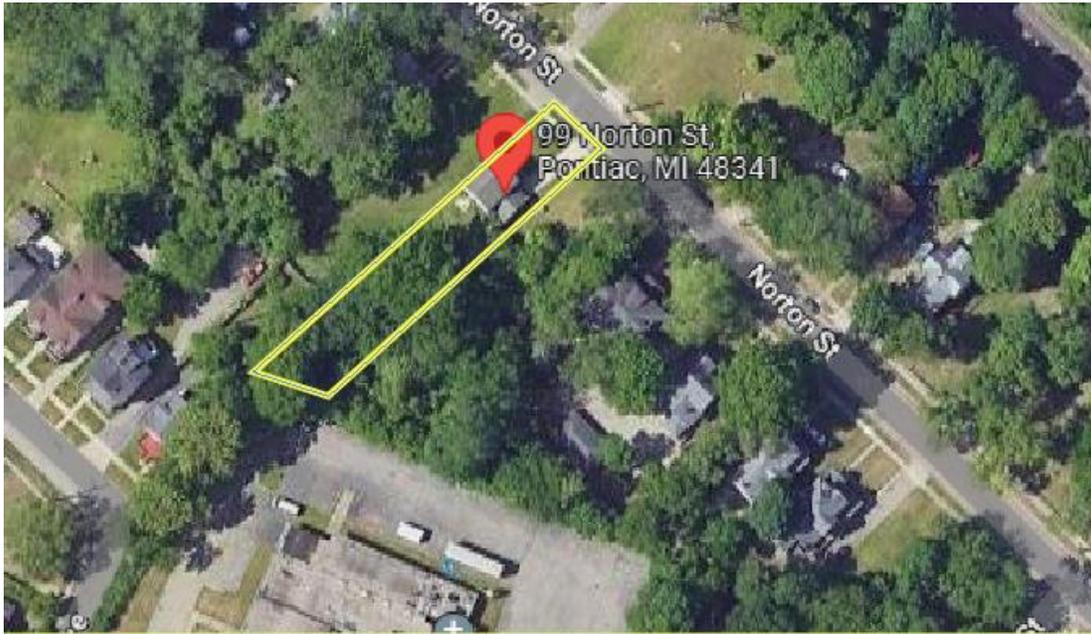


Figure 2. Parcel View of the Property, Current Zoning



-  R-1 One Family Dwelling
-  R-2 Two Family and Terrace Family Dwelling
-  R-3 Multiple Family Dwelling

BUILDING LOCATION AND SITE ARRANGEMENT

The subject site is occupied by a single family dwelling in a district zoned exclusively for single family dwellings. However, and as demonstrated in the Zoning Map above, the subject site is located between R-2 and R-3 districts. Google Maps indicates that the site is located behind a church building, on a large lot, in the R-3 district. Laterally, the site is located between two vacant residential lots. Another vacant lot is across the street. With the exception of these three vacant lots, Norton Street is occupied by single family homes. Parking options at the subject site are limited to one (1) residential driveway and on-street parking. We also note there is a railroad line running parallel to Norton Street, less than 300 feet from the proposed Day Care Home.

CONSIDERATIONS FOR THE PROPOSED VARIANCE

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.

CWA Comment: The property in question can be and is used as a single family dwelling, per zoning regulations.

Finding of Fact: The property in question has no inherent limitations as it is currently zoned.

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

CWA Comment: The applicant desires to use the site for purpose that is not permitted in the R-1 district. The zoning conflict is applicable to the entire district as opposed to any circumstances that are unique to the property. However, the R-1 district is directly adjacent to an R-2 and R-3 district, which have broader development options than the site in question.

Finding of Fact: The plight is not due to unique circumstances peculiar to the property. What is unique about the property, however, is that the applicant already owns the property and can sustain a daycare at this site.

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

CWA Comment: If a conditional approval is granted, the proposed use may alter the essential character of the area, although not significantly. The ZBA should consider the potential impact of customer traffic, delivery trucks, and parking.

Findings of Fact: The proposed use will have no significant impact on the essential character of the area.

4. The problem is not self-created.

CWA Comment: There are no actions the applicant has taken to cause the need for variance. The applicant may open a childcare center in another location, an option that might be less economically feasible to the applicant.

Findings of Fact: The problem is not self-created.

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

CWA Comment: The Zoning Ordinance requires that a private residential daycare be approved as an application for Special Exception Use, though not in the R-1 district. We note that the subject site sits between two districts where a private residential daycare would be permitted as a Special Exception. Therefore, the proposed use is somewhat consistent with/approximate to the spirit of the ordinance. The proposed use is unlikely to have an effect on public safety and public welfare.

Findings of Fact: The proposed use does not pose a significant departure from the regulations set forth by the Zoning Ordinance.

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

CWA Comment: Section 6.401.B seeks to protect the surrounding vicinity from any detrimental effect on property values, public health, and welfare. We determine that the proposed scale and the proposed nature of the applicant's business are unlikely to affect the surrounding vicinity in any negative way, as long as strict adherence to the maximum number of clients is applied. Our determination is supported by our understanding that the subject site is not immediately adjacent to another home, as the majority of adjacent parcels are vacant, and that clients will only require temporary parking.

Findings of Fact: The proposed use indicates compliance with the standards set forth in Section 6.401.B.

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

- a) Be harmonious with and in accordance with the general principles and objectives of the comprehensive master plan of the City of Pontiac.

CWA Comment: The City Master Plan designates the future categorization of the site, as well as the surrounding vicinity, as Traditional Neighborhood Residential. This district is intended to be reserved for a range of civic and residential uses, such as schools. Daycare centers are not explicitly named but would likely complement these uses.

- b) Be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity by way of size, character, or location.

CWA Comment: State licensed, private home daycares are not permitted in the R-1 district but are permitted by special exception across the street from the subject site. The applicant has not proposed any site improvements that would change the physical character of the location.

Section 2.506 of the Zoning Ordinance requires that adequate area be provided for parking. However, the applicant has not submitted any proposals related to parking. The Zoning Ordinance requires a minimum of three (3) parking spaces for this use.

- c) Not change the essential character of the area in which it is proposed, and not adversely affect the development or redevelopment of the surrounding neighborhood.

CWA Comment: As long as the proposed business is compliant with state licensed facility regulations and is limited in scale, it is unlikely to change the essential character of the area.

- d) Not be hazardous or disturbing to existing or future uses in the same general vicinity and will be a substantial improvement to property in the immediate vicinity and to the community as a whole.

CWA Comment: The proposed use does not include hazardous effects on the surrounding vicinity. Further, it can potentially serve as an improvement to the surrounding neighborhood and community.

- e) Be served adequately by essential public facilities and services, such as highways, streets, police, fire protection, drainage structures, refuse disposal water and sewage facilities and schools.

CWA Comment: As an existing single family district residence, the site will be served adequately by essential public facilities and services. We defer further comment about the functional capacity of the site's sewerage to the City Engineer.

- f) Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any person, property, or general welfare as a result of producing excess traffic, noise, smoke, fumes, glare, or odors out of proportion to that normally prevailing in the particular district.

CWA Comment: The proposed use will add to the volume of traffic on Norton Street but will have an insignificant effect on levels of noise. The proposed use is not cause for any detrimental effects.

- g) Maintain all proposed structures, equipment, or materials in a readily accessible manner for police and fire protection.

CWA Comment: The proposed use is unlikely to limit accessibility related to police and fire protection.

Findings of Fact: The applicant has not proposed any site improvements that would alter the existing character of the vicinity. The ZBA will need to discuss parking with the applicant. With strict adherence to the subject site's boundaries and to other applicable regulations, the proposed use will not adversely affect the development of the surrounding neighborhood.

FINDINGS OF FACT

1. *The property in question can be reasonably used a single family residence. The applicant is the current owner and occupant of the dwelling.*
2. *The plight is not due to unique circumstances peculiar to the property. What is unique about the property, however, is that the applicant already owns the property and is more likely to sustain a licensed daycare at this location than at any other location.*
3. *The proposed use will have no significant impact on the essential character of the area.*
4. *The problem is not self-created.*
5. *The proposed use does not pose a significant departure from the regulations set forth by the Zoning Ordinance.*
6. *The proposed use indicates compliance with the standards set forth in Section 6.401.B.*
7. *The applicant has not proposed any site improvements that would alter the existing character of the vicinity. The ZBA will need to discuss parking with the applicant. With strict adherence to the*

subject site's boundaries and to other applicable regulations, the proposed use will not adversely affect the development of the surrounding neighborhood.

RECOMMENDATION

As a matter of practice, staff only provides analysis and not a recommendation on variances.

Should the ZBA vote to approve this variance, we recommend the applicant adhere to the following conditions:

-
1. Provision of a landscape plan, which should include proposed outdoor play areas and screening along the lot perimeter, by fence or natural barrier with a minimum height of 48 inches. We further, we recommend fencing as this barrier to improve safety for children using the proposed Daycare. Not only do we note the trafficked residential street in front of the site, we note the railroad in proximity.
 2. Provision of a development schedule for the landscape and fencing plan be provided before a use variance is granted.
 3. Limit operation to no earlier than 7am and no later than 6pm (as proposed).
 4. The use shall not encroach on any adjacent lots, including any vacant lots.
 5. The applicant receives and maintains licensure from the State of Michigan.
-



CARLISLE/WORTMAN ASSOC., INC

Richard K. Carlisle, FAICP

Past President/Senior Principal



Application for Zoning Board of Appeals

City of Pontiac

Office of Land Use and Strategic Planning

47450 Woodward Ave, Pontiac, MI 48342

T: 248.758.2800

F: 248.758.2827

Property/Project Address: 99 Norton Street

Sidwell Number: 14-29-328-015

Date: 1/7/2023

Office Use Only

PF Number: _____

Instructions: Applications for Zoning Board of Appeals shall be filed with the Office of Land Use and Strategic Planning at least 30 days before the regularly scheduled Zoning Board of Appeals Meeting. Incomplete applications will delay the review process.

Applicant (please print or type)

Name	Felicia Robinson		
Address	99 Norton Street		
City	Pontiac		
State	Michigan		
ZIP Code	48341		
Telephone	Main: 2487106164	Cell:	Fax:
E-Mail	Journeytopeaceedu@gmail.com		

Property Owner – if different (please print or type)

Name			
Address	<i>Same</i>		
City			
State			
ZIP Code			
Telephone	Main:	Cell:	Fax:
E-Mail			

Property Information:

Property Address: 99 Norton Street, Pontiac, MI 48341

Zoning of Property: R-1

The subject property is legally described as follows (include sidwell numbers):

Lot 00175, Block 0000, of Sanderson & Johnstons ADD

Purpose of request:

Receive zoning approval in order to operate a group childcare home at 99 Norton Street.

Please explain the nature of your hardship in accordance with the conditions listed above:

I am unable to find suitable access to childcare, resulting in inconsistencies in my income.

Licensing my home as a group childcare will help to alleviate my issues.

Has a request ever been submitted to/or reject by the Planning Commission? Yes No

If yes, state circumstances: I was advised to submit a Zoning Variance appeal after inquiring about the use for my location with the planning commission.

Felicia Robinson

Signature of Applicant

Felicia Robinson

Signature of Owner

State of Michigan
County of Oakland

On this ___ day of _____, A.D., 20___, before me personally appeared the above named person, who being duly sworn, stated he/she has read the foregoing application, by him/her signed, and know the contents thereof, and that the same is true of his/her own knowledge, except as to the matters therein stated to be upon information and belief and so as to those matters he/she believes it to be true.

Notary Public, Oakland County, Michigan
My Commission Expires: _____

GCCH Zoning Variance Approval:

99 Norton Street

Purpose:

Operate a Group Childcare Home (GCCH), capacity 10-12 children. Hours: 8a-5p (Mon-Fri)

I (Felicia Robinson), have worked in childcare since 2018. After obtaining a Bachelors in Early Childhood Studies, I became more passionate about starting my own daycare. I also had two wonderful children since becoming an educator, and they are my biggest motivator for making the transition.

During the quarantine, I worked from home and was able to manage my work and caring for my children. When the quarantine ended, I worked for a few months and had to leave my job. There was no one to consistently watch my children, and I had no vacation/sick time left after returning from maternity leave. After applying to many jobs, I saw that nothing fit the time constraints I had. I knew that opening my daycare was the only option for me.



Thank you for the opportunity to start my business, and to help other families find affordable quality education for their children.

Per the Michigan Zoning Enabling Act; My home meets the following requirements:

(a) Is no closer than 1500 feet from:

- Another licensed GCCH
- Adult foster care home
- A facility offering substance abuse care
- A community correction center or other inmate housing facility

(b) Appropriate fencing for safety, and to the standards of local government.

*For subsection (b), I will be following up with plans to build a fence. The fence will be no more than 7ft, or whatever maximum height is allowed.

(c) Maintains property consistent with conditions of the neighborhood.

(d) Does not exceed 16 hours of operation during a 24-hour period, hours of operation between 8:00am - 5:00pm (Monday-Friday).

(e) Meets regulations governing signs used by a GCCH to identify itself. I will not use signs to identify the home. Families will receive an address, and will attend orientation before the first day. This will ensure safety, and discretion while maintaining the appearance of the neighborhood.

(f) Off-street accommodations will be provided. Employees will park in the drive-way between 8a-5p.

Mark Yandrick

From: Mark Yandrick
Sent: Monday, December 12, 2022 2:14 PM
To: 'thehappiesthour'
Subject: RE: Use Variance

Felicia,

A group childcare home at 99 Norton Street in Pontiac is not a permitted use for the R-1 zoning district for your property. It would require a Use Variance to operate that business in that location.

Thanks,
Mark

Mark Yandrick, AICP, GISP
Planning Manager



Office: 248.758.2816 | Fax: 248.758.2827
e: myandrick@pontiac.mi.us | www.pontiac.mi.us
47450 Woodward Avenue | Pontiac, MI 48342

Click on a logo below for City of Pontiac updates via Social Media:



From: thehappiesthour [mailto:felicia1794@gmail.com]
Sent: Wednesday, December 7, 2022 2:11 PM
To: Mark Yandrick <MYandrick@pontiac.mi.us>
Subject: Re: Use Variance

WARNING: This email originated from outside of City of Pontiac. DO NOT click on any links or open any attachments unless you recognize the sender and are expecting the message.

Hello,

I am applying for zoning approval for a group childcare home at the location of 99 Norton Street, Pontiac, MI, 48341.

Felicia Robinson

On Dec 7, 2022, at 1:17 PM, thehappiesthour <felicia1794@gmail.com>, wrote:

Hello Mark,

The property will be used as a Group Childcare Home. Is there anything else I should have prepared to obtain zoning approval?

On Dec 7, 2022, at 12:38 PM, Mark Yandrick <MYandrick@pontiac.mi.us> wrote:

Felicia,

First off, I need to provide a letter stating the use is not permitted. Please reply to this email with what you are looking to apply for your property at 99 Norton Street. I will provide a response.

After you receive the communication from me, you may apply for a use variance. The attached sheet shows the process and standards of approval. The ZBA Variance Application can be found [here](#). There is a \$1,000 fee for a Use Variance application.

Please let me know if you have any questions.

Thanks,
Mark





Mayor Deirdre Waterman

CITY OF PONTIAC

Planning & Zoning Division

City Hall - 47450 Woodward Avenue
Pontiac, Michigan 48342-5009
248-758-2800 | FAX 248-758-2827

Vern Gustafsson
Planning Manager
Donovan Smith
City Planner
Patrick Brzowski
Code Enforcement Manager

Zoning Verification Request

Email completed form to PontiacPZD@Pontiac.mi.us

(ALL FIELDS ARE REQUIRED, INCOMPLETE APPLICATIONS WILL NOT BE PROCESSED)

Name: Felicia P. Robinson

Company: Journey To Peace Academy

Address: 99 Norton Street

City: Pontiac State: MI Zip Code: 48341

Phone: 248-710-6164 Email: journeytopeaceedu@gmail.com

Property Information: Commercial Residential

Property Address: 99 Norton Street

Tax Account Number(s): 14-29-228-015 *Find your Property Tax ID online*

Parcel(s): Lot 00175, Block 0000 of Sanderson & Johnstons Add

Current Use: Residential Proposed Use: Commercial / Group Daycare home

Requested information: (Check all that apply)

- Zoning category
- Permitted Uses
- Development/Site Plan(s)
- Adjacent property zoning
- Historic District
- Overlay Districts
- Rebuild Structure
- Variances, Special Exceptions, Zoning Conditions

Other: Zoning Approval for GCCH at 99 Norton Street

Choose a payment option: *The cost for a zoning verification/buildable lot letter is \$150.00 per address/parcel. Additional fees apply to copies of plan(s) and document(s). You will be notified of total amount due and payment must be made prior to assignment.*

- Cash (must be in person)
- Check (payable to City of Pontiac)
- Credit Card

Applicant Signature: Felicia Robinson Date: 1-24-2023

The turnaround time for all requests varies depending on the research requirement.



Carlisle | Wortman
ASSOCIATES, INC.

117 NORTH FIRST STREET SUITE 70 ANN ARBOR, MI 48104 734.662.2200 734.662.1935 FAX

Date: February 24, 2023

Variance Analysis For the City of Pontiac, Michigan

Applicant: Sarah Soulliere (SDS Stone Paving)
Property Address: 435 Auburn Avenue
Property I.D. #: 14-28-460-029
Zoning: C-3 (Corridor Mixed Use District)
Application: ZBA-23-009
Action Requested: Use Variance

EXECUTIVE SUMMARY

The applicant is seeking a use variance to permit outdoor storage of materials used for their landscape construction business. The parcel in question is in the C-3 district, where outdoor storage is not permitted. Outdoor storage is a special exception use only, in the M1, M2, and IPI Districts.

OVERVIEW

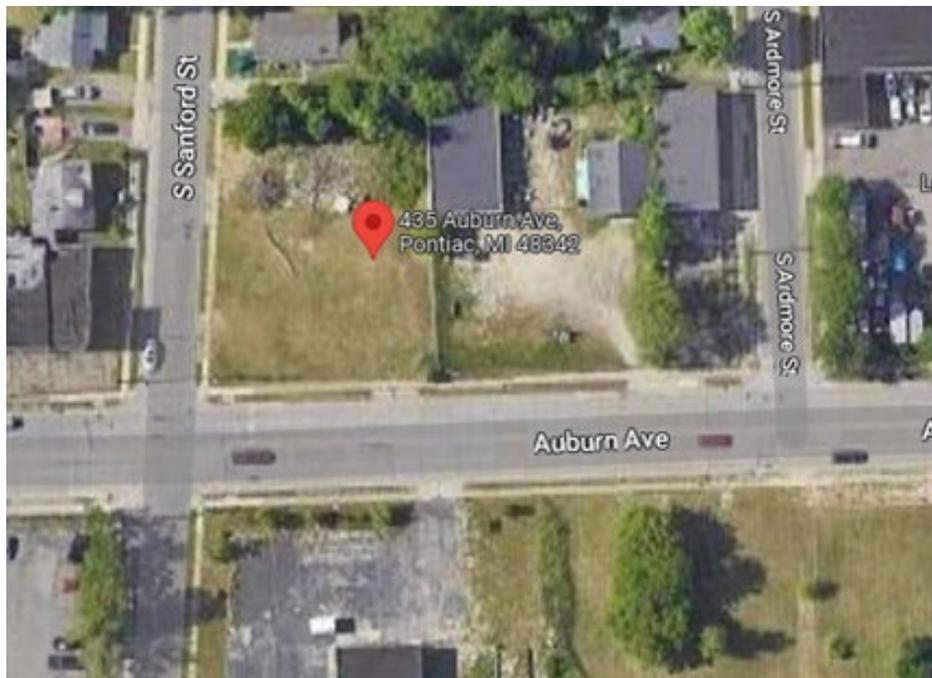
The subject site is an empty lot on the northeast corner of Auburn Avenue and South Sanford Street. The applicant leases the two buildings on the adjacent lot to the east but does not state more information about the nature of the lease. The subject site is adjacent to residential property along its northern border. There appears to be a natural buffer between the subject site and the adjacent residence created by a row of trees. The site has one access point (curb cut) on Auburn Avenue and is accessed by a public sidewalk along Auburn Avenue and Sanford Street.

EXHIBITS

Figure 1: Parcel View of the Property



Figure 2: Aerial View of the Property



CONSIDERATIONS FOR THE PROPOSED VARIANCE

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.

CWA Comment: Numerous uses are permitted in the C-3 District and are listed in Table 2 of the City Zoning Ordinance. The minimum lot area for C-3 uses is 6,000 square feet. The subject site is approximately 16,160 square feet in area. Outdoor storage, the proposed use, is defined as an industrial use. Outdoor storage is only permitted by special exception in the City's Industrial Districts (M-1, M-2, and IP-1).

Finding of Fact:

There are numerous uses in the C-3 zoning district that do not require a variance. The subject site is not reasonably limited to the industrial use that the applicant proposes.

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

CWA Comment: The applicant's request to use the site for outdoor storage is ultimately an outcome of the applicant's chosen land use and is not an outcome of circumstances unique to the property in question. The applicant's request is, however, motivated by the fact that the lot has no existing structures and is adjacent to a lot which the applicant currently leases.

Finding of Fact:

The property in question is not limited by inherent conditions unique to the property or the neighborhood it occupies.

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

CWA Comment: The proposed use is inconsistent with the character of the area. For example, the subject site is on the corner of Sanford Street, which is characterized by single-family dwellings to the north. The subject site is vacant greenspace that can be developed for uses more consistent with commercial and residential uses. Auburn Avenue is occupied by some fenced lots and unidentifiable structures, but it is an active corridor, reserved for C-3 uses.

Finding of Fact:

The proposed use, if authorized, will alter the essential character of the surrounding residential and commercial areas.

4. The problem is not self-created.

CWA Comment: The applicant proposes to use the site for a function that is not permitted in the subject site's district. Use of the adjacent site as a landscaping contractor is a self-created situation.

Finding of Fact:

The use of the subject property as an extension of the existing landscaping business is a self-created problem.

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

CWA Comment: While the ordinance permits light industrial uses in the C-3 district, Section 2.517.A.4 states that such uses "shall occur entirely within a completely enclosed building." Therefore, use of the site for outdoor storage is not consistent with the spirit of the ordinance. We have not been provided information describing potential nuisances that may occur or how the applicant plans to mitigate them.

Finding of Fact:

The proposed use is not consistent with the spirit of the Zoning Ordinance. Further, the proposed use might create nuisances that would affect nearby residents.

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

CWA Comment: Section 6.401.B seeks to protect the surrounding vicinity from any detrimental effect on property values, public health, and welfare. The storage of various landscaping stones and subsequent site use may pose conditions that will negatively affect nearby residents. For example, lighting used for site security, dust generated from use of the site, and noise are all potential hazards to public welfare as well as to local property values. To further determine proposed outcomes, the applicant should provide more information regarding their plans for the site.

Finding of Fact:

The proposed use as outdoor storage for a stone paving company will likely have a negative effect on local property values and local public welfare.

7. There is compliance with any applicable standards for discretionary decisions as contained in Section 6.303.
 - a. Be harmonious with and in accordance with the general principles and objectives of the comprehensive master plan of the City of Pontiac.

CWA Comment: The Future Land Use Map, set forth in the Master Plan, designates the site as "Mixed Use." Noting the vacant lots that exist around neighborhood businesses, the Master Plan "encourages redevelopment and allows for a greater flexibility of land uses within Mixed-Use districts. The design requirements, however, must encourage pedestrian friendly building and site design and seek to improve neighborhood walkability."

- b. Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity by way of size, character, or location.

CWA Comment: Outdoor storage is not an intended use for general vicinity.

- c. Not change the essential character of the area in which it is proposed, and not adversely affect the development or redevelopment of the surrounding neighborhood.

CWA Comment: The subject site is currently vacant. The proposed use might steer the surrounding neighborhood toward more industrial uses and away from neighborhood retail or service oriented businesses. It is likely not compatible with surrounding residential lots.

- d. Not be hazardous or disturbing to existing or future uses in the same general vicinity and will be a substantial improvement to property in the immediate vicinity and to the community as a whole.

CWA Comment: More information is needed. Hazardous effects may result from the approval of the variance requested.

- e. Be served adequately by essential public facilities and services, such as highways, streets, police, fire protection, drainage structures, refuse disposal water and sewage facilities and schools.

CWA Comment: The subject site is located along a corridor that will be adequately serviced.

- f. Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any person, property or general welfare as a result of producing excess traffic, noise, smoke, fumes, glare, or odors out of proportion to that normally prevailing in the particular district.

CWA Comment: The applicant proposes to store construction materials which will be accessed by trucks. The applicant has not provided information about the volume of traffic or noise that will be generated.

- g. Maintain all proposed structures, equipment, or materials in a readily accessible manner for police and fire protection.

CWA Comment: We do not believe there will be any issues regarding police and fire department accessibility.

Findings of Fact: The proposed use is not compliant with several standards identified in section 6.303.

FINDINGS OF FACT

1. *There are numerous uses in the C-3 zoning district that do not require a variance. The subject site is not reasonably limited to the industrial use that the applicant proposes.*
2. *The property in question is not limited by inherent conditions; conditions unique to the property or the neighborhood it occupies.*
3. *The proposed use, if authorized, will alter the essential character of the surrounding residential and commercial areas.*
4. *The use of the subject property as an extension of the existing landscaping business is a self-created problem.*
5. *The proposed use is not consistent with the spirit of the Zoning Ordinance. Further, the proposed use might create nuisances that would affect nearby residents.*
6. *The proposed use as outdoor storage for a stone paving company will likely have a negative effect on local property values and local public welfare.*
7. *The proposed use is not compliant with several standards within section 6.303.*

RECOMMENDATION

As a matter of practice, staff only provides analysis and not a recommendation on variances.



CARLISLE/WORTMAN ASSOC., INC

Richard K. Carlisle, FAICP

Past President/Senior Principal



Application for Zoning Board of Appeals

City of Pontiac

Office of Land Use and Strategic Planning

47450 Woodward Ave, Pontiac, MI 48342

T: 248.758.2800

F: 248.758.2827

Property/Project Address: 435 Auburn Road

Office Use Only

PF Number: _____

Sidwell Number: _____

Date: 2/1/2023

Instructions: Applications for Zoning Board of Appeals shall be filed with the Office of Land Use and Strategic Planning at least 30 days before the regularly scheduled Zoning Board of Appeals Meeting. Incomplete applications will delay the review process.

Applicant (please print or type)

Name	Sarah Soulliere (SDS Stone Paving)		
Address	664 Nichols Road		
City	Auburn Hills		
State	MI		
ZIP Code	48326		
Telephone	Main: 586-739-0020	Cell: 586-531-3489	Fax:
E-Mail	ssoulliere@brickpave.com		

Property Owner – if different (please print or type)

Name	SAM YONO (ZFG HOLDINGS, LLC)		
Address	P.O. BOX 536		
City	KEEGO HARBOR		
State	MI		
ZIP Code	48320		
Telephone	Main: 248-939-9666	Cell:	Fax:
E-Mail	SYONO84@GMAIL.COM		

Property Information:

Property Address: 435 Auburn Road

Zoning of Property: _____

The subject property is legally described as follows (include sidwell numbers):
Parcel #: 64 14 28 4 60- 029 Lot #: T3N. R10E SEC 28

Purpose of request:

Use variance for 100% outside storage of property to operate landscape construction company. Currently leasing adjacent property as well, 451 Auburn Road, that has two buildings on property.

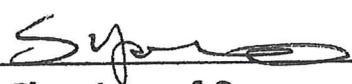
Please explain the nature of your hardship in accordance with the conditions listed above:

In order to operate/ stay in business we need outdoor storage to house the materials we use for off-site customer projects. Outdoor storage is essential. The property has no structure and offers a large area which can accommodate these needs in an organized manner.

Has a request ever been submitted to/or reject by the Planning Commission? Yes No

If yes, state circumstances:

Signature of Applicant


Signature of Owner

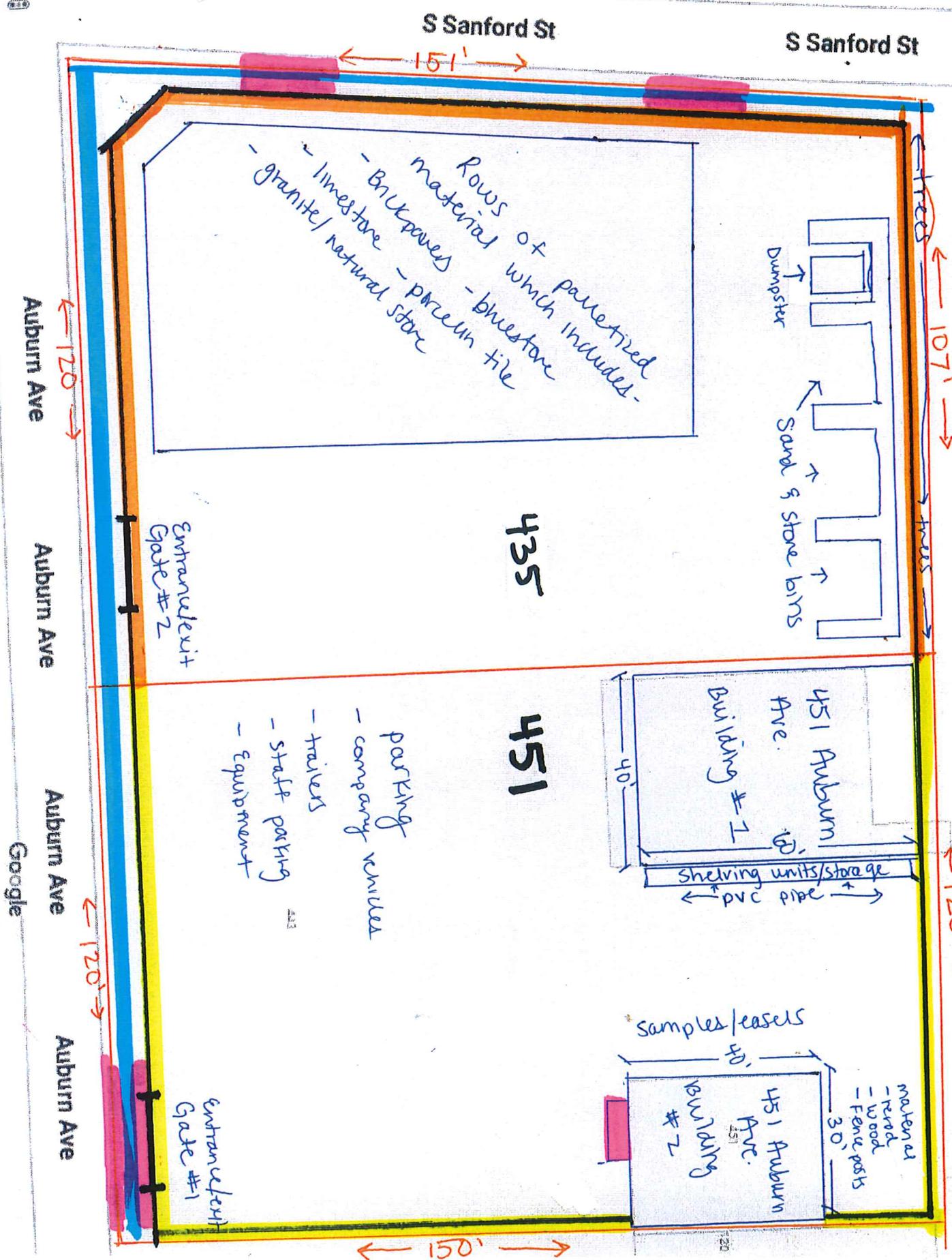
2/1/23

State of Michigan
County of Oakland

On this ____ day of _____, A.D., 20____, before me personally appeared the above named person, who being duly sworn, stated he/she has read the foregoing application, by him/her signed, and know the contents thereof, and that the same is true of his/her own knowledge, except as to the matters therein stated to be upon information and belief and so as to those matters he/she believes it to be true.

Notary Public, Oakland County, Michigan
My Commission Expires: _____

- = property line
- = sidewalk
- = Fence
- = existing fence @ 451 Auburn Ave.
- = new fence adjoining property @ 435 Auburn Ave
- = Existing easements / pavement





Carlisle | Wortman
ASSOCIATES, INC.

117 NORTH FIRST STREET SUITE 70 ANN ARBOR, MI 48104 734.662.2200 734.662.1935 FAX

Date: February 24, 2023

Variance Analysis For the City of Pontiac, Michigan

Applicant: Sarah Soulliere (SDS Stone Paving)
Property Address: 435 Auburn Avenue
Property I.D. #: 14-28-460-029
Zoning: C-3 (Corridor Mixed Use District)
Application: ZBA-23-010
Action Requested: 6' High Front Yard Fence Variance

EXECUTIVE SUMMARY

The applicant is seeking a dimensional variance to permit the construction of a six (6) foot fence in the front yard of a lot that exists in a C-3, Mixed Use District. Per section 4.103, mixed use districts allow front yard fences that are decorative and do not exceed three (3) feet in height. Rear and side yard fences are permitted, up to six (6) feet in height, so long as they are decorative and do not use hazardous materials.

The proposed fence coincides with the applicant's proposal to develop the subject site for outdoor material storage. The proposed use is also under variance review.

REQUIREMENTS

Permitted:	Front yards -	Decorative fences, no more than 3' tall.
	Rear and side yards -	Decorative fences up to 6' tall. No hazardous fence materials.
Requested:	Front yard -	The applicant has installed a 6' tall, chain link fence (not decorative).
	Rear and side yards -	The applicant has installed a 6' tall, chain link fence (not decorative).

OVERVIEW

The subject site is an empty lot on the northeast corner of Auburn Avenue and South Sanford Street. The applicant leases the two buildings on the adjacent lot to the east but does not state more information about the nature of the lease. The subject site is adjacent to residential property along its northern border. There appears to be a natural buffer between the subject site and the adjacent residence created by a

row of trees. While the subject site is zoned C-3, the general vicinity is characterized by single family residential dwellings. The site has one access point on Auburn Avenue and is accessed by a public sidewalk along Auburn Avenue and Sanford Street.

The proposed fence will connect with an existing fence, which borders the adjacent lot to the east. The proposed outcome is one perimeter fence that joins 435 and 451 Auburn Avenue.

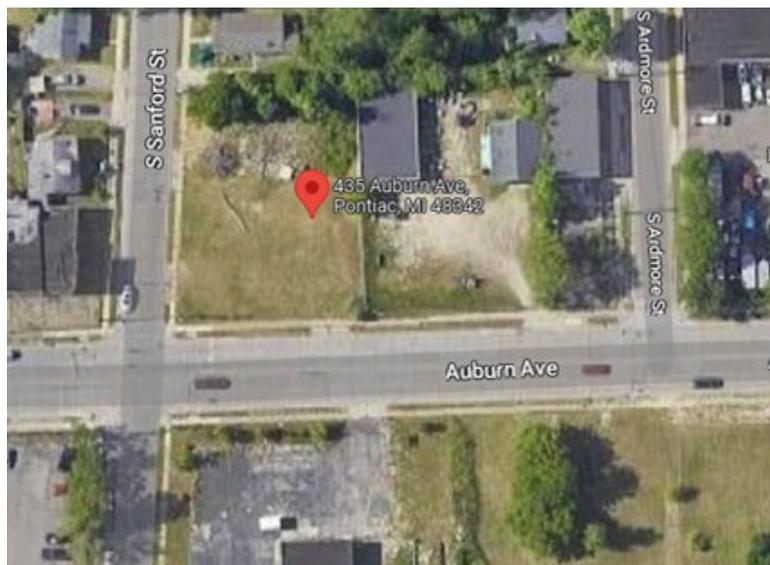
The applicant has provided a sketch plan of the site. Further, the applicant has submitted photos of the site, which appear to demonstrate that they have already begun to use the site for storage and have already constructed a perimeter, chain-link fence.

EXHIBITS

Figure 1: Aerial View of the Property



Figure 2: Aerial View of the Property



CONSIDERATIONS FOR THE PROPOSED VARIANCE

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 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.

CWA Comment: The purpose of the applicant's request is to secure outdoor storage, a use that is not permitted in this district.

Findings of Fact: Compliance with the Zoning Ordinance does not appear to unreasonably prevent the owner from using the property as zoned.

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.

CWA Comment: We note that the applicant plans on attaching the proposed six (6) foot fence to their existing six (6) foot fence on the adjacent property to the east. The applicant should indicate if a fence permit was granted for the property to the east. We note that there are other fences in the area of similar height and configuration along Auburn Street, but we are unaware if these are conforming or nonconforming situations.

Finding of Fact: There are other instances of six (6) foot high fencing in the general vicinity. The granting of this request would not necessarily be out of character with this part of the City.

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

CWA Comment: The fencing height and materials restriction applies to all C-3 lots, including those adjacent to the site. We do not find unique circumstances that are specific to this property that would contribute to the need for this variance. The need for the variance is due to the use that is desired by the applicant not the property itself.

Findings of Fact: The plight of the applicant is not due to unique circumstances of the property but rather the proposed use desired by the applicant.

4. The problem is not self-created.

CWA Comment: The applicant appears to have begun using the site for a non-conforming use prior to seeking any approvals from the City. From this point of understanding, the problem is self-created.

Findings of Fact: The subject site can be developed without the variance for a six (6) foot fence as proposed by the applicant. Further, nonconforming use of the site suggests that the problem is self-created.

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

CWA Comment: We believe the approval of the variance will not be in keeping with the spirit of the ordinance.

Findings of Fact: Approval of the variance will be inconsistent with the spirit of the ordinance.

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

CWA Comment: Section 6.401.B seeks to protect the surrounding vicinity from any detrimental effect on property values, public health, and welfare. The types of fences that are permitted along this section of Auburn Road must be decorative. It appears the applicant has already installed a chain link fence, which may have a detrimental effect on the future development of this corridor, and may have a detrimental effect on surrounding property values. Public health and welfare are addressed in the comments above.

Findings of Fact: The variance would not be in full compliance with the standards set forth in Section 6.401.B.

7. There is compliance with the standards for discretionary decisions as contained in Section 6.303.
 - a. Be harmonious with and in accordance with the general principles and objectives of the comprehensive master plan of the City of Pontiac.

CWA Comment: The City Master Plan encourages flexibility in the development of this district, but states, "the design requirements must encourage pedestrian friendly building and site design and seek to improve neighborhood walkability."

- b. Be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity by way of size, character, or location.

CWA Comment: The reason for the requested variance is that the proposed fence is not harmonious with the intended character of the corridor, by way of size, design, and location. The proposed fence is not decorative and is twice the permitted height for a front yard. The location is intended to function as a gateway between the residential neighborhood and the commercial district, which is not reflected in the proposed front yard, chain link fence.

- c. Not change the essential character of the area in which it is proposed, and not adversely affect the development or redevelopment of the surrounding neighborhood.

CWA Comment: The essential character and the projected effect on redevelopment have already been discussed in the sections above.

- d. Not be hazardous or disturbing to existing or future uses in the same general vicinity and will be a substantial improvement to property in the immediate vicinity and to the community as a whole.

CWA Comment: The proposed fence will not be hazardous unless however, we believe the proposed fence will not be an improvement to the immediate vicinity.

- e. Be served adequately by essential public facilities and services, such as highways, streets, police, fire protection, drainage structures, refuse disposal water and sewage facilities and schools.

CWA Comment: This section is not applicable.

- f. Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any person, property, or general welfare as a result of producing excess traffic, noise, smoke, fumes, glare, or odors out of proportion to that normally prevailing in the particular district.

CWA Comment: The proposed fence will not create any physical nuisances that would be transmitted to the surrounding vicinity via noise, air quality, etc.

- g. Maintain all proposed structures, equipment, or materials in a readily accessible manner for police and fire protection.

CWA Comment: Cannot be determined without the external review of these agencies or without the provision of circulation plans.

Findings of Fact: The proposed variance is not compliant with several standards within section 6.303.

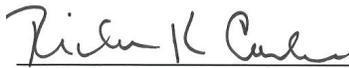
FINDINGS OF FACT

1. *Compliance with the Zoning Ordinance does not appear to unreasonably prevent the owner from using the property as zoned.*
2. *There are other instances of six (6) foot high fencing in the general vicinity. The granting of this request would not necessarily be out of character with this part of the City.*
3. *The plight of the applicant is not due to unique circumstances of the property but rather the proposed use desired by the applicant.*

4. *The subject site can be developed without the variance for a six (6) foot fence as proposed by the applicant. Further, nonconforming use of the site suggests that the problem is self-created.*
5. *Approval of the variance will be inconsistent with the spirit of the ordinance.*
6. *The variance would not be in full compliance with the standards set forth in Section 6.401.B.*
7. *The proposed variance is not compliant with several standards within section 6.303.*

RECOMMENDATION

As a matter of practice, staff only provides analysis and not a recommendation on variances.



CARLISLE/WORTMAN ASSOC., INC

Richard K. Carlisle, FAICP

Past President/Senior Principal



Application for Zoning Board of Appeals

City of Pontiac
Office of Land Use and Strategic Planning
47450 Woodward Ave, Pontiac, MI 48342
T: 248.758.2800 F: 248.758.2827

Property/Project Address: 435 Auburn Road

Sidwell Number: _____

Office Use Only
PF Number: _____

Date: 2/1/2023

Instructions: Applications for Zoning Board of Appeals shall be filed with the Office of Land Use and Strategic Planning at least 30 days before the regularly scheduled Zoning Board of Appeals Meeting. Incomplete applications will delay the review process.

Applicant (please print or type)

Name	Sarah Soulliere (SDS Stone Paving)		
Address	664 Nichols Road		
City	Auburn Hills		
State	MI		
ZIP Code	48326		
Telephone	Main: 586-739-0020	Cell: 586-531-3489	Fax:
E-Mail	ssoulliere@brickpave.com		

Property Owner – if different (please print or type)

Name	SAM YONO (ZFG HOLDINGS, LLC)		
Address	P.O. BOX 536		
City	KEEGO HARBOR		
State	MI		
ZIP Code	48320		
Telephone	Main: 248-939-9666	Cell:	Fax:
E-Mail	SYONO84@GMAIL.COM		

Property Information:

Property Address: 435 Auburn Road

Zoning of Property: _____

The subject property is legally described as follows (include sidwell numbers):

Parcel #: 64 14 28 4 60- 029 Lot #: T3N, R10E SEC 28

Purpose of request:

Dimensional variance for 6' front yard fence located on main road,
Tying in existing 6' fence to adjacent property, which is also leased
by applicant, at 451 Auburn Avenue.

Please explain the nature of your hardship in accordance with the conditions listed above:

New 6' fence is necessary for operations to help protect valuable
assets and inventory. A 4' fence would make access to property eas-
ier as the property has no building or structure to help protect/ shield
assets & inventory. Fence is on main road facing commercial proper

Has a request ever been submitted to/or reject by the Planning Commission? Yes No

If yes, state circumstances:

Sarah Soussier
Signature of Applicant

S. York 2/1/23
Signature of Owner

State of Michigan
County of Oakland

On this ___ day of _____, A.D., 20___, before me personally appeared the above named person, who being duly sworn, stated he/she has read the foregoing application, by him/her signed, and know the contents thereof, and that the same is true of his/her own knowledge, except as to the matters therein stated to be upon information and belief and so as to those matters he/she believes it to be true.

Notary Public, Oakland County, Michigan
My Commission Expires: _____



Front of property located on Auburn Avenue
Circled area shows where ^{Existing/} old & new fence
were tied in together.



corner of Auburn ~~St.~~^{Ave.} / Sanford St.



side of property -S. Sanford st.

Rear Fence



- = property line
- = sidewalk
- = Fence
- = existing fence @ 451 Auburn Ave.
- = new fence adjoining properties @ 435 Auburn Ave
- = existing easements / pavement

S Sanford St

S Sanford St

151'

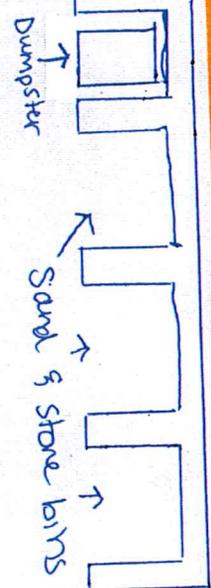
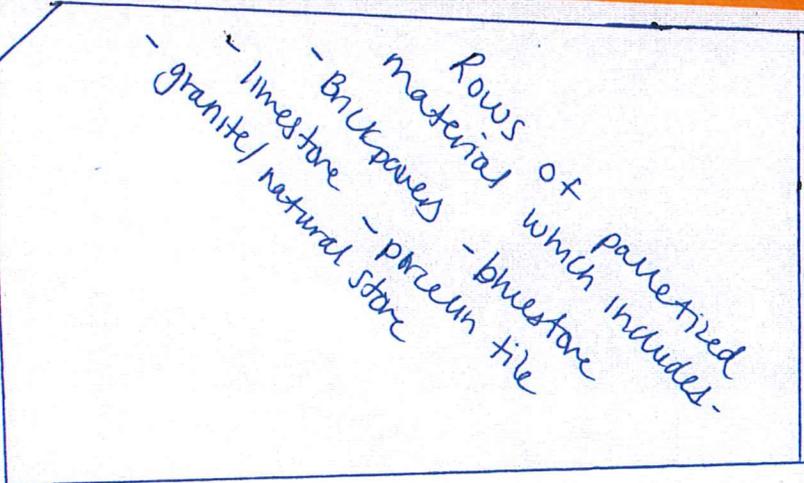
streets

1071'

streets

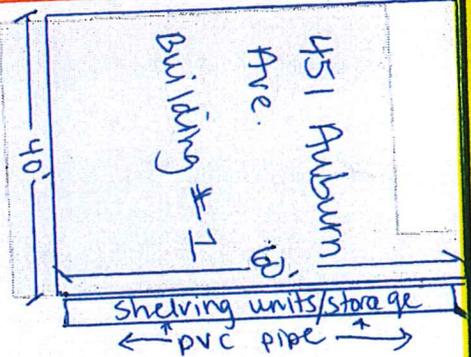
120'

150'

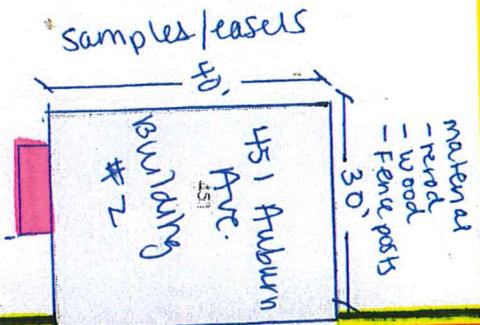


435

451



- parking
- company vehicles
- trailers
- staff parking
- equipment



Entrance/exit Gate #2

Entrance/exit Gate #1

Auburn Ave 120'

Auburn Ave

Auburn Ave 120'

Google

Auburn Ave

