

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

CALL TO ORDER: 7:05 p.m.

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

Chairperson Laurie Slade was not reappointed.

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

MR. SABO: Todd?

MR. TODD: Here.

MR. SABO: Kirkendolph?

MS. KIRKENDOLPH: Here.

MR. SABO: Hollis?

MS. HOLLIS: Here.

MR. SABO: Sinclair?

MR. SINCLAIR: Here.

MR. SABO: Anderson?

MR. ANDERSON: Here.

MR. SABO: Taylor?

MR. TAYLOR: (Arrived at 7:20 p.m.)

MR. SABO: Bueno.

CHAIRMAN BUENO: Here.

EXCUSED: None.

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

COMMUNICATIONS: None.

ADOPTION OF MINUTES: January 21, 2014.

COMM. HOLLIS MADE A MOTION FOR APPROVAL OF THE MINUTES FOR January 21, 2014 AND COMM. TODD SUPPORTED.

CHAIRMAN BUENO: Roll call, please.

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

Vote 6-0-0 for approval of the January 21, 2014 Minutes.

OLD BUSINESS: **ZBA-13-16**

Finding of Facts presented by Mr. Sabo.

MR. SABO: **Property Description:** 700 Collier Road, the property is an existing residential lot and house in the R-1B Large Lot One-Family Dwelling district. Sidwell # 14-09-426-007

Dimensional Variance Request: (Alternative 1) Dimensional variances related to proposed construction of a new accessory structure/building at the existing residential site. The applicant is requesting to construct an accessory building approximately 40' x 60' in the rear yard. An additional driveway is not proposed (driveway extension proposed). Variances for Dimension requested as follows:

Dimensional Variance for Section 2.304(F)(1) Height Accessory Buildings; and Section 2.304(F)(2) Building Area Accessory Buildings. The maximum allowable accessory building height in the R-1B residential district is 15 feet. The proposed building height has been reduced from 19.5 feet to 15.5 feet. The applicant is requesting a dimensional variance of 0.5 feet in height. The maximum allowable building area is 900 square feet. The proposed building area is 2,400 square feet. The existing accessory building area is 672 square feet. The applicant has reiterated the request for a dimensional variance of 2,192 square feet.

Dimensional Variance for section 4.302(C)(3) Single Family Residential Off-Street Parking. In a single family residential zone district, off-street parking shall consist of a parking strip, driveway, or parking bay. This variance request has been eliminated. No second driveway is proposed.

Dimensional Variance Request: (Alternative 2) Dimensional variances related to proposed construction of a new accessory structure/building at the existing residential site. The applicant is requesting to construct a garage addition of approximately 40' x 60' at the south elevation of the existing detached garage structure into the rear yard. An additional driveway is not proposed (driveway extension proposed). Variance for Dimension requested as follows:

Dimensional Variance for Section 2.304(F)(1) Height Accessory Buildings; and Section 2.304(F)(2) Building Area Accessory Buildings. The maximum allowable accessory building height in the R-1B residential district is 15 feet. The proposed garage building addition is 15.5 feet. The applicant is requesting a dimensional variance of 0.5 feet in height. The maximum allowable building area is 900 square feet. The proposed garage building addition area is 2,400 square feet. The existing accessory building is 672 square feet. The applicant has reiterated the request for a dimensional variance of 2,192 square feet.

Claimed Practical Difficulty:

(Dimensional Variance) Currently the site is an existing residential house on Collier Road.

The applicant has stated that the variance request is based on practical difficulty related to the particular existing lot dimensions. The applicant claims that the size of the existing lot will allow for construction of a new garage with no immediate visual effect on the neighboring properties. The applicant states that the rise of the topography at the front/north side of the lot will conceal the larger proposed accessory structure. The applicant has not provided reasons for a practical difficulty related to a 3rd accessory structure, which is not permitted by the ordinance. No other practical difficulty information was provided.

Staff Findings:

1. The subject site is zoned R-1B.
2. The proposed construction of an accessory building on the lot would meet all other zoning ordinance standards for setbacks, design, and appearance.
3. The proposed construction of an accessory building would not meet the zoning ordinance standards for floor area, building size, and height.
4. There does not appear to be a practical difficulty related to the request for dimensional variances.
5. As stated at the November meeting, there appears to be alternative methods for the applicant to accomplish his desired outcome with less variance requests, such as expansion of the existing garage and expansion of the existing driveway.
6. In accordance with ZBA suggestions at the November meeting, the applicant has proposed Alternative 2, which eliminates the driveway variance request and reduces the maximum height variance request from 4.5 feet to 0.5 feet.
7. In accordance with the ZBA suggestions, the Alternative 1 proposal does not reduce the extent of dimensional variance requests to the extent Alternative 2 reduces them.

AUTHORIZATION: Section 6.407 Dimensional Variance

Authority – The Zoning Board of Appeals may grant a dimensional (nonuse) variance to provide relief from a specific standard in this Ordinance relating to an area, a dimension or a construction requirement or limitation, upon the concurring vote of a majority of the members of the Zoning Board of Appeals.

Practical Difficulty – A nonuse variance shall not be granted unless the Zoning Board of Appeals finds that there is a practical difficulty in the way of carrying out the strict letter of this ordinance. In determining whether a practical difficulty exists, the Zoning Board of Appeals must find:

1. Compliance with strict letter of the restrictions governing area, setback, frontage, height, bulk, lot coverage, density or other dimensional or construction standards will unreasonably prevent the owner from using the property for a permitted purpose or will render conformity with such restrictions unnecessarily burdensome.

Does not meet the standard, the property owner will not be prevented from utilizing the property for a permitted purpose.

2. A grant of the variance will do substantial justice to the applicant as well as to the other property owners in the district, and a lesser variance will not give substantial relief to the applicant as well as be more consistent with justice to other property owners in the zoning district.

Does not specifically meet the standard, however, the applicant amended the plans and is now requesting a lesser variance. The ZBA may wish to consider if the reduced variance request will provide substantial justice to the property owner. Also, will the reduced variance request be more consistent with the spirit and intent of the zoning ordinance. Alternative 2 represents a lesser variance request than Alternative 1.

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

Does not meet the standard, there are no specific or unique circumstances related to the property. It is a large usable lot with several alternative options available to the property owner.

4. The problem is not self-created.

Does not meet the standard, the problem is self-created. The applicant has proposed a structure that does not meet the zoning ordinance provisions.

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

Does not meet the standard, however, the revised Alternative 2 is more closely aligned with the spirit of the ordinance.

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

Meets the standard for supply of light/air, traffic, safety, welfare.

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

Not Applicable.

RECOMMENDATION: To consider under which circumstances the ZBA would grant a dimensional variance request for ZBA-13-16, 700 Collier Road for Section 2.304(F)(1) Height Accessory Buildings; and Section 2.304(F)(2) Building Area Accessory Buildings, a variance of 0.5 feet in height and a dimensional variance of 2,172 square feet in area; as the request does not appear to meet the specific standards from practical difficulty from Section 6.407 of the Zoning Ordinance.

CHAIRMAN BUENO DECLARED PUBLIC HEARING OPEN.

Public Comments in the form of three letters submitted to Mr. Sabo from the applicant's neighbors. All 3 letters contain the exact same content but each letter was individually signed.

To: James Sabo, Pontiac City Planner
47450 Woodward Ave
Pontiac, MI 48340

RE: ZBA case 13-16 700 Collier Road, Pontiac, MI 48340

It has come to the Attention of the neighbors on Collier Road in Pontiac, MI, that the resident at 700 Collier Road, will be coming in from of the ZBA for the expansion of his garage; ZBA Case 13-16-700 in the month of February.

After talking with the resident, who owns the property, I have no objection to the expansion of the garage, as he explained it is for the storage of his classic cars, which are hauled in on a trailer. He is not a resident who brings his work home with him.

In the past an Auburn Hills elected official, who lives in Auburn Hills, addressed your body, I would ask you to take into consideration, what the residents of Pontiac, are asking you to consider. It has been brought to our attention; our own Council Persons are unable to speak on this matter per an Attorney Generals code of ethics, although we have heard some would speak on this matter favorably as well.

Further I would ask that it be allowed with no further additional expense, as has been discussed in past meetings.

Respectfully,

David and Deb Russell
720 Collier Road, Pontiac, MI 48340

Ky Yang
710 Collier Road, Pontiac, MI 48340

Oma Chrism
1201 Collier Road, Auburn Hills, MI

CHAIRMAN BUENO DECLARED PUBLIC HEARING CLOSED.

COMM. TODD MADE A MOTION TO DENY THE ORIGINAL PROPOSED DIMENSIONAL VARIANCE REQUEST FOR ZBA-13-16, 700 COLLIER ROAD.

COMM. SINCLAIR SUPPORTED.

CHAIRMAN BUENO: Roll call please.

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

Vote 7-0-0 for denial of the original proposed dimensional variance request.

COMM. HOLLIS MADE A MOTION TO APPROVE THE DIMENSIONAL VARIANCE REQUEST ALTERNATIVE 1 FOR ZBA-13-16, 700 COLLIER ROAD, SUBJECT TO THE FOLLOWING CONDITIONS:

1. REMOVAL OF THE SHED TO ELIMINATE A 3RD ACCESSORY BUILDING.
COMM. TAYLOR SUPPORTED.

CHAIRMAN BUENO: Roll call please.

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

Vote 6-1-0 for approval the Alternative 1 variance request.

PUBLIC COMMENT: Mike McGinness, 26 Union, HAPPY BIRTHDAY PAT HOLLIS!

MISCELLANEOUS: Chairman Bueno expressed his disappointment with City Council in not reappointing Laurie Slade. Mr. Bueno stated that Ms. Slade brought a lot of knowledge to the ZBA as Chairperson. The ZBA will need to look for 2 new alternates.

MOVED BY COMM. HOLLIS TO ADJOURN.
COMM. KIRKENDOLPH SUPPORTED.

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

ADJOURNMENT: 7:47 p.m.