

ZONING BOARD OF APPEALS
TUESDAY, ~~MAY 15~~, 2012 @ 7:00 P.M.

CALL TO ORDER: 7:05 p.m.

ROLL CALL: Chairperson Laurie Slade
Mr. Carlos Bueno
Ms. Debra Monroe
Ms. Doris Taylor-Burks
Mr. Taylor, appeared later
Mr. Lee Todd

ABSENT: None
EXCUSED: None.

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

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

MR. SABO: Bueno?
COMM. BUENO: Here.

MR. SABO: Mr. Taylor? He indicated he would be late.

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

MR. SABO: Monroe?
COMM. MONROE: Here.

MR. SABO: Hollis?
COMM. HOLLIS: Here.

MR. SABO: Dr. Taylor-Burks?
COMM. TAYLOR-BURKS: Here.

MR. SABO: Slade?
CHAIRPERSON SLADE: Here.

COMMUNICATIONS: Welcomed new commissioners. Patricia Hollis, Lee Todd and Ahmad Taylor, who was not present.

ADOPTION OF MINUTES: ~~MAY 15~~, 2012.

COMM. TAYLOR-BURKS MADE A MOTION FOR APPROVAL OF THE MINUTES FOR
MAY 15, 2012 AND COMM. BUENO SUPPORTED.

CHAIRPERSON SLADE: Roll call, please.

VOTE: AYES: Taylor-Burks, Bueno, Monroe, Slade.
NAYS: None.
ABSTAIN: Todd, Hollis.

Vote 4-0-2 for approval of the April 17, 2012 Minutes.

OLD BUSINESS: None.

NEW BUSINESS: ZBA-12:05

Finding of Facts presented by Mr. Sabo.

MR. SABO: Property Description: 855 Cesar Chavez, Sidwell# 14-
19-2255-016

Variance Request: Variance for Dimensions is requested as
follows:

Dimensional Variance for Section 2.312 Required Front Yard
Setback. The minimum allowable front yard setback in the M-1,
Light Manufacturing District is 15 feet. The applicant is
requesting a dimensional variance to reduce the minimum
allowable front yard setback to 5 feet. A variance of 10 feet
is requested and;

Dimensional Variance for Section 4.406(a) Parking Lot
Landscaping Requirements. For parking lots abutting a public
right-of-way, the minimum landscape buffer width along a public
right-of-way in any zone district is 8 feet. The applicant is
requesting a dimensional variance to reduce the minimum
landscape buffer width to 5 feet. A variance of 3 feet is
requested.

Claimed Practical Difficulty:

(Dimensional Variance) Currently the site is vacant and was the
former SMART bus garage. As stated, the applicant appeared
before the Planning commission on May 2, 2012 for Site Plan
approval. The Site Plan application was tentatively approved

contingent upon two dimensional variances for front setback and parking lot landscape buffer width from the Zoning Board of Appeals.

The applicant has stated that the variance request is based on practical difficulty related to the existing site conditions. Specifically, the existing building footprint and the existing front parking area are both located within the required front setback along Cesar E. Chavez Drive.

The applicant wishes to construct the addition along the same wall plane as the current building because it is an architecturally compatible and appropriate design. Additionally, they claim that it meets the intentions of the zoning ordinance design standards. They stated that setback encroachment condition was inherited and not self-created.

Additionally, the applicant has stated that the existing front parking area along Cesar Chavez was an inherited condition as well. The small front parking area near the offices for the building is an existing condition. The applicant wishes to continue to occupy and utilize the parking areas as constructed. The applicant has stated that the practical difficulty with the front parking area is related to maneuvering and necessary customer parking. Compliance with the right-of-way buffer will reduce the number of customer parking spaces, which are needed because the remainder of the site is dedicated to business use. Again, they stated that the setback encroachment condition was not self-created.

Staff Findings:

1. The subject site is zoned M-1. The proposed use complies with the Zoning Ordinance Special Exception Permit provision for the Light Manufacturing District.
2. The proposed building meets all the bulk and area requirements of the Zoning Ordinance, with the exception of the requested dimensional variances for front setback and landscape buffer width along a public right-of-way.

Authorization:

Section 6.407 Dimensional Variance

Authority: The Zoning Board of Appeals may grant a dimensional (non-use) variance to provide relief from a specific standard in this Ordinance relating to an area, a dimension or a

construction requirement or limitation, upon the concurring vote of a majority of the members of the Zoning Board of Appeals.

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

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

Meets the standard, existing conditions on 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.

May meet the standard.

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

Meets the standard, existing conditions on the property.

4. The problem is not self-created.

Meets the standard, not self-created.

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

Meets the standard, intent of ordinance is to prohibit the use.

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

Appears to meet the standard for supply of light/air, traffic, safety, welfare.

7. Compliance with standards for discretionary decisions contained in Section 6.303.

May meet the standard.

Recommendation: To approve dimensional variance requests for ZBA 10-05, 855 Cesar E. Chavez, Heat Treatment Services for Section 2.312 front setback variance of 10 feet and Section 4.406(a) landscape buffer width variance of 3 feet as the requests meets the standards for practical difficulty from Section 6.407 of the Zoning Ordinance.

Petitioner Ken Van Tine, Owner, appeared with Ken Rogee and Aaron Applebee. Mr. Van Tine is requesting to continue the current setback and reducing it would be difficult to get machinery into building.

Councilperson George Williams was not allowed to address the Commissioners per Chairperson Slade because the commissioners are not be influenced by the parties that appoint them under previous administrations and she is following that guideline.

CHAIRPERSON SLADE DECLARED PUBLIC HEARING OPEN.

None.

CHAIRPERSON SLADE DECLARED PUBLIC HEARING CLOSED.

Comm. Bueno inquired if the new addition is in line with the current structure and the approximate height. Petitioner indicated the highest point is 26 feet and it is in accordance with the current structure. Matter was tabled, no vote taken.

COMM. TAYLOR-BURKS MADE A MOTION FOR APPROVAL OF THE DIMENSIONAL VARIANCES AS REQUESTED AND COMM. TODD SUPPORTED.

CHAIRPERSON SLADE: Roll call, please.

VOTE:	AYES:	Taylor-Burks, Todd, Bueno, Monroe, Hollis, Slade.
	NAYS:	None.
	ABSTAIN:	None.

Vote 6-0-0 for approval of the Dimensional Variances.

ZBA 12-06

Finding of Facts presented by Mr. Sabo.

Mr. Sabo: Property Description: 1825 Gold Drive, Sidwell # 19-05-102-007

Variance Request: Dimensional Variance for Dimensions is requested as follows:

Dimensional Variance for Section 4.405(b) Type of Buffer Required by Use Abutting R-1 R-2 Zoning District. The type of buffer that must be provided by a use in a zoning district along a side or rear property line abutting an R-1 R-2 residential district is a Type-A landscape buffer. The minimum buffer width is 10 feet and the buffer requires 1 deciduous tree every 100 lineal feet, 6 evergreen trees every 100 lineal feet, 8 shrubs every 100 lineal feet, and the remainder of the buffer shall be covered with acceptable groundcover material, such as grass, wood chip, or landscape stone. The applicant is requesting a dimensional variance to reduce the minimum allowable landscape buffer from 10 feet in width to 0.0 feet in width, or to eliminate the entire landscape buffer.

Claimed Hardship or Practical Difficulty: (Dimensional Variance) Currently, the site is the new location for the Michigan Charter School for the Arts. The site is the former location of the Midwestern Baptist College, which relocated to Lake Orion in 2010. As stated, the applicant appeared before the Planning Commission on October 5, May 2, 2012 for Site Plan Approval. The Site Plan application was conditionally approved and one of the conditions was compliance with the zoning ordinance for landscaping buffer abutting a residential zone district.

The applicant has stated that the variance request is based on practical difficulty related to the existing site conditions. More specifically, the applicant states that the intent of the zoning ordinance requirement for landscape buffering would not

require additional landscaping because the Municipal Golf Court and the Charter School campus are already sufficiently landscaped. The applicant states that meeting the landscaping requirements is redundant because it does not make sense to buffer green space from green space. The applicant has stated that there are two non-typical residential zoning uses here that do not require landscape buffers.

Staff Findings:

1. The subject site is zoned R-1. The proposed use complies with the Zoning Ordinance Special Exception Permit provisions for the R-1 One-Family Dwelling District.
2. The proposed building meets all the bulk and area requirements of the Zoning Ordinance, with the exception of the requested dimensional variance for reduction/elimination of the required landscape buffer for residential zone districts.

Authorization:

Section 6.407 Dimensional Variance

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

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

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

Does not meet the standard, property can be used and still meet requirements.

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.

Does not meet the standard, lesser variance may provide relief.

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

May temporarily meet the standard, but property use could change in future.

4. The problem is not self-created.

May meet the standard, Municipal course is the existing use.

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

Does not meet the standard.

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

Appears to meet the standard for supply of light/air, traffic, safety, welfare.

7. Compliance with standards for discretionary decisions contained in Section 6.303.

May meet the standard.

Recommendation:

In accordance with Section 6.407 to consider a lesser variance or consider denial of the request for a dimensional variance request for ZBA 12-06, 825 Golf Drive, Michigan Charter School for the Arts for Section 4.405(b) type of buffer required by use abutting R-1 R-2 zoning district as the standards for Section 6.407 may not be met.

Petitioner Carl Byerly, commented they have 360 students have applied and the number one feature is safety and it's a picture

ZBA 12-07

Finding of Facts presented by Mr. Sabo.

Mr. Sabo: Property Description: 1044 Joslyn, Sidwell# 14-16-451-001

Variance Request: Variance for Dimensions is requested as follows:

Dimensional Variance for Section 5.108(3) Non-conforming Signs. The existing pole sign at Joslyn Chiropractic is a legal non-conforming sign. The zoning ordinance section states that "legal non-conforming signs may continue to exist when maintained in good condition, but may not be" (3) "Extended, enlarged, relocated, or structurally altered."

The applicant is seeking a dimensional (non-use) variance to structurally alter the existing non-conforming sign. They wish to remove a wind damaged portion of the sign and alter the pole sign to include an electronic reader board sign in approximately the same location as the wind damaged portion of the pole sign.

Claimed Practical Difficulty:

Dimensional (Non-Use) Variance: Currently the site is the location for Joslyn Chiropractic. The applicant claims that the practical difficulty related to the site is the lack of sufficient land area to install a conforming ground sign at the site because the existing building is on the setback line. There is a small space adjacent to the north elevation that they could place a ground sign. However, the applicant claims that they would not meet the setback requirements and the sign would

not be visible to any north bound traffic along Joslyn. The applicant is requesting a variance to structurally alter the existing pole sign to allow removal of the damaged sign and change to a reader board sign.

Staff Findings:

1. The subject site is zoned C-1. The proposed use does not comply with the Zoning Ordinance. It is a legal non-conforming pole sign.
2. The proposed sign does not meet the sign ordinance requirements of the Zoning Ordinance. The applicant requires a dimensional (non-use) variance to make any structural changes to the existing pole sign.

Section 6.407 Dimensional Variance

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

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

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

Meets the standard, property has unique configurations (i.e. zero setback)

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

Meets the standard, lesser variance may not provide any relief

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

Meets the standard, property has unique configuration and placement.

4. The problem is not self-created.

Meets the standard for existing pole sign. But, existing sign box could be repaired.

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

Meet the standard.

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

May meet the standard for supply of light/air, traffic, safety. However, personal values about pole signs may differ greatly.

7. Compliance with standards for discretionary decisions contained in Section 6.303.

May meet the standard.

Recommendation:

To approve the request for a dimensional (non-use) variance request for 12-07 1044 Joslyn/Chiropractic for Section 5.108(3) Non-conforming Signs to alter the structure of a non-conforming pole sign to alter the sign to install a reader board sign as it appears to meet the standards for approval.

Owner and Petitioner, Dr. Alsas and Jody Delon from the Sign Company appeared. Ms. Delon indicated the replacement sign is half the size of the current sign, which has been there since 1944; also the pole sign is within the building. The smaller sign at the bottom will remain.

CHAIRPERSON SLADE DECLARED PUBLIC HEARING OPEN.

None.

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