

ZONING BOARD OF APPEALS
WEDNESDAY, AUGUST 21, 2012 @ 7:00 P.M.

CALL TO ORDER: 7:11 p.m.

COMMISSIONERS: Chairperson Laurie Slade
Mr. Carlos Bueno
Ms. Patricia Hollis
Ms. Debra Monroe
Ms. Doris Taylor-Burks
Mr. Ahmad Taylor
Mr. Lee Todd

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

MR. SABO: Bueno?

MR. BUENO: Present.

MR. SABO: Todd?

MR. TODD: Here.

MR. SABO: Taylor?

MR. TAYLOR: Here.

MR. SABO: Monroe?

MS. MONROE: Present.

MR. SABO: Hollis?

MS. HOLLIS: Present.

MR. SABO: Dr. Taylor?

MS. TAYLOR: Here.

MR. SABO: Slade?

MS. SLADE: Present.

EXCUSED: None.

ABSENT: None.

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

COMMUNICATIONS: Reconsideration items were move to the end of the agenda.

ADOPTION OF MINUTES: July 17, 2012.

COMM. TAYLOR-BURKS MADE A MOTION FOR APPROVAL OF THE MINUTES FOR July 17, 2012 AND COMM. HOLLIS SUPPORTED.

CHAIRPERSON SLADE: Roll call, please.

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

Vote 7-0-0 for approval of the July 17, 2012 Minutes.

OLD BUSINESS: None.

NEW BUSINESS: 6.1 ZBA-12-15.

Finding of Facts presented by Mr. Sabo.

MR. SABO: Property Description: 89 Mariva Street, Sidwell# 14-28-382-034

Variance Request: Variance for Dimension is requested as follows:

Dimensional Variance for Section 2.301 Required Rear Yard Setback. The minimum required rear yard setback in the R-1, One Family Dwelling District is 30 feet. The applicant is requesting a dimensional variance to reduce the minimum required rear yard setback to 25.5 feet. A variance of 4.5 feet is requested.

CLAIMED UNDUE HARDSHIP: (Dimensional Variance) Currently the site is occupied by the Hopewell Missionary Baptist Church. As stated, the applicant appeared before the Planning Commission on July 11, 2012 for Site Plan approval. The Site Plan application was tentatively approved contingent upon a dimensional variance for a rear yard setback 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. The lot is very small irrespective of the proposed removal of the 1.5 story house on church property along Mariva. There is a limited amount of square footage at the site for parking

requirements and building envelope. Specifically, the proposed building has been shifted on the site to allow for additional parking along the front elevation of the building.

The proposed building is already short on the required number of parking spaces required and the Planning Commission has granted a parking space reduction to assist the church in meeting parking requirements. The parking space reduction allowed the church to better meet the landscape requirements as well. If they shift the building more forward, they will reduce their available number of parking spaces and will not comply with the Planning Commission condition of additional landscaping.

Additionally, the applicant states that since they will meet their parking space requirements by providing parking across the street at the former grocery location, and they have provided additional landscaping, there should be more flexibility for the proposed church building configuration based on the small size of this site along Mariva.

STAFF FINDINGS:

1. The subject site is zoned R-1. The proposed use complies with the Zoning ordinance Special Exception Permit provisions for the 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 variances for rear yard setback.

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 site 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.

Meets the standard.

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

Meets the standard, existing site condition is a small residential parcel that this already a church special exception use.

4. The problem is not self-created.

Does not meet the standard, the situation is definitely self-created.

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

Meets the standard.

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

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

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

Meets the standard, Planning Commission review and approval 7.11.12.

RECOMMENDATION:

To approve dimensional variance requests for ZBA 12-15, 89 Mariva Street Hopewell Missionary Baptist Church for Section 2.301 a rear yard setback variance of 4.5 feet as the request appears to meet the standards for practical difficulty from Section 6.407 of the Zoning Ordinance.

Rod Edwards, Project Manager, 440 Burrows, Detroit, and Petitioner Mr. Colbert appeared and had no additional comments.

CHAIRPERSON SLADE DECLARED PUBLIC HEARING OPEN.

None.

CHAIRPERSON SLADE DECLARED PUBLIC HEARING CLOSED.

Comm. Taylor-Burks indicated she is familiar with the church and is in favor of the variance.

Comm. Bueno inquired of the 55 additional parking across the street. Petitioner indicated they have an agreement with the owner of the lot for permission to use that parking lot for additional parking.

COMM. TAYLOR BURKS MADE A MOTION TO APPROVE DIMENSIONAL VARIANCE FOR ZBA 12-15, 89 MARIVA STREET HOPEWELL MISSIONARY BAPTIST CHURCH FOR SECTION 2.301, A REAR YARD SETBACK VARIANCE OF 4.5 FEET AND COMM. TAYLOR SUPPORTED.

VOTE: AYES: Taylor-Burks, Taylor, Hollis, Monroe, Todd, Bueno, Slade.

NAYS: None.

ABSTAIN: None.

Vote 7-0-0 for Approval of the Dimensional Variance.

6.2: ZBA-12-17.

Finding of Facts presented by Mr. Sabo.

MR. SABO: Property Description: 641 Clara Avenue, Sidwell# 14-16-252-037

Variance Request: Variance for Dimension is requested as follows:

Dimensional Variance for Section 2.304(f)(2)Maximum Allowable Area for an Accessory Structure. The maximum allowable area for an accessory structure or building in the R-1 One Family Dwelling District is 800 square feet. The applicant is requesting a dimensional variance to increase the maximum allowable area for an accessory structure from 800 square feet to 1,344 square feet. The existing garage structure is 768 square feet. The applicant has proposed to build an addition to the existing garage. The addition is proposed at 576 square feet, which exceeds the maximum allowable area by 544 square feet. Therefore, a variance of 544 square feet is requested.

CLAIMED PRACTICAL DIFFICULTY:

(Dimensional Variance) Currently the site is an owner occupied residential home.

The applicant has stated that the variance request is based on practical difficulty related to the zoning ordinance requirements for commercial vehicles. The residential lot in this case is very large and can easily accommodate a larger garage building. The applicant states that the Zoning Ordinance does not permit parking for commercial vehicles on residential streets.

Applicant states that he is a K-9 unit police officer and his existing garage door opening is not high enough to accommodate the light bar and roof equipment for his Oakland County K-9 unit vehicle. The vehicle is too large/tall and the light bar and police radio antenna hit the cross member support for the existing garage door. Additionally, the applicant states that as the K-9 officer he is responsible for the police dog during off-duty hours. He states that it is not practical to park the commercial police vehicle off-site and try to transfer the dog to a civilian vehicle to get the animal back to his residence.

STAFF FINDINGS:

1. The subject site is zoned R-1. The proposed accessory structure use complies with the Zoning Ordinance provisions for the One Family Dwelling District.
2. The proposed accessory building does not meet the bulk and area requirements for the Zoning Ordinance.
3. The Zoning Ordinance does allow parking for one commercial vehicle in a residential zone district under Section 4.205(a). "Parking for non-commercial motor vehicles and not more than one commercial vehicles of less than one-and-one-half tons capacity, not in excess of those motor vehicles owned by the occupants, plus, two additional off-street parking spaces. Off-street parking of any vehicle shall not be permitted within the front yard, except with an improved driveway pursuant to Section 114.70 of City Code."

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, there is an existing accessory structure at 768 sf.

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, a variance permits a very large accessory building.

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

Does not meet the standard, it is a large lot with a large accessory building.

4. The problem is not self-created.

May meet the standard, K-9 vehicle created the situation, but is not longer prohibited in a residential neighborhood.

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

Does not meet the standard, does not meet the ordinance provisions.

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

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

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

N/A

RECOMMENDATION:

To consider denial of the dimensional variance requests for ZBA-12-17, 641 Clara Avenue for Section 2.304(f)(2) maximum allowable area for an accessory structure for a variance of 544 square feet as the request does not appear to meet the standards for practical difficulty from Section 6.407 of the Zoning Ordinance.

Comm. Slade commented a police vehicle to her knowledge is not a commercial vehicle.

Petitioner, Dan Kershaw, 641 Clara Street, indicated a commercial vehicle is a truck and the doorway to his current garage is not tall enough to clear his police vehicle. He presented a letter from the neighbor to the east, who is in support of the variance.

Petitioner indicated the bigger garage will enhance the value of his property and he needs the vehicle at his home for availability at any given time for emergencies and his property sits on a double lot.

CHAIRPERSON SLADE DECLARED PUBLIC HEARING OPEN.

Unidentified, Neighbor at 647 Clara, agreed the petitioner needed the vehicle at his residence and it was not feasible for him to drive to the police station and then to the emergency. Also he indicated there was a burglary at his home and the Petitioner witnesses it and apprehended the perpetrators.
CHAIRPERSON SLADE DECLARED PUBLIC HEARING CLOSED.

Comm. Todd inquired if the door could be raised. Petitioner indicated there was not enough room to cut up to raise it. Comm. Todd inquired if the new garage was already built. Petitioner indicated yes.

Comm. Bueno informed the petitioner that the new ordinance went from 600 square feet to 800 square feet, which is equivalent to a 3-4 car garage and it would meet the needs of most residents without coming before the ZBA to seek a variance for accessory buildings; and also zoning goes with the property, not the circumstances.

Comm. Bueno inquired if any permits were acquired. Petitioner indicated no, but permits were acquired after the fact.

Comm. Monroe commented the location of it cannot be seen and because of the nature of his work, she feels it is appropriate. Comm. Monroe thanked him for his service.

Chairperson Slade inquired if it was a truck or SUV. Petitioner indicated it is a truck with lights and antennas. Chairperson Slade reiterated a police vehicle being a commercial vehicle is of unheard of, although it might be a deterrent for thieves.

Comm. Hollis inquired if everything was completed at this stage. Petitioner indicated yes, permits were paid for after the fact.

Comm. Hollis inquired if any monies were due to the city. Mr. Sabo indicated he has to pull the necessary permits to finish the garage.

COMM. TAYLOR MADE A MOTION TO APPROVE THE DIMENSIONAL VARIANCE REQUEST FOR ZBA 12-17, 641 CLARA AVENE FOR SECTION 2.304(F) (2) MAXIMUM ALLOWABLE AREA FOR AN ACCESSORY STRUCTURE FOR A VARIANCE OF 544 SQUARE FEET AND COMM. HOLLIS SUPPORTED.

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

Vote 6-1-0 for Approval of the Dimensional Variance.

MISCELLANEOUS: 28 Franklin and a 30 x 40 garage was added as a courtesy items by Mr. Sabo. After discussion with the commissioners, it was decided that the matters should be added on the agenda in the proper and usual manner for consideration by the commissioners.

PUBLIC COMMENT: Ms. Carr, concerning the 30 x 40 garage, commented that the matter has already been approved, but she needs more room because six cars will not fit as approved. She needs an additional six feet. Chairperson Slade informed Ms. Carr that she needs to bring the matter properly on the Planning Commission agenda and it will be heard accordingly.

Mr. Rick David, 28 Franklin, commented for his overflow parking lot, he wanted to use gravel, instead of the cement; because he feels the code should allow for less intense parking versus parking for McDonald's.

Mr. Sabo indicated he needs to apply for site plan review and special exception permit.

Chairperson Slade informed Mr. David that he needs to bring the matter properly on the Planning Commission agenda and it will be heard accordingly.

COMMISSIONERS' COMMENTS: Comm. Taylor-Burks addressed a residential sign on residential property on Joslyn and Montcalm and also a sign at Rainbow Plaza. Mr. Sabo will investigate.

Comm. Hollis inquired if a person is allowed to have one commercial vehicle on a residential lot. Mr. Sabo indicated yes.

ADJOURNMENT: 8:17 p.m.

