

ZONING BOARD OF APPEALS  
TUESDAY, DECEMBER 18, 2012 @ 7:00 P.M.

CALL TO ORDER: 7:05 p.m.

COMMISSIONERS: Chairperson Laurie Slade  
Mr. Sam Anderson, Jr.  
Mr. Carlos Bueno  
Ms. Patricia Hollis  
Ms. Debra Monroe  
Mr. Ahmad Taylor  
Mr. Lee Todd

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

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

MR. SABO: Taylor?  
MR. TODD: Here.

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

MR. SABO: Monroe?  
MS. MONROE: Present.

MR. SABO: Hollis?  
MS. HOLLIS: Present.

MR. SABO: Anderson?  
MR. ANDERSON: Here.

MR. SABO: Slade?  
MS. SLADE: Present.

EXCUSED: None.  
ABSENT: None.

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

COMMUNICATIONS: None.

ADOPTION OF MINUTES: November 20, 2012.

COMM. BUENO MADE A MOTION FOR APPROVAL OF THE MINUTES FOR November 20, 2012 AND COMM. HOLLIS SUPPORTED.

CHAIRPERSON SLADE: Roll call, please.

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

Vote 7-0-0 for approval of the November 20, 2012 Minutes.

OLD BUSINESS: None.

NEW BUSINESS: 6.1 ZBA-12-21

Finding of Facts presented by Mr. Bowdell.

MR. BOWDELL: Property Description: 539 South Paddock, Sidwell#  
14-22-327-022.

Variance Request: Dimensional Variance for Section 2.524(B) required setback from abutting properties zoned for residential use. For all religious institutions, the principal buildings on the site shall be set back from abutting properties zoned for residential use not less than 20 feet or the minimum setback required by the district, whichever is greater. The applicant is requesting a dimensional variance to reduce the minimum required setback from 20 feet to 6.25 feet. A variance of 13.75 feet is requested.

Claimed Practical Difficulty: (Dimensional Variance) The site is currently occupied by the Christ Temple Apostolic Church. The applicant appeared before the Planning Commission on November 7, 2012 for site plan review and special exception permit approval. Approval was granted for both the site plan and the special exception permit contingent upon a dimensional variance for minimum set back from residentially zoned properties.

The applicant stated that the irregularly shaped combination of lots results in an unusual and unique configuration at the non-compliant corner of the property. The applicant believes that the property's unique shape causes an undue hardship, in which,

the zoning ordinance inadvertently penalizes the applicant. The variance will permit expansion and upgrades to the building, parking and landscape that will enhance the overall neighborhood.

**Staff Findings:**

1. The subject site is zoned R-1.
2. Special Exception Use for the expansion of this religious institution in an R-1 zoning district was granted and the site plan was approved on November 7, 2012.
3. The proposed building meets all other bulk and area requirements of the Zoning ordinance, except for the variance requests in question.
4. The proposed set back is 6.25 feet from the property line and 20.33 feet from any other structure.
5. The required setback for religious institutions from residentially zoned properties is 20 feet.

**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:

- a. 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.

*May meet this standard - The uses of a religious institution already exists at the site; however, without a variance, expansion on the irregular shape property may not be possible and cause an unnecessary burden to the property owner.*

b. 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 this standard.*

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

*Meets this standard.*

d. The problem is not self-created.

*May meet this standard, the construction of the building and its configuration on the property is self-created; however, the irregular shape of the property is not self-created.*

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

*Meets this standard.*

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

*Meets this standard.*

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

*Meets this standard - Planning Commission review and approval 11-7-12.*

**RECOMMENDATION:** To approve the dimensional variance request for (ZBA 12-21) 539 South Paddock Street, Christ Church Apostolic Church for Section 2.524(b) a setback variance of 13.75 feet as the request appears to meet the standards for practical difficulty from Section 6.407 of the Zoning Ordinance.



6.2 ZBA 12-22

Finding of Facts presented by Mr. Sabo.

MR. SABO: Property Description: 154 N. Saginaw Street, Sidwell #14-29-426-001.

Variance Request: Request for dimensional variance as follows:

Dimensional Variance for Section 5.105(C)(1)(c) Building mounted signs, maximum sign area, maximum number of signs.

5.105(C)(1)(c) states, Building Mounted Signs are subject to the following standards.

Maximum Area. Each building may have building mounted signs with a maximum total area as follows: Where more than one tenant share a building, there shall be permitted one wall sign per tenant. The wall sign shall be allocated on a generally equal basis with the total area of all signs not exceeding that permitted in the district.

C-2 Districts. 3 square feet per lineal foot of ground floor frontage or 80 square feet, whichever is less. Buildings or uses with more than one street frontage may have additional wall signs with an area equal to 50% of that permitted for the primary frontage.

5.105(C)(8) states, Projecting Signs are subject to the following standards:

8. Projecting signs. The aggregate area of all wall and projecting signs per building or site shall not exceed the maximum permitted in the district.

a. Projection. Projecting signs may extend up to 4 feet, measured from the wall to which it is attached to the outer surface of the sign, or one-third of sidewalk width, whichever is less.

b. Ground Clearance. Projecting signs, including the sign face and all structural supports, shall maintain a minimum clearance of 8 feet above a public sidewalk and a minimum of 15 feet above public driveways, alleys, thoroughfares, or easements. Such clearance shall be measured from ground level to the bottom of the sign or any structural supports thereto.

c. Maximum Area. Projecting signs may have a maximum area of 12 square feet.

**Variance North Saginaw Street:** The applicant is requesting a variance to increase the maximum number of signs from one sign to six signs. They are requesting a variance to increase the maximum sign area from 80 square feet to 248.5 square feet. They are requesting a variance to increase the maximum sign area for projecting signs from 12 square feet to 80 square feet. Signs for the façade listed here:

Lafayette Market awning sign, 53 sf  
Market valance sign, 6.7 sf  
Market valance sign, 8.2 sf  
Lafayette Market formed letter panel, 50 sf  
Lafayette Market formed letter panel, 50 sf  
Lafayette Market projecting sign, 80 sf.

**Variance Lafayette Street:** The applicant is requesting a variance to increase the maximum number of signs from one sign to six signs. They are requesting a variance to increase the maximum signs area from 80 square feet to 140.95 square feet. Signs for the façade listed here.

Lafayette Market awning sign, 53 sf  
Market valance sign, 6.7 sf  
Market valance sign, 8.2 sf  
Lafayette Market formed letter panel, 15.6 sf  
Lafayette Market formed letter panel, 15.6 sf  
Loft formed letter sign, 41.25 sf

**Variance North Perry Street:** The applicant is requesting a variance to increase the maximum number of signs from one sign to two signs. No maximum area increase is required for the North Perry Street frontage.

Anytime Fitness awning sign, 32.6 sf  
Anytime Fitness awning wall sign, 39 sf

**Claimed Practical Difficulty:** (Dimensional Variance) The applicant has stated that the existing sign ordinance does not allow for installation of historically contextual signage that replicates the signage as originally installed on the historic Sears Building. The originally installed signs were larger and greater in number than what is no permitted by the City's sign

ordinance. The applicant has provided photo documentation of historically accurate signage for the building.

The applicant states that an additional practical difficulty is that all signs require approval from the Pontiac Historic District Commission and the State Historic Preservation Office. The requirements from both groups necessitate installation of historically appropriate signage.

Unfortunately, the installation of historically accurate and contextual signage does not completely conform to the current sign ordinance. The applicant states that if they can conform to the current sign ordinance standards, then it becomes too difficult to meet the specific requirements of the historic district standards, which are the Secretary of Interior's Standards for Rehabilitation. The applicant has provided historic photographs of original building signage.

Additionally, the applicant states that the site conditions and the building are unique because the building fronts along three streets; North Saginaw, Lafayette Street and North Perry Street. There is a great deal of street frontage and large building façade areas. The applicant believes that the building's size is very unique/large and should not be penalized because the sign ordinance does not anticipate buildings of this size.

Staff Findings:

1. The subject site is zoned C-2 and is the location of the historic Sears Roebuck Building.
2. There are four signs installed on North Saginaw elevation. Maximum number of signs is 1. The total sign area is 148.5 square feet. Maximum sign area is 80 square feet. There is one projecting sign at 80 square feet, projecting signs are limited to 12 square feet in area. The applicant is seeking to install two additional wall signs.
3. There are four signs installed on Lafayette Street elevation. Maximum number of signs is one. The total sign area is 109.75 square feet. Maximum sign area is 80 square feet. The applicant is seeking to install two additional wall signs.
4. There are two signs installed on North Perry Street Elevation. Maximum number of signs is one. The total sign



area is 71.6 square feet. Maximum sign area is 80 square feet.

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.

*May meet the standard, compliance with the strict letter of the ordinance will likely be unreasonable for respecting the historical context of the Sears building.*

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 in terms of historical context as a lesser variance will provide little or no relief to the applicant and granting the variance will provide substantial justice.*

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

*Meets the standard, oddly shaped, historic, three frontage downtown building.*

4. The problem is not self-created.

*Meets the standard, the existing high rise building architecture, design configuration, and building footprint are not 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.*

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

N/A

RECOMMENDATION: To approve variances requested from maximum sign area, maximum number of signs, and maximum sign area for projecting signs for Section 5.105(C)(1)(c) and 5.105(C)(8)(c) for ZBA 12-22, Lafayette Place Lofts, Lafayette Market, and Anytime Fitness 154 North Saginaw as follows:

**North Saginaw Street:** Increase the maximum number of signs from one sign to six signs, Variance of 5 additional signs. Increase the maximum sign area from 80 square feet to 248.5 square feet, variance of 168.5 square feet. Increase the maximum sign area for projecting signs from 12 square feet to 80 square feet, variance of 68 square feet.

**Lafayette Street:** Increase the maximum number of signs from one sign to six signs, variance of 5 additional signs. Increase the maximum sign area from 80 square feet to 140.95 square feet, variance of 60.95 square feet.

**North Perry Street:** Increase the maximum number of signs from one sign to two signs, variance of 1 additional sign.

Petitioner Kyle Westburg, CEO of West Construction and owner of Lafayette Place Lofts, Lafayette Market and Anytime Fitness, agreed with the presentation as presented by Mr. Sabo and



NAYS: None.

ABSTAIN: None.

Vote 7-0-0 for approval of the maximum sign area, number of signs and projecting signs.

PUBLIC COMMENT: None.

MISCELLANEOUS: Zoning Board of Appeals 2013 Meeting Scheduled Adopted.

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

ADJOURNMENT: 7:32 p.m.