



**APPROVED MINUTES OF THE REGULAR MEETING OF
THE ZONING BOARD OF APPEALS OF THE CITY OF ANN ARBOR
AUGUST 27, 2008**

The Regular Session of the Zoning Board of Appeals was held on Wednesday, August 27, 2008 at 6:08 p.m. in City Council Chambers, 100 N. Fifth Avenue, Ann Arbor, Michigan.

The meeting was called to order at 6:05 p.m. by Chairperson Carol Kuhnke

ROLL CALL

Members Present: (6) C. Carver, C. Briere, D. Gregorka, K. Loomis,
C. Kuhnke, W. Carman (arr. 6:13 p.m.)

Members Absent: (3) D. Tope, R. Suarez and One Vacancy

Staff Present: (2) M. Kowalski and B. Acquaviva

D. Gregorka (To Chair) – Considering that we only have five members present, and the petitioners need at least five affirmative votes to pass their application, do we want to give the petitioners the opportunity to table their issue until another session? Since we've offered this in the past, I wanted to raise the issue.

C. Kuhnke – That is fair to offer that to the petitioners, except that we would still receive public commentary regarding those issues. Given that we need five affirmative votes (according to the ZBA by-laws) to approve any variance, and being that there are only five members present, we know that three can't make it, we're expecting one more but she's not present yet. We'll offer to 715 Pomona that they can ask to table their application if they wish to do so. (Public commentary will still take place). Is the petitioner here? (Yes). Would you like to table this? (No).

A – APPROVAL OF AGENDA

A-1 The Agenda was approved as presented without objection.

B - APPROVAL OF MINUTES

B-1 Approval of Draft Minutes of the June 25, 2008 Regular Session.

Not Available at time of Meeting – Postponed to the September Regular Session.

C - APPEALS & ACTION

C-1 715 Pomona Road – ZBA08 - 001

H. Scott Diels is requesting permission to alter a non-conforming structure as described in Chapter 55, Zoning, Section 5:87, Structure Nonconformance and one variance from Chapter 55 Section 5:27 (R1C, Single-Family) of 24 feet 8 inches from the rear setback of 30 feet to permit construction of an addition 4 feet 6 inches from the rear property line. The parcel is an irregular triangle shape which results in a rear setback measured from an estimated rear lot line which is 10 feet in length entirely within the within the lot (per Chapter 55, Section 5:1(27)).

54 **Description and Discussion**

55
56 The petitioner is proposing to construct a 405 square foot addition to the rear of the house
57 and over the existing detached garage. Due to the slope of the land the addition to the
58 rear of the house will be at ground level and extend above the existing detached garage.
59 The garage currently conforms to zoning standards as accessory structure, because there
60 is no habitable space within or above it. Once there is habitable space above the garage it
61 is required to conform to zoning standards of principal structures which is 30 feet for the
62 rear. The footprint of the garage will not increase.

63
64 The house is non-conforming for a small area of the rear bedroom, which falls into the
65 original required 30 foot rear setback. If constructed, the new addition will be located 5
66 feet 3 inches from the northern side property line and 8 feet from the southern side
67 property line. The house will not encroach any further into the southern side or rear
68 required setbacks.

69
70 **Questions to Staff by the Board**

71
72 C. Carver (to M. Kowalski) – The study is going over the existing garage? (Yes). The
73 bedroom will now be a new building and most of that will be in the rear setback? (Yes). Is
74 the city in favor of this? What is the city's position?

75
76 M. Kowalski – The city doesn't have a 'formal' position, but he does have a case for an
77 irregular shaped lot; the building footprint over the garage is existing, he's not going out
78 closer to the property line in that area, and technically, the side setback is respected on the
79 other side, but the rear setback is the variance request. They're not going any closer to the
80 property line). Would the city's position be the same if there were no existing garage and
81 they wanted to build this there? (Probably not).

82
83 K. Loomis – The 'dashed' line on the diagram is showing the front setback as well. They
84 have a large buildable area off the kitchen and dining area. (Yes). Is there one large tree
85 there? (M. Kowalski – Yes – Petitioner states there is a large blue spruce tree). Is it a
86 landmark tree? (Petitioner states it's a 60 year old tree – Staff states that this species is part
87 of what determines a landmark tree as well as diameter).

88
89 **Petitioner Presentation**

90
91 Mr. Scott Diels, architect on the project, passed out two additional letters of support from the
92 surrounding neighbors (seven letters in total). He stated that the lot is irregularly shaped. He
93 stated that the neighboring garages obscure the proposed addition.

94
95 **Questions of the Petitioner by the Board**

96
97 C. Carver – This is a great intrusion into the setback. (He asked the petitioner why the Board
98 should approve this). The petitioner stated that because the lot is irregularly shaped and
99 there are other unique conditions, it has additional problems.

100
101 D. Gregorka – How many square feet is the proposed addition? (Four to five hundred sq. ft.
102 The existing house is around one thousand sq. ft.) There is room to build in the building
103 envelope on both sides. Did you consider putting into the existing available building
104 envelope? (We would still need a variance, and were trying to take advantage of the solar
105 heat gain from the positioning of the addition).

107 K. Loomis – Just to verify, you don't know if this is a landmark tree? (Petitioner - No).

108

109 **Public Comment** - None.

110

111 **Discussion by the Board**

112

113 K. Loomis – I'm not convinced that there is a hardship. The variance request is very large
114 and there is buildable area on the property other than this and I'm not certain there is a
115 practical hardship. From the neighbors' perspective, I can see why they would think that this
116 is less intrusive, but I'm not sure that this proposal meets other standards that we have to
117 use. There are lesser variances they could request to achieve their goals.

118

119 D. Gregorka – I have a few concerns; on the plus side, the lot is unusual in terms of the
120 building envelope allowed – the back corner is the most isolated from surrounding neighbors.
121 There is room in the side setbacks. I would be more likely to support this if the master
122 bedroom were in the back and the study located somewhere else. I don't think this is the
123 minimum variance he needs.

124

125 C. Carver – I will not be supporting this as this is not the minimal variance that is required
126 under the ordinance. It's not the minimal amount that will make reasonable use of the land or
127 the structure.

128

129 **MOTION**

130

131 Moved by K. Loomis, Seconded by C. Carver, "In regard to Appeal Number ZBA08-
132 001, 715 Pomona Road, that the Board grant permission to alter a non-
133 conforming structure based on the following findings of fact and in accordance
134 with the established standards for approval, Chapter 55, Section 5:87;

135

136 a) The alteration complies as nearly as practicable with the requirements of the
137 Zoning Chapter because the buildable area of the parcel is reduced due to
138 the irregular shape of the lot; and

139

140 b) The alteration will not have a detrimental effect on neighboring property (per
141 the attached plans)."

142

143 **On a Voice Vote – MOTION FAILED - UNANIMOUS**

144 *(Permission to alter a non-conforming structure – Denied)*

145

146 *(Since the Board had denied Permission to Alter the Non-Conforming Structure, there was
147 no need to address the variance request of the petitioner).

148

149

150 **C-2 2207 Jackson Avenue – ZBA08-002**

151

152 **Dean Kahremanis, on behalf of Mark Zahn, is requesting one variance from Chapter 59**
153 **(Off-Street Parking), Section 5:167 (Required Parking): A variance of 9 parking spaces**
154 **in order to allow a new building to be constructed with 20 parking spaces total.**
155 **(29 total spaces are required by code).**

156 **Description and Discussion**

157
158 The subject parcel is located at 2207 Jackson Road on the corner of Burwood. The parcel is
159 zoned O (Office District) and is located east of the intersection of Jackson and Maple Roads.
160 The 18,295-square foot site currently contains a vacant building and gravel parking lot
161 accessed from Burwood. The City Council approved a site plan for a 7,308 square foot 40
162 foot tall building at this location in July 2007.

163
164 The approved plan provided nine parking spaces under an elevated office building. The
165 petitioner is now proposing to remove the parking underneath the building and lower the
166 structure, eliminating the 9 parking spaces under the building. This will require an
167 Administrative Amendment to an approved site plan. However, a variance of nine parking
168 spaces will be needed before any amended site plan can be approved. The petitioner has a
169 signed agreement (attached) with the owners of the Westgate Shopping Center to provide
170 the nine spaces within their parking lot approximately 800 feet to the West. A formal recorded
171 shared parking easement will be required before the Administrative Amendment to the site
172 plan is approved.

173
174 In order to be approved through the administrative amendment process the site has to be
175 brought up to current city codes. The site can satisfy all requirements of applicable city
176 codes except for the vehicular parking requirements.

177
178 **Questions to Staff by the Board**

179
180 C. Carver (to M. Kowalski) – If the 9 parking spaces at Westgate Shopping Center don't
181 'count,' then why bring it up? They still need a variance. (Correct). If they didn't have this
182 agreement, would the city be in favor of this variance? (You're correct, this doesn't make a
183 difference according to the code; the code does not allow that, and that is strictly F.Y.I.,
184 offering additional information that although they can't meet it on site, they have an
185 alternative offered, but that has no bearing on my decision).

186
187 This could be done with an administrative amendment? (Correct. They would have to alter
188 their site plan to lower their building and in effect, alter the parking). You also stated you
189 want them to get an easement? (Yes, a formal parking easement). Why wasn't the
190 administrative amendment and easement done prior to the ZBA appeal? (That was a
191 strategic decision on planning. The thinking is that there is no point in getting an
192 administrative amendment if they can't get the variance). (*Further conversation regarding the*
193 *administrative amendment and procedures*).

194
195 W. Carman – It would also be possible for us to grant the variance 'per the submitted plans,'
196 and if it's not approved, then our variance would be null and void. (M. Kowalski – Absolutely).

197
198 D. Gregorka (Suggested that the Board could also grant a variance for the spaces or for the
199 distance. M. Kowalski stated that he had discussed this with the petitioner as well, but the
200 decision to waive the nine parking places was deemed a better choice).

201
202 With your knowledge of the surrounding properties (even though they would have the nine
203 spaces at Westgate, will that put pressure on the surrounding residential streets where the
204 overflow of parking might occur? (M. Kowalski – Yes, that could happen. There is parking on
205 Burwood as well as Collingwood. That is one of the concerns that I've expressed. The
206 owner/operator will require his employees to park off-site, but ultimately, if they're parking on
207 private property - that will have to be enforced privately. I would encourage off-site employee
208 parking. The goal is not to have them parking on residential streets all day).

209 W. Carman – What is at that site right now? (M. Kowalski – It was formerly a church and has
210 been vacant for years).

211
212 **Petitioner Presentation**

213
214 Mr. Dean Kahremanis, architect and Mark Zahn, owner of the property were present to speak
215 on behalf of the appeal. He stated that they had 're-calculated' the parking since the city has
216 changed the ordinance and not requiring stairs in elevators to be counted as 'parking area,'
217 so we're required to have about seven parking spaces.

218
219 We view this as a better impact on the neighborhood – we had a three-story building primarily
220 because of the parking. We did everything we could to make this building work without
221 sacrificing the amount of square footage required for the periodontist to run his practice.

222
223 He explained their bid history and that financiers are not inclined to approve the loan for a
224 building with the parking underneath due to the large cost factor, and recommend that the
225 client does not build. Our other choice was to lower the building to two levels and gain the
226 amount of square footage needed and also have the building fit better into the community
227 (more pedestrian friendly, and more friendly to the adjacent neighborhood. The neighbor
228 directly behind this proposal feels that a two story building would be more acceptable than
229 the three story building).

230
231 In relation to the shared parking issue, Matt Kowalski stated that the maximum amount of
232 distance away from the site was five hundred feet; however, Westgate shopping center has
233 more parking than is required, and we saw this as an opportunity to put some parking there to
234 reduce the parking in our area.

235
236 **Questions of the Petitioner by the Board**

237
238 K. Loomis – How do you plan on directing customers to the Westgate shopping center?
239 (Dr. Zahn's employees will be required to park there, alleviating parking congestion at the
240 site. We wouldn't ask customers to park at Westgate). If the twenty spaces you have on site
241 are filled, what happens? (We don't expect that to happen. Looking at Dr. Zahn's square
242 footage, he's required to have thirteen spaces; however, he would rarely have that many
243 people in his office at one particular time as that is not the nature of his business).

244
245 C. Carver – If you built a smaller building, you would reduce the parking requirements and
246 free up additional parking spaces. Why not design a smaller building? (Dr. Zahn requires a
247 building that will house his practice and provide some income to justify having it built. He's
248 look at other buildings to renovate, but the costs exceed new construction. This site is a
249 small site and does require underground detention facilities for wastewater and would not
250 meet our needs for customer floor area).

251
252 C. Kuhnke (to staff) – Can you confirm the seven parking space requirement? (M. Kowalski –
253 Since the project was approved the first time, there has been clarification on what counts a
254 'useable floor area.' I called the petitioners and informed them of this, but I did not do the
255 calculations. It would lower the parking count. We would also double check those figures
256 when dealing with the Administrative Amendment).

257
258 W. Carman – I have a number of concerns, but my biggest concern is long distance between
259 this site and Westgate, and how many places you have to pass to get there. While you might
260 be able to get your employees to park there most of the time, the variances we grant go with
261 the property, and if you should move to California in two years and someone else takes over

262 this space or you rent out some of your space to another employer who doesn't require off
 263 site parking, then we're going to have a problem. The distance is a concern, along with the
 264 fact that you don't have it as a deed restricted access
 265

266 I realize that the neighbor didn't want a three story building, but I think that a three story
 267 building would solve your problem, and that is a viable alternative. I also don't think that the
 268 issue of the clarification on the 'useable space' issue is final. It's not actually within the
 269 purview of staff to reinterpret the useable floor area definition (which, as it currently stands,
 270 was written by the ZBA a number of years ago). The intent at that time was to include stairs
 271 and hallways and anything that wasn't attic or basement space – anything that couldn't be
 272 habitable space. You can't guarantee that it will be seven spaces, so we should consider it
 273 nine spaces. I understand that the city attorney's office has made a statement as to what
 274 they think it means, but they don't have the authority to do that.
 275

276 D. Gregorka – I don't have a problem with the nine spaces versus seven spaces, because if
 277 seven doesn't hold up on the Administrative Amendment, they would have to return to the
 278 ZBA. What does concern me is what you mentioned about the petitioner not being at that
 279 site forever. How will the next owner or tenant deal with employee parking? You can
 280 certainly enforce what will be in your lot, but I don't see anyone being able to enforce people
 281 parking in the neighborhood, which is where they'll end up.
 282

283 *(He asked the petitioner why the city lot across the street was rejected?)* We were told that
 284 the city lot wasn't 'useable' because it's a 'city lot.' There are over forty parking spaces there
 285 not being used. (M. Kowalski – We can't approve parking on a city lot – it would have to go
 286 through city council. We can't assign spaces for a private development on a public lot).
 287

288 K. Kuhnke – Can you tell me how many employees you have and how many appointments
 289 you have per day? (M. Zahn – Approximately sixteen with the dental hygienist. Three to four
 290 employees plus myself). Do you plan to use the entire building yourself or will you rent it out?
 291 (Half the building for us and part will be rental property geared toward dental). So, if it was
 292 the same use, then sixteen patients times two, realistically, 32 patients per day? (Yes).
 293

294 **Public Comment**

296 1. **Mr. Harry Cross, Manager of Cross Family L.L.C.,** - We own property in the
 297 neighborhood. I've been in this neighborhood since the 1950's and I did review the
 298 plans of the proposed building. I did not attend the Planning Commission meetings or
 299 City Council, but I understand that they were approved. As a neighbor, I don't see any
 300 problem in a practical sense, to allow the variance. The chances of the 20 space
 301 parking lot being filled to capacity at any one time is rather minimal.
 302

303 2. **Mr. Patrick Sweeney, 200 Burwood Avenue, A2, MI 48103** *(staff records show*
 304 *this property owned by a Felicia Cassanos)* – He stated that he lives at this address
 305 and is opposed to the variance. There is a taxi stand at the corner of Jackson and
 306 Burwood that often has vehicles, and overflow parking onto Burwood and other cars
 307 cutting through or around due to the Jackson/Maple intersection. We get some traffic
 308 trying to avoid the Stadium/Liberty intersection. As to the city lot and Westgate, you
 309 have to be there to understand it. (He pointed out Zingerman's – and stated that their
 310 lot is never empty). If you park in Westgate, you'll have to walk a thousand feet across
 311 a very busy intersection. As to the city lot across from it, Jackson across from Vet's
 312 park has a rise at Collingwood. Crossing at that point, you can only see about 50
 313 yards at most. This is a dangerous place to cross and you could not navigate it by
 314 pedestrian access without walking more out of the way to get to the intersection.

315 *(The Chair allowed K. Loomis the opportunity to ask the speaker a question).*

316

317 K. Loomis – (to Mr. Sweeney) – Which do you think would have more impact on the
318 neighborhood – Having the three story building there or the two story building with limited
319 parking? (The building to the east of this is a three story building. I've never thought that this
320 was a towering structure that impacted the nature of the neighborhood).

321

322 **Discussion by the Board**

323

324 W. Carman – What is the zoning on this property? (“O” for Office). Are there different
325 parking requirements depending on the type of office use? (Yes. Between Medical/Dental
326 and general office (i.e., Business or Professional), there is a difference).

327

328 We could stipulate in the motion that this was subject to its “Medical/Dental” use. I would
329 imagine that this is a low intensity use. (M. Kowalski – It’s actually higher) – It’s probably due
330 more to the Medical than the Dental use or designation.

331

332 C. Carver - We deviated from the issue due to the parking questions. The argument should
333 be made why twenty spaces is sufficient for this building, assuming there are no other
334 spaces. Under the law, there are no other spaces. I don’t see that twenty spaces are
335 sufficient. These satellite lots are not going to be used, other than the doctor’s employees.

336

337 K. Loomis – I think they make a good argument that their employees aren’t going to be
338 parking there, and with ten or twelve visitors, you won’t reach the twenty space maximum. I
339 think what is more important, as Wendy pointed out – is - what is the next building user going
340 to do?

341

342 D. Gregorka – The real crux of this is that we would be more comfortable knowing that this
343 particular petitioner was going to be at this location forever and this would be the only use;
344 however, as Wendy mentioned, what happens with the next owner and the next change, and
345 how can you control that? It could eventually turn over and be a burden on the
346 neighborhood.

347

348 C. Carver – This building will be an improvement to the neighborhood and I think it should be
349 encouraged. Anyone who is going to invest money in Ann Arbor during these times, I’m for
350 that. I’ll vote in favor of it.

351

352 W. Carman – I’m convinced that they are not going to generate the kind of parking that the
353 code asks for; however, I’m not convinced that they couldn’t address this problem by building
354 this building in a different configuration so that it doesn’t take up so much space on the lot,
355 and then the issue would be moot.

356

357 K. Kuhnke – My sense is that they tried that and had a lot of objections.

358

359 W. Carman – The original plan was approved, and I can see why they don’t want the building
360 on ‘stilts’ which doesn’t seem practical. I would like to ask the petitioner this question:
361 You said “You personally were going to use about half of this space by yourself – without
362 other dentists?” (Yes. At the current time, that is the way it’s geared up). 3600 square feet
363 seems like a lot of space. (2970 sq. ft. when you take out stairways and mechanical rooms).
364 *(K. Kuhnke asked the petitioner to step back up to the podium to answer questions).*

365

366 What is the nature of the business that you need so much space? In my dental office, where
367 he’s alone, he’s using very little space. (M. Zahn – Surgical suites are probably one and a

368 half times, if not two times the standard size of a regular dental or hygiene room. The way I
 369 chose to set up the practice allows for a consultation room, etc. We spend time to explain
 370 surgical procedures, etc.).

371
 372 **MOTION**

373
 374 Moved by D. Gregorka, Seconded by C. Carver, "In regard to Appeal Number ZBA08-002,
 375 **2207 Jackson Road, that based on the following findings of fact and in accordance**
 376 **with the established standards for approval – Chapter 59, Section 5:167, the Zoning**
 377 **Board of Appeals hereby grants a variance of seven parking spaces from the required**
 378 **twenty-seven parking spaces, subject to the petitioner obtaining a non-cancelable**
 379 **deed-restricted parking easement from Westgate shopping center and per the attached**
 380 **plans. This variance is in harmony with the general purpose and intent of the**
 381 **requirements based on the following findings of fact:**

- 382
 383 a) **Westgate Mall's lot provides a reasonable alternative for parking;**
 384
 385 b) **This plan keeps the building to two stories; and**
 386
 387 c) **Based on the petitioner's testimony, the use is not likely to overflow to**
 388 **adjacent residential streets."**

389
 390 **On a Voice Vote – MOTION TO APPROVE – PASSED (5 YEA, 1 NAY)**

391 **No – (1) Carman**

392 **Yes – (5) Carver, Eamus, Kuhnke, Loomis and Briere (Variance Granted)**

393

394

395 **C-1 1528 Pontiac Street (a.k.a. Pontiac "Trail") – ZBA08-003**

396

397 Mitchell and Mouat Architects are requesting three variances from Chapter 47 Section 4:20
 398 (Curb Cuts and Driveway Approaches):

399

- 400 1. A variance of 5 feet 8 inches in order to permit a driveway width of 18 feet 4 inches, 24
 401 feet is required.
 402 2. A variance of 1 foot 6 inches in order to permit a turning radius of 3 feet 6 inches, 5
 403 feet is required.
 404 3. A variance of 1 foot in order to permit a driveway distance of 3 feet 6 inches from the
 405 property line, 4 feet 6 inches is required.

406

407 **Description and Discussion:**

408

409 The subject parcel is 8,976 square feet in total size and is on Pontiac Street. The parcel is
 410 currently zoned R1C (Single-Family Dwelling District). The parcel is proposed to be rezoned
 411 to a PUD (Planned Unit Development) to allow renovation of the existing structure to a
 412 museum highlighting the African American culture and history in Washtenaw County. The
 413 proposed plan received a recommendation of approval for PUD site plan and zoning from
 414 City Planning Commission on August 5th, 2008. If the ZBA approves the variance requests,
 415 the plan will proceed to City Council for final approval of the site plan and PUD zoning.

416

417 The structure is the historic Polhemus house built in 1848 and moved from original location at
 418 411 East Washington Street to its current location in 2006. The house will undergo extensive
 419 renovation on its interior and exterior and will maintain its historical single-family residential
 420 appearance.

421 The museum will be open to the public during limited hours and will host school groups
 422 approximately twice a week during the day. Parking will be limited to three on-site parking
 423 spaces.
 424

425 The driveway variance is required for the construction of an 18 foot 4 inch wide driveway from
 426 Pontiac Street to the small parking area in the rear of the building. City code requires a
 427 minimum driveway width of 24 feet for any non-residential uses, including a museum. The
 428 driveway is leading to 1100 square foot 3 car parking area behind the structure. The
 429 variances required for the curb cut result from the proposed reuse of the existing curb cut on
 430 Pontiac Street. Engineering staff have examined the variance application and have no
 431 objection to the proposed variance.
 432
 433

434 **Questions to Staff by the Board**

435
 436 C. Carver (to M. Kowalski) – This is PUD zoning in the middle of residential zoning? (Not yet.
 437 It's proposed, and has been recommended for approval by the CPC and will go to City
 438 Council if it receives approval). Is this spot zoning? (No, just Planned Unit Development).
 439 When you get a PUD there are a lot of things that don't need variances, but this one does?
 440 (Yes. In PUD they can customize many of the zoning requirements of it; however, the area
 441 they are requesting a variance for is in the Right of Way – not actually 'on' the site, so the
 442 PUD doesn't cover it. The 'use' is changing).
 443

444 W. Carman – Asked for the CPC minutes. (Staff volunteered to copy those).
 445

446 **Petitioner Presentation**

447
 448 Susan Bryan was present to speak on behalf of the appeal. She stated that the landscape
 449 architect, Mr. Peter Pollack was not able to attend as he was recovering in the hospital. She
 450 volunteered to answer any questions the Board may have. She also stated that she had a list
 451 of explanatory items that were brought up at the CPC that she could expound on. (*She gave*
 452 *a synopsis of the African American Cultural Museum's history as an organization*).
 453

454 The variance requested is a smaller curb-cut than is traditionally required by the ordinance,
 455 but the museum does not expect much traffic, as most of the location will be used for
 456 research or display of artifacts. They would like school and community groups come in for
 457 field trips, but are thinking that the busses will be parking down the street at Bethel AME
 458 church down the block, who has granted permission for the organization to use parking.
 459

460 They hope to have two full time employees during the week and volunteers for limited hours
 461 through the week and limited use on the weekend and evenings. She stated that the
 462 museum will 'appear' as a house, keeping in context with the neighborhood, and would like to
 463 keep the same appearance with the residential drive – not a commercial site).
 464

465 **Some issues that came up during the CPC meeting were:**

466
 467 1. Part of the site plan is that it is not required to deal with storm water runoff because it
 468 is so small, but it does, as three areas will be 'rainwater gardens.' The CPC asked
 469 "How will these areas be maintained? The rainwater gardens are on the side and rear
 470 of the home, and the garden plants in those areas will be 'low' and should not look like
 471 overgrown plant life.
 472
 473

- 474 2. What are the occupancy limits? - (We will bring those figures to the City Council
475 meeting.
476 3. There were some neighbors that spoke, and were concerned about the unkempt yard.
477 At that time, there was a different owner and the grounds were not being maintained. ,
478 the property is now owned by Peter Heyden. The site has been cleaned up under his
479 direction and will be maintained. Grass was planted, but there is not water access to
480 the home currently.
481 4. We expect construction to begin in the spring of 2009 and will last about 8 months.
482 5. As to public meetings, there have been at least five meetings to get feedback from the
483 neighbors.
484

Questions of the Petitioner by the Board

485
486
487 W. Carman – The drop off of visitors – it's your intention that the busses will just park in that
488 other lot and passengers will walk to the home? (Bryant – No, I think passengers will get
489 dropped off in front, but they will park at the church). But they won't pull into the drive? (No).
490

491 M. Kowalski – For clarification, because it's a PUD and we were concerned with that very
492 issue, we had it written into the supplemental regulations for this site that the buses will not
493 idle at the side or at the side streets and that the parking is going to be off-site at this church.
494 Because this is a PUD, it is something that we can control. It says that drop-off will be in the
495 front on Pontiac Street and the buses will not park on Pontiac.
496

497 W. Carman – Drop off will be on Pontiac Street, so they won't be turning into the drive.
498 (Correct – I don't think they could pull a bus in there anyway – they would have to back out.
499 We did address that). So the issues of turning radius and driveway width, and especially the
500 issue of how close this driveway is to the next driveway – are those things in conformance
501 with residential? (M. Kowalski – Correct. Those things meet because they are existing. The
502 width meets the requirements, but the drive is 3'6" from that property line instead of 4', but
503 this is existing).
504

505 **Public Comment** – None.
506

Discussion by the Board

507
508
509 K. Loomis – Stated that she thinks this is a petition worth supporting. Keeping the curb cut
510 and drive as is appropriate to the neighborhood and the location.
511

512 M. Kowalski – Stated that he had also spoke with the city engineering department who
513 ultimately oversees this section of code, and they had no objections to the proposed
514 variances.
515

516 W. Carman – I am convinced that the use is like a residential use. The small amount of traffic
517 that will be here, assuming people aren't visiting and using the driveway, this isn't any more
518 detrimental to the neighborhood than an ordinary house would be. I don't have a problem
519 with that, but I do think that it's our responsibility to ensure that this is the case and not to
520 approve things that are before the CPC without knowing the issues that were discussed. I
521 was glad that the petitioner had information to provide to answer questions.

MOTION

Moved by D. Gregorka, Seconded by C. Briere, "In the case of Appeal Number ZBA08-003, 1528 Pontiac Street, the Zoning Board of Appeals hereby grants the following variance in accordance with the established standards for approval, Chapter 47 (Streets), Section 4:20, based on the following findings of fact and in accordance with the attached plans:

1. A variance of 5'8" from the required 24 foot minimum driveway width onto Pontiac Street, in order to permit a driveway 18' 4" wide.
2. A variance of 1'6" from the required turning radius for a driveway onto Pontiac Street, and
3. A variance of 1' from the required 4'6" distance from a property line for a driveway 3'6" from a property line.

The variances will be in harmony with the general purpose and intent of this Chapter for this low intensity use.

On a Voice Vote – MOTION PASSED – ***UNANIMOUS (Variances Granted)***

D. **OLD BUSINESS** – None.

E. **NEW BUSINESS** - None.

F. **REPORTS & COMMUNICATIONS** - Included under each appeal.

G. **AUDIENCE PARTICIPATION – GENERAL** – None.

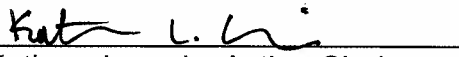
ADJOURNMENT

Moved by C. Carver, Seconded by D. Gregorka that the meeting be adjourned."

On a Voice Vote – MOTION TO ADJOURN - ***PASSED - UNANIMOUS***

Chairperson Carol Kuhnke adjourned the meeting at 7:41 p.m.

(Submitted by: Brenda Acquaviva, Administrative Support Specialist V – Zoning Board of Appeals)


Kathryn Loomis, Acting Chairperson

10/22/08
Dated ZBA Minutes