



Department of Planning and Economic Development
 Staff Report to the Zoning Board of Appeals

May 1, 2017

281 Orchardale Dr. – Front Yard Setback Variance

REQUEST	Variances of 12.31 and 12.17 feet from <i>Section 138-5.101.B (Established Building Line)</i> of the Code of Ordinances to permit a front yard setback of 45.69 feet on the Orchardale side, and a front yard setback of 37.13 feet on the Stockport side
APPLICANT	Amy Bunch 281 Orchardale Dr. Rochester Hills, MI 48309
LOCATION	281 Orchardale Dr., south of Walton Blvd., west of Livernois Rd.
FILE NO.	17-012
PARCEL NO.	15-16-251-001
ZONING	R-1 One Family Residential
STAFF	Sara Roediger, AICP, Director of Planning

In this Report:

Requested Variance 1
 Site Description..... 1
 Analysis 3
 Sample Motions..... 4

Requested Variance

The applicant is requesting a 12.31 foot front yard setback variance on the Orchardale Dr., side, and a 12.17 foot front yard setback variance on the Stockport Dr. side, from the Code of Ordinances to permit a garage addition with a 45.69 foot front yard setback, and a porch/family room addition with a 37.13 foot front yard setback as measured from an Established Building Line.

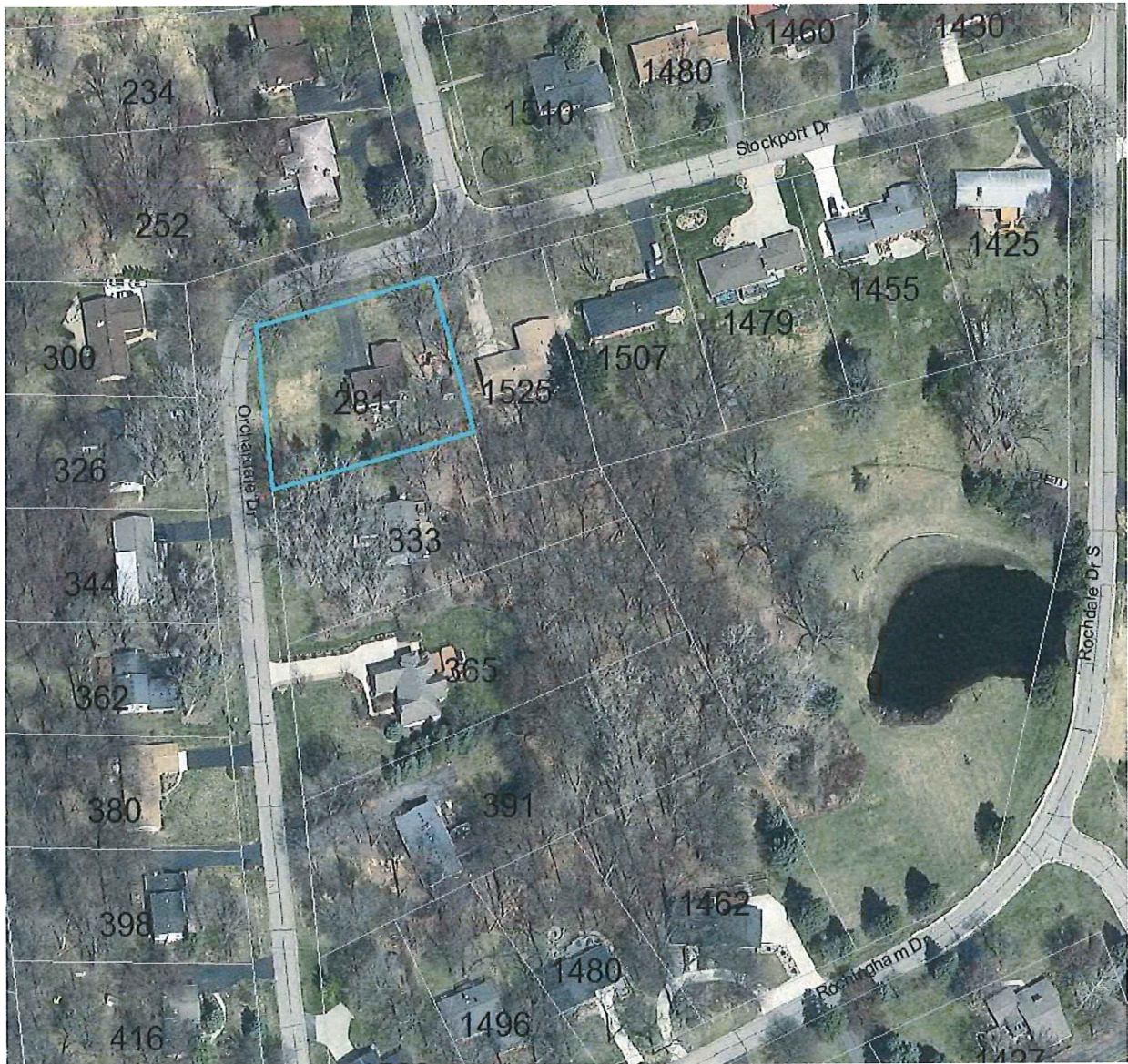
Section 138-10.101.B states that in the event there is an established building line along a street (as determined by the reviewing official), the front yard and/or side street yard setback requirement shall be the established building line, which is the average front yard setback minus 10 feet of adjacent dwellings within 200 feet on each side of the lot on the same side of the street of the subject parcel, or 60 feet whichever is less. The Building Department identified the established building line parallel to Orchardale Dr. at approximately 58 feet, and the established building line parallel to Stockport Dr. at approximately 49.3 feet.

Site Description

The subject parcel is located on the southeast corner of Orchardale and Stockport Drives, south of Walton Blvd., west of Livernois Rd. The applicant is proposing to construct a garage addition and a porch/family room addition.

Site Photographs

Please see the following images of the property.





View from Stockport



View from Orcharddale

Analysis

In the case of a dimensional variance, the Zoning Ordinance requires the ZBA to make a finding that a practical difficulty exists that precludes the property owner from meeting the requirements of the Ordinance. *Section 138-2.407.B.* provides criteria for determining if a practical difficulty exists.

1. *Compliance with the strict letter of the restrictions governing area, setback, frontage, bulk, height, 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.* Compliance with the ordinance would require the proposed garage addition and porch/family room addition to be reconfigured to meet the required setbacks. The applicant has indicated that due to the location on a corner lot and siting of the house on the property the only location for an addition is along the western side and that the proposed addition still meets R-1 district setbacks.

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.* There is an established building line for the front yard and front side street of the property which results in a larger setback than the R-1 district setbacks. Granting of the variance would give the applicant the ability to develop their property in a way that is consistent in size and with a two car garage consistent with other homes in the neighborhood, while still meeting the required district setbacks.
3. *The plight of the applicant is due to the unique circumstances of the property.* The applicant indicates that because it is a corner lot combined with the fact that the lot is smaller and not as deep as those bordering it, the configuration of the home makes it difficult to propose additions as it sits forward on the property, homes are located over 100 ft. from one another and the properties are heavily treed, and the established building line is different than other neighborhoods in the area with smaller lots cumulatively make this a unique circumstance.
4. *The problem is not self-created.* The applicant states that the pole in the center of the garage can't be moved, so this space can't be used for living space. The proposed additions are still within the setbacks required by the R-1 zoning. The applicant has the ability to redesign the proposed additions to meet ordinance requirements.
5. *The spirit of this ordinance will be observed, public safety and welfare secured, and substantial justice done.* The applicant states that there are other lots in the subdivision that are closer to the property lines than the subject home will be after the addition and that because of the spacing between homes, the heavily treed landscape, and the fact that the additions will meet district setback requirements that the spirit of the ordinance will be observed.

Sample Motions

Motion to Approve

MOTION by _____, seconded by _____, in the matter of File No. 17-012, that the request for a variance from *Section 138-5.101.B (Established Building Line)* of the Rochester Hills Code of Ordinances to grant a front yard setback variance of 12.31 feet on the Orchardale Dr. side, and a front yard setback variance of 12.17 feet on the Stockport Dr. side, Parcel Identification Number 15-16-251-001, zoned R-1 (One Family Residential), be **APPROVED** because a practical difficulty does exist on the property as demonstrated in the record of proceedings and based on the following findings:

1. Compliance with the strict letter of the restrictions governing the minimum setback for the established building line will unreasonably prevent the owner from using the property for a permitted purpose, or will be unnecessarily burdensome.
2. Granting the variance will do substantial justice to the applicant as well as nearby property owners by permitting the expanded use of a residential home that is consistent with prevailing patterns in the nearby area.
3. A lesser variance will not provide substantial relief, and would not be more consistent with justice to other property owners in the area.
4. There are unique circumstances of the property that necessitate granting the variance, and that distinguish the subject property from other properties with respect to compliance with the ordinance regulations. Specifically, the combined factors of a corner lot, smaller than average lot for the neighborhood, presence of a heavily treed neighborhood, siting of the home on the property and because the homes are spaced over 100 feet apart.
5. This variance is necessary for the preservation and enjoyment of a substantial property right possessed by any other property owner in the same zone or vicinity.

6. The granting of this variance would not be materially detrimental to the public welfare or existing or future neighboring uses.
7. Approval of the requested variance will not impair the supply of light and air to adjacent properties, increase congestion, increase the danger of fire, or impair established property values in the surrounding area.

Conditions of Approval. Approval of the variance is subject to the following conditions (insert any appropriate conditions).

Motion to Deny

MOTION by _____, seconded by _____, in the matter of File No. 17-012, that the request for a variance from *Section 138-5.101.B (Established Building Line)* of the Rochester Hills Code of Ordinances to grant a front yard setback variance of 12.31 feet on the Orcharddale Dr. side, and a front yard setback variance of 12.17 feet on the Stockport Dr. side, Parcel Identification Number 15-16-251-001, zoned R-1 (One Family Residential), be **DENIED** because a practical difficulty does not exist on the property as demonstrated in the record of proceedings and based on the following findings:

1. Compliance with the strict letter of the restrictions governing the minimum setback for the established building line will not prevent the owner from using the property for a permitted purpose in a reasonable manner, and will not be unnecessarily burdensome.
2. Granting the variance will not do substantial justice to nearby property owners as it will allow an expanded use of a residential home not consistent with the established building line.
3. There are no unique circumstances of the property that necessitate granting the variance.
4. The circumstances are self-created by the applicant in the form of their desire to construct additions within the established building line.
5. The granting of the variance would be materially detrimental to the public welfare by establishing a precedent that could be cited to support similarly unwarranted variances in the future.
6. The granting of this variance could encourage further incursions upon the Zoning Ordinance which would result in further variances being considered by the Zoning Board of Appeals and could be construed as removing the responsibility of meeting the Zoning Ordinance from applicants and those wishing to build similar structures within the City.
7. The granting of this variance would be materially detrimental to the public welfare or existing or future neighboring uses.
8. Approval of the requested variance may impair the supply of light and air to adjacent properties, increase congestion, increase the danger of fire, and/or impair established property values in the surrounding area.