



Department of Planning and Economic Development
 1000 Rochester Hills Dr.
 Rochester Hills, MI 48309
 (248) 656-4660
 planning@rochesterhills.org
 www.rochesterhills.org

Zoning Board of Appeals (ZBA) Application

Request Information

Request Type (as defined in Article 2 Chapter 4 Variances and Appeals of the City's Zoning Ordinance)

Variance:

- Dimensional (Non-Use)
 Use

- Appeal
 Interpretation

Conditional or Temporary Use Permit:

- Temporary Building or Use
 Excavation or Landfill Permit
 Other (please describe):

Property Information

Street Address 71 North Livernois	
Parcel Identification Number (can be obtained on the <u>Property Tax Look-Up page on the City's website</u>) 70-15-09-467-046	Platted Lot (if applicable) Subdivision: N/A Lot No.: N/A
Current Use(s) OFFICE	Zoning District R-2 RESIDENTIAL

Appeal (if applicable)

Regulations (as defined in Section 138-2.404 of the City's Zoning Ordinance)

An appeal may be taken to the ZBA by any person, firm or corporation, or by any officer, department, board or bureau affected by a decision of the Building Department concerning the enforcement of the zoning ordinance.

Requested Appeal(s)

N/A

Reason for Appeal

Interpretation (if applicable)

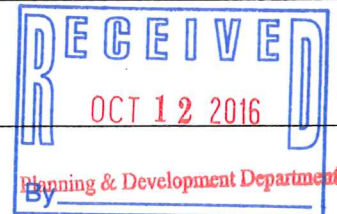
Regulations (as defined in Section 138-2.405 & Section 138-2.406 of the City's Zoning Ordinance)

The ZBA has the power to interpret the ordinance text and map whenever a question arises in the administration of the zoning ordinance as to the meaning and intent of the zoning ordinance.

Requested Article #(s), Section #(s), & Paragraph #(s) for Interpretation

N/A

Reason for Interpretation



Conditional or Temporary Use Permit (if applicable)

Regulations (as defined in Section 138-1-302 of the City's Zoning Ordinance)

The ZBA may issue a Temporary or Special Use Permit only when the use is to be in excess of 60 days



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ZBA Application

Use Variance (if applicable)

Ordinance Section(s) (variance being requested from)

OFFICE USE IN A RESIDENTIAL ZONE- GRANTED IN 2002

Review Criteria (as defined in Section 138-2.408 of the City's Zoning Ordinance)

A use variance is a variance that allows a property to be used in a way for which the ordinance does not otherwise permit in the Zoning District where the property is located.

To obtain a use variance, an applicant must present proof that an unnecessary hardship exists, and the unnecessary hardship must relate to a unique circumstance of the property, which prevents the applicant from reasonably using the property for a permitted purpose. **A use variance may not be applied for without first attempting to rezone the property.**

Reasonable Use. Describe how the affected property cannot be reasonably used or cannot yield a reasonable return on a prudent investment if only used for a purpose allowed in the Zoning District.

REQUESTING MODIFICATION OF USE VARIANCE CONDITIONS GRANTED IN 2002 PER THE ATTACHED.

Unique Circumstance. Describe how the request results from a special or unique circumstances peculiar to the affected property and not to general neighborhood conditions.

SEE ATTACHED

Essential Character. Describe how the use to be authorized by the variance will not alter the essential character of the area and locality.

SEE ATTACHED

Not Self-Created. Describe how the alleged hardship has not been created by the actions of the applicant or any person having a current interest in the property.

SEE ATTACHED

Public Safety and Welfare. Describe how the request would not be materially detrimental to the public welfare or materially injurious to this property or other properties or premises in the zone or district in which the property is located.

SEE ATTACHED



donald c. westphal
associates, I.I.C.
landscape architecture & site planning
avon prairie house
21 n. livernois suite d. rochester hills, ill. 48307

October 1, 2016

Rochester Hills Zoning Board of Appeals

Rochester Hills, Michigan

Good Morning,

In 2002 the Avon Prairie House was granted Use variance by the Zoning Board of Appeals which allowed an office use in a residentially zoned district. Previous to that the building and grounds were designated as a Single Site Historic District based on the age and character of the building and its original owner, O.P. Gibbs, an Avon Township supervisor in the 1900's. We performed a historic restoration of the building, preserving the historic character of the building and adapting the house and garage for use as offices. All this was done with the blessing of the Zoning Board Of Appeals, Historic Commission, the Planning Commission, and the City Council. In 2002, we received the Earl Borden Historic Preservation Award from the city and in 2006 the Oakland County Employer Award, a result of a Small Business Loan we were able to acquire, with the county's assistance, making it possible for us to finance this costly endeavor.

The use variance was granted with certain conditions aimed at keeping a low intensity office use of the premises. Of concern at this time are the following conditions:

- 1. Use General. Permitted uses on the subject site shall be limited to professional office uses including by example the offices of an Attorney, architect, Landscape Architect, engineer or other design professional, but not including medical, dental or other health related office uses. In addition, due to the particular nature and configuration of the subject site and the existing structures, as well as the anticipated layout of required site improvements, the permitted professional office uses shall be further limited to exclude any use which would generate excessive customer traffic. Examples of such excluded uses would include, but not be limited to, real estate sales, insurance, financial planning, and interior decorating office uses. Administrative approval by the planning director or his or her designee of any new tenant or occupant of the existing structures shall be required to ensure conformance to this condition.***
- 3. Use Operating Hours. Use of the site and existing structures shall be generally limited to normal daytime business hours (7:00 AM to 9:00 PM Monday through Friday, and 7:00 AM to 12:00 PM Saturday) with the intent of this Condition to limit***

Sunday use and to prohibit 24-hour or other extensive use incompatible with adjacent residential areas.

In the ensuing years since the granting of the variance due to the recession and changing market conditions, changes in the nature of the occupants on the site have required some flexibility in the Uses allowed and Hours of Operation. As a result we are requesting a change in The Conditions which would allow uses in the existing structures on the subject site to allow ***"low Intensity Personal Services"*** ***As an example, Licensed Clinical Psychologists, Licensed Massage Therapists and Beauty Salons.***

These uses are currently in operation on the site and have generated no adverse objections from the adjacent residential neighbors. In fact, the required evergreen buffer and berm along the north and west boundary have resulted in a complete screening of the site from the residential neighbors which was the purpose of this requirement. In addition, due to these limited low intensity uses, parking has never been a problem, the existing parking spaces being adequate to service the parking needs of the occupants and their limited customer base.

The Use-Operating Hours which limit Saturday afternoon/evening and Sunday use create a practical difficulty as well since I often must work on Saturday afternoons and Sunday to meet planning deadlines and the requested Low-Intensity personal services require the ability to make these times available to clients who work during the week-days. ***We request that the Saturday afternoon/evening and Sunday hours of operation be allowed.***

The Avon Prairie House has proved to be a valuable and respected addition to the city of Rochester Hills and through some trying times has been an example of cooperation, creative planning, and a sense of pride to this Landscape Architect. I respectfully request that you consider this request and grant the suggested changes to the AVON PRAIRIE HOUSE DECLARATION OF RESTRICTIONS.

Very truly yours,



Donald C. Westphal, RLA, ASLA, Owner