



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

May 1, 2017

3785 Donley Ave. – Commercial Vehicle in Residential Zone

Table with 2 columns: Field Name (REQUEST, APPLICANT, LOCATION, FILE NO., PARCEL NO., ZONING, STAFF) and Field Value.

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Requested Variance

The applicant is requesting a variance from Section 138-10.308.A.2.a. of the Code of Ordinances to permit the parking/storing of a commercial vehicle in a residentially zoned district.

Site Description

The subject parcel is located on the east side of Donley Ave., north of South Blvd. and west of Crooks Rd. The applicant is requesting to park/store his commercial vehicle (stake truck) in the residentially zoned district.

Site Photographs

Please see the following page for images of the property.



## Analysis

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In the case of a 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 not allow the parking/storage of a commercial vehicle in a residentially zoned district. The applicant notes in their application that the vehicle in question maintains the welfare and beautification of his neighborhood.
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.* Allowing the parking/storage of a commercial vehicle at this property would be an injustice to other residential property owners who are not permitted to park similar vehicles in other residentially zoned properties within the City.
3. *The plight of the applicant is due to the unique circumstances of the property.* There are no known unique circumstances of the property.
4. *The problem is not self-created.* The applicant indicates he performs emergency service and needs access to the vehicle at all times.
5. *The spirit of this ordinance will be observed, public safety and welfare secured, and substantial justice done.* The intent of all one family residential districts is to “..promote a compatible arrangement of land uses for homes, with the intent to keep neighborhoods relatively quiet and free of unrelated traffic noises.” Permitting commercial vehicles to be parked in residential districts does not uphold the spirit of the ordinance.

## Sample Motions

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### ***Motion to Approve***

MOTION by \_\_\_\_\_, seconded by \_\_\_\_\_, in the matter of File No. 17-010, that the request for a variance from *Section 138-10.308.A.2.a. (Parking and Storage of Commercial and Recreational Vehicles)* of the Rochester Hills Code of Ordinances to allow the parking/storage of a commercial vehicle in a residentially zoned district, Parcel Identification Number 15-32-478-009, zoned R-4 (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 parking/storing of a commercial vehicle 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 a use or development of land 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 \_\_\_\_\_



5. Alternatives do not exist that would allow the intended and/or reasonable use of the property that would allow the requirements of the Ordinance to be met.
6. This variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property owners in the neighborhood.
7. The granting of this variance would not be materially detrimental to the public welfare or existing or future neighboring uses.
8. 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. 17-010, that the request for a variance from *Section 138-10.308.A.2.a. (Parking and Storage of Commercial and Recreational Vehicles)* of the Rochester Hills Code of Ordinances to allow the parking/storage of a commercial vehicle in a residentially zoned district, Parcel Identification Number 15-32-478-009, zoned R-4 (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 parking/storing of a commercial vehicle 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 the parking/storing of a commercial vehicle in a residentially zoned district. Thus, the variance would confer a special benefit on the applicant that is not enjoyed by neighboring property owners.
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 park/store a commercial vehicle on the property.
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 park/store commercial vehicles within the City.
7. The granting of this variance would be materially detrimental to the public welfare or existing or future neighboring uses by allowing the parking of commercial vehicles in a residentially zoned district.
8. Approval of the requested variance may impair the supply of light and air to adjacent properties, increase congestion and noise, increase the danger of fire, and/or impair established property values in the surrounding area.