



Department of Planning and Economic Development

Staff Report to the Zoning Board of Appeals

September 2, 2020

493 John R Rd. Accessory Structure	
REQUEST	A variance from <i>Section 138-10.102 A.</i> to allow a detached accessory structure to be located in the front yard
APPLICANT	Cheryl Green 493 John R Rd. Rochester Hills, MI 48307
LOCATION	493 John R Rd., located on the east side of John R Rd., north of Avon
FILE NO.	20-021
PARCEL NO.	15-13-301-012
ZONING	R-3 One Family Residential with an MR Mixed Residential Overlay
STAFF	Kristen Kapelanski, Manager of Planning

Requested Variance

The applicant is requesting a variance from the Code of Ordinances to permit a detached garage to be located in the front yard. *Section 138-10.102 (Detached Accessory Structures, Section A)* requires a detached accessory structure to be located in the side or rear yard. Per the denial letter from Building, “the plot plan indicates that the proposed garage is intended to be placed parallel to the existing home, however, the home is placed on an angle and the line from the front portion of the garage shall be measured parallel with the width of the property in a straight line and not on an angle.” This requirement is for all residential districts.

The subject property is 4.5 acres, and the proposed accessory structure is a 1,380 square-foot garage. The proposed structure complies with the maximum area limit for detached accessory structures. The existing home, placed on an angle, is located 400 feet from the front property line and is much farther back than other homes on John R (see photo below).

The subject site is located on the east side of John R Rd. north of Avon. Below is a table for the zoning and existing and future land use designations for the site and surrounding parcels.

	Zoning	Existing Land Use	Future Land Use
Subject Site	R-3 One Family Residential with MR Mixed Residential Overlay	Residential Home	Residential 4 with Mixed Residential Overlay
North	R-3 One Family Residential	Single family homes	Residential 3
South	R-3 One Family Residential with MR Mixed Residential Overlay	Single family homes	Residential 4 with Mixed Residential Overlay
East	RMH Manufactured Housing Park	Manufactured Housing Park	Residential 5
West	R-3 One Family Residential	Single Family Homes	Residential 4

Site Photographs



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. Please refer to the ZBA application for the applicant's responses to the following criteria.

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 requirements of the ordinance would not prevent the owner from using the property, as it is large. However, according to the applicant, the site is heavily wooded and adhering to the setback would require many mature trees to be removed. The applicant has selected a natural clearing to locate the proposed structure which would not cause tree removal. The manner in which the Ordinance requires the garage to be measured (as described above) appears unnecessarily burdensome for a home placed on an angle.
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.* The proposed garage would comply with the maximum area restrictions imposed by Ordinance. The applicant is asking to locate the structure parallel to the house and lined up with the garage in the front. The front yard setback for the garage would be well over 300 feet, and the garage would be over 250 feet from a structure on an adjacent parcel. If the home was turned to face John R, the garage would be in the side yard, however, the way it has to be measured shows an encroachment into the front yard, and a variance request would be necessary for compliance. The applicant states that the high-end accessory structure will increase the property values in the area while maintaining the existing wooded nature of the site.
3. *The plight of the applicant is due to the unique circumstances of the property.* The property is heavily wooded with many trees, and the area proposed for the garage is in a clearing, which would not necessitate removing any trees. The disposition of the house on the site is somewhat of a unique circumstance. However, a heavily wooded lot is not a unique characteristic in and of itself in this instance, and a substantial amount of trees do not have to be preserved according to the Tree Conservation Ordinance for this project.
4. *The problem is not self-created.* The problem could be considered to be self-created, in that there is room to place the garage further back on the property, but having to take down many mature trees is not appealing to the applicant.
5. *The spirit of this ordinance will be observed, public safety and welfare secured, and substantial justice done.* If the variance is granted, it is staff's opinion that the spirit of this Ordinance will be observed. The house is on an angle, and the proposed garage appears to be in the side yard, as it is intended to be placed parallel to the existing home. The Ordinance requires the line from the front portion of the garage to be measured parallel with the width of the property in a straight line, not an angle. In granting the variance, staff does not believe that public safety and welfare of adjacent lots will be adversely affected, and natural features will be preserved. However, granting this variance could spur similar requests on lots over four acres in the City.

Sample Motions

Motion to Approve

MOTION by _____, seconded by _____, in the matter of File No. 20-021, that the request for a variance from *Section 138-10.102* of the Rochester Hills Code of Ordinances to allow a detached accessory garage to be located in the front yard for 493 John R Rd., Parcel Identification Number 15-13-301-012 be **APPROVED** because a practical difficulty does exist on the property as demonstrated in the record of proceedings and based on the following findings. With this variance, the property shall be considered by the City to be in conformity with the Zoning Ordinance with respect to the placement of the garage in the front yard.

1. Compliance with the strict letter of the Zoning Ordinance requires the line from the front portion of the garage to be measured parallel with the width of the property in a straight line and not an angle; however, the house was built on an angle. This requirement appears unnecessarily burdensome as the disposition of the home makes the garage appear to be in the side yard, which would be permitted.
2. Granting the variance will preserve a substantial property right for the applicant and thus substantial justice shall be done. The property is 4.5 acres of wooded property, and allowing the accessory structure in a clearing area far from the road and other homes will not require removal of mature trees and not look aesthetically displeasing.
3. A lesser variance will not provide substantial relief, and would not be more consistent with justice to other property owners in the area. The proposed garage would be at least 250 feet from the nearest structure on adjacent parcels and at least 350 from the road.
4. There is a unique circumstance of the property due to the placement of the home that necessitates granting the variance and distinguishes the subject property from other properties elsewhere in the City with respect to compliance with the ordinance regulations.
5. The granting of this variance would not be materially detrimental to the public welfare or existing or future neighboring uses.
6. 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.

Motion to Deny

MOTION by _____, seconded by _____, in the matter of File No. 20-021, that the request for a variance from *Section 138-10.102* of the Rochester Hills Code of Ordinances to allow a detached accessory structure to be located in the front yard for 493 John R Rd., Parcel Identification Number 15-13-301-012 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 of the Zoning Ordinance will not prevent the owner from using the property for a permitted purpose in a reasonable manner without encroaching into the required front yard, and no practical difficulty has been demonstrated for this property.
2. Granting the variance will not do substantial justice to nearby property owners. Thus, the variance would confer a special benefit on the applicant – having a detached accessory

structure in the front yard - that is not enjoyed by other property owners in the vicinity.

3. There are no unique circumstances of the property have been identified by the applicant that necessitate granting the variance.
4. The circumstances are self-created by the applicant in the form of her desire to construct a detached accessory structure 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 build similar structures within the City.