



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

May 1, 2017

**110 South Blvd. W – Parking/Side Yard Setback Variance**

<b>REQUEST</b>	A variance of 9 feet from <i>Section 138-11.102.B.4.a. (Location of Off-Street Parking, setback from Residential Districts)</i> of the Code of Ordinances to permit a 9 foot westward extension to the existing parking lot
<b>APPLICANT</b>	Salman Abrou 1044 Rochelle Park Dr. Rochester Hills, MI 48309
<b>LOCATION</b>	110 South Blvd. W., on the north side of South Blvd, west of S. Rochester Rd.
<b>FILE NO.</b>	99-002
<b>PARCEL NO.</b>	15-34-477-016
<b>ZONING</b>	O-1, Office Business, with an FB-3 Flex Business Overlay
<b>STAFF</b>	Sara Roediger, AICP, Director of Planning

*In this Report:*

Requested Variance ..... 1

Site Description..... 1

Analysis ..... 2

Sample Motions..... 3

**Requested Variance**

The applicant is requesting a 9 foot side yard setback variance from the Code of Ordinances to permit a 9 foot westward extension to the existing parking lot.

*Section 138-11.102.B.4.a. (Location of Off-Street Parking and Loading Spaces, Setback from Residential Districts)* states where the parking lot abuts a residential district at the side or rear lot lines, the parking lot shall be setback a minimum of 10 feet from the lot line. The submitted parking lot maintenance plan is requesting a 9-foot westward extension to the existing parking lot, encroaching into the required side yard setback 9 feet.

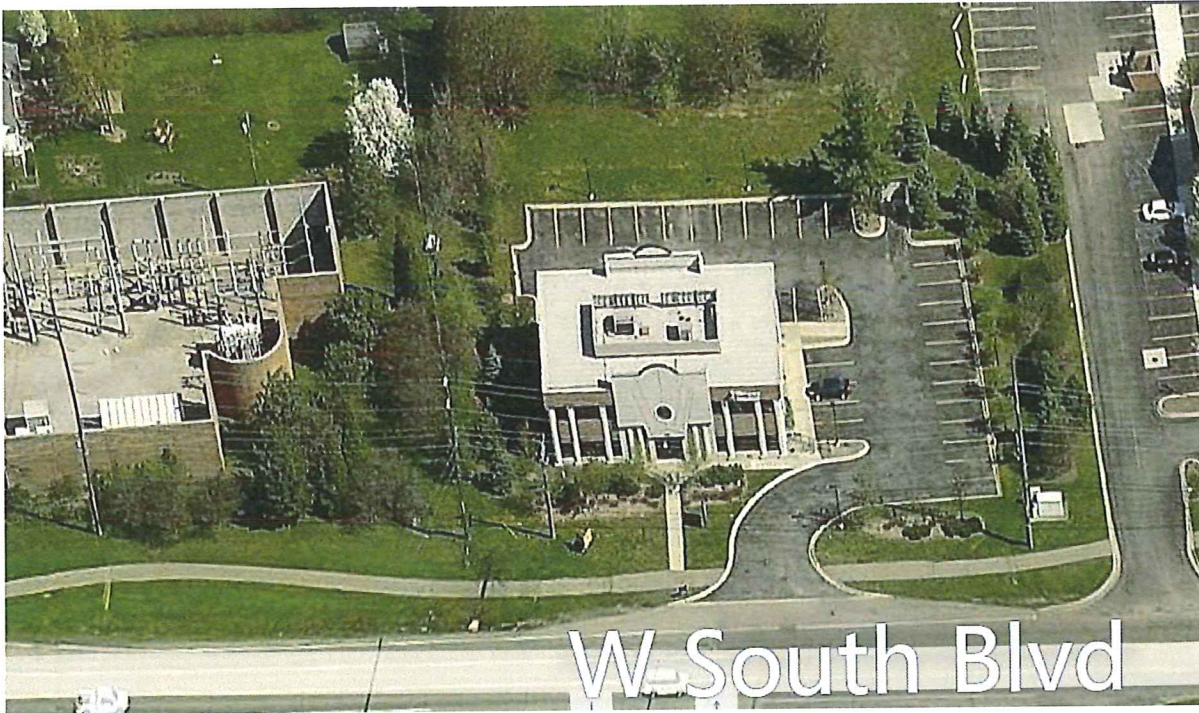
**Site Description**

The subject parcel is located on the north side of South Blvd. W, west of S. Rochester Rd.. The applicant is proposing an expansion of the existing parking lot.

**Site Photographs**

Please see the following page for aerials and images of the property.





## 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.* Because of the nature of professional and medical office tenants, there tends to be a higher number of customers to the building, and with a higher turnover rate. The building has had a hard time attracting tenants because of the current supply of parking, and therefore is not being used to its full capacity. Compliance with the ordinance would prohibit the parking lot extension as there is nowhere else on the site the parking lot could be expanded to.

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 intent of the setback is to provide a space between parking and residential uses. While the adjacent property is zoned residential, it is used as a utility substation and is not and will not be used for residential. Granting of the variance would enable the applicant to expand the parking lot to be able to better utilize the building as zoned.
3. *The plight of the applicant is due to the unique circumstances of the property.* The site is unique in that it abuts a residentially zoned, but not used property. Because the adjacent property is a utility substation, it has a substantial screening wall surrounding its equipment, so the reduced setback would be adjacent to a screening wall, thereby not having a negative affect on the adjacent property.
4. *The problem is not self-created.* The problem is created by changing trends in medical offices and the demands they have for parking spaces.
5. *The spirit of this ordinance will be observed, public safety and welfare secured, and substantial justice done.* Granting the requested variance will allow for an existing office building in the city to increase its occupancy without negatively impacting other properties.

## Sample Motions

---

### **Motion to Approve**

MOTION by \_\_\_\_\_, seconded by \_\_\_\_\_, in the matter of File No. 99-002, that the request for a variance from *Section 138-11.102.B.4.a. (Location of Off-Street Parking and Loading Spaces, Setback from Residential Districts)* of the Rochester Hills Code of Ordinances to grant a side yard setback variance of 9 feet, Parcel Identification Number 15-34-477-016, zoned O-1 (Office Business), with an FB-3 Flex Business Overlay, 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 parking adjacent to residential districts will unreasonably prevent the owner from using the property for a permitted purpose.
2. Granting the variance will do substantial justice to the applicant as well as nearby property owners by permitting a use 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 that the adjacent residentially zoned property is used for a utility substation and is not and will not be used for residential purposes.
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 any other property owner in the same zone or vicinity.
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. 99-002, that the request for a variance from *Section 138-11.102.B.4.a. (Location of off-Street Parking and Loading Spaces, Setback from Residential Districts)* of the Rochester Hills Code of Ordinances to grant a side yard setback variance of 9 feet, Parcel Identification Number 15-34-477-016, zoned O-1 (Office Business), with an FB-3 Flex Business Overlay, 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 parking adjacent to residential districts 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 a parking closer to a property line than other lots. 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 construct additional parking 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 parking lots 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.