



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

January 14, 2015

<b>Six Star Investments, LLC Use Variance</b>	
<b>REQUEST</b>	A variance from Section 138-4.100 (Zoning Districts) to allow up to 6.5 residential sites per acre on the subject property, which is zoned R-4, One Family Residential. In essence, the request is for a use variance to allow high density manufactured housing in an R-4, One Family Residential Zoning District
<b>APPLICANT</b>	Kenneth Frantz Six Star Investments, LLC 37000 Woodward Ave., Suite Bloomfield Hills, MI 48304 and DNL Property Holding, LLC, Novi, MI 48374
<b>LOCATION</b>	East of John R, North of Hamlin
<b>FILE NO.</b>	14-011.2
<b>PARCEL NOS.</b>	15-24-326-008 (59.42 acre parcel) 15-24-302-007 (18.28 acre parcel) Mr. Frantz as agent
<b>ZONING</b>	R-4 One Family Residential
<b>STAFF</b>	Ed Anzek, AICP, Director of Planning and Economic Development

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**Requested Variance**

The applicant is requesting a variance from the Code of Ordinances to permit a high density manufactured housing in an R-4, One Family Residential Zoning District. *Section 138-4.100* (Zoning Districts) allows one dwelling per parcel on the subject property, which is zoned R-4, One Family Residential subject to the regulations contained *Section 138-5.100* (Schedule of Regulations) relating to items such as minimum lot size, minimum yard setbacks and maximum lot coverage. Based on the previously requested rezoning, the applicant is proposing a manufactured housing park of approximately 490 residences on approximately 77.7 acres (Parcel Nos. 15-24-326-008, totaling 59.42 acres and 15-24-302-007, totaling 18.28 acres), located east of John R Rd. and north of Hamlin Rd. that would not meet the applicable requirements of *Article 5* (Schedule of Regulations) and in essence would permit a manufactured housing park, which is not permitted in the R-4 District.

## Summary and Background

Both properties are part of the Stan's Trucking landfill where municipal waste was deposited. The application indicates that the purpose of the use variance is to redevelop the property with a manufactured housing park.

Section 138-4.100 establishes zoning districts, Section 138-4.200 describes the purpose of those districts, and Section 138-4.300 regulates which uses are permitted in each district.

The properties are zoned R-4, which are designed to provide for one-family, low density dwelling sites and residentially related uses in keeping with the master plan of residential development in the City. The uses permitted by right and as conditional uses are intended to promote a compatible arrangement of land uses for homes, with the intent to keep neighborhoods relatively quiet and free of unrelated traffic noises. Manufactured housing parks are not a permitted or conditional use within the R-4 District, but rather are permitted in the RMH District, whose sole purpose is to allow the development of state-licensed manufactured housing communities that comply with the requirements of the zoning ordinance, applicable Manufactured Housing Commission rules, and PA 96 of 1987. Therefore the variance request, while containing dimensional deviations as described below, is essentially to permit a use that would not otherwise be permitted.

Section 138-4.100 contains the Schedule of Regulations, which specifies dimensional requirements for area and bulk for each district, including items such as minimum lot size, minimum yard setbacks and maximum lot coverage. The R-4 zoning district requires the following items be met for each dwelling unit, which the applicant is requesting a variance from as the dwelling units will be rental units located on the two parcels rather than on subdivided lots.

R-4 District Requirement							
Min. Lot Area	Min. Lot Width	Max. Height	Min. Front Setback	Min. Side Setback (each/total)	Min. Rear Setback	Min. Floor Area	Max. Lot Coverage (all bldgs.)
9,600 sq. ft.	80 ft.	2 stories 35 ft.	25 ft.	10 ft./20 ft.	35 ft.	912 sq. ft	30%

## Zoning and Land Use

Refer to the table below for the zoning and existing and future land use designations for the proposed site and surrounding parcels.

	Zoning	Existing Land Use	Future Land Use
<b>Proposed Site</b>	<b>R-4 One Family Residential</b>	<b>Vacant</b>	<b>Landfill</b>
North	R-3 & R-4 One Family Residential	Vacant & single family homes	Landfill & Residential 4
South	R-4 One Family Residential & I Industrial	Vacant & single family homes	Industrial
East	R-4 One Family Residential & I Industrial	Vacant & single family homes	Landfill & Industrial
West	R-4 One Family Residential	Single family homes	Residential 4

The Master Land Use Plan adopted in 2007 added a Landfill Planning Area to encourage redevelopment of the landfills, especially in Section 24. A Manufactured Housing Community was not considered as a possible use when the Master Land Use Plan was prepared in 2005-07. There were no preferred or prohibited uses; however, the City did provide for flexibility so that appropriate uses, yet to be determined, could be developed on top of the various landfills.

## Site Context Aerial Photograph



## History

A Public Hearing on a rezoning request to RMH Manufactured Housing Park was held by the Planning Commission on August 19, 2014, at which many residents spoke in opposition, citing concerns over potential traffic, noise, environmental issues, density and the lack of a need for another manufactured housing park in the area, among others.

In the staff report it was pointed out that insufficient information was provided to enable the Planning Commission to make an informed decision. Missing was information dealing with the environmental issues associated with landfills and residential housing along with the economic viability of the project. Further, two state agencies would need to provide approval and until such approval was provided it was recommended that

this request not be approved. The two state agencies are MDEQ and the Michigan Manufactured Housing Commission; the governing body over all manufactured housing communities/parks.

The Planning Commission unanimously recommended denial with two findings. The applicant states that the site will have access to Hamlin and School Roads, but the application states that the proposal is for 490 additional residences, which would generate much more traffic for the area than R-4 development would. The Planning Commission, in its decision to recommend denial found that approval of RMH zoning would increase the potential for development with trip generation that is unsuitable for the area and would not be compatible with its surroundings. The rezoning request was considered by the City Council on September 9, 2014 and was unanimously denied. Please refer to the attached minutes from those meetings for further details.

The applicant has since received written determination from the Building Department that the proposed land use is not permitted under the zoning ordinance in the district where the property is located. Please refer to the Building Department letter dated November 6, 2014.

## Analysis

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Section 138-2.408 of the Zoning Ordinance requires the ZBA to make a finding that an unnecessary hardship exists that precludes the property owner from meeting the requirements of the ordinance. In determining that an unnecessary hardship exists, the ZBA must find that there is an unnecessary hardship in the way of carrying out the strict letter of this ordinance based on substantial evidence presented by the applicant as follows. Applicable comments from staff are italicized.

1. The property in question cannot be reasonably used or cannot yield a reasonable return on a prudent investment if the property would be used only for a purpose allowed in the zoning district. *While single family homes are the primary intended use for the R-4 District, other uses are permitted that are compatible with residential uses including a number of animal, community, public and recreation uses. Because of the past use of the property as a landfill, extensive study will be required to determine appropriate and feasible land uses for the landfill parcels if they are proposed to be redeveloped.*
2. The plight is due to unique circumstances peculiar to the property and not to general neighborhood conditions. *The site is unique in that has been used as landfill (Oftentimes the site has been referred to as a "former" landfill. That is misleading as it is still a landfill albeit not active and closed), and the waste remains under the surface, which presents numerous constraints for the redevelopment of these parcels. As the waste materials bio-degrade the ground continually settles and shifts.*
3. The use to be authorized by the variance will not alter the essential character of the area and locality. *The development of a manufactured housing park will greatly alter the character of the area by creating dwelling units in a development pattern that does not meet the requirements of the district, and thus the character of surrounding parcels. This is supported by the Planning Commission's finding on the rezoning to RMH request that approval of RMH zoning would not be compatible with its surroundings. Granting of the requested variances will have the same effect as the previously requested rezoning.*
4. The problem is not self-created. *While the property owners were not involved with the previous landfill operation, the fact remains that the owners purchased the properties that were used for a landfill, a situation that was voluntarily created by the current owner's predecessor in interest. Whether or not the current owners were aware of the landfill use is a matter of due diligence on their part and should have been considered as part of the negotiations of the purchase.*
5. The spirit of this ordinance will be observed, public safety and welfare secured, and substantial justice done. *It is staff's opinion that granting the requested variances will circumvent the intent of the R-4 zoning district by allowing a manufactured home park, which is not permitted in the R-4 district and will in fact deprive adjacent property owners of their substantial justice based on the anticipated uses permitted in the R-4 district.*

6. There is compliance with the standards set forth in *Section 138-2.400B* (which states that the ZBA must determine that the proposed variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or endanger the public safety or unreasonably diminish or impair established property values within the surrounding area or in any other respect impair the public health, safety, comfort, morals, or welfare of the inhabitants of the City). *It is staff's opinion that granting the requested variances will unreasonably increase the congestion on public streets in the area, as supported by the Planning Commission's finding on the rezoning to RMH request that approval of RMH zoning would increase the potential for development with trip generation that is unsuitable for the area.*
7. There is compliance with the standards for discretionary decisions as contained in *Section 138-2.302* (Standards for Conditional Use Approval). *The standards for conditional use approval are very similar to the standards that the ZBA are required to find before granting a use variance as follows:*
  - a. Promote the intent and purpose of this ordinance. *As stated in 5. above, it is staff's opinion that granting the requested variances will circumvent the intent of the R-4 zoning district by allowing a manufactured home park, which is not permitted in the R-4 district and will in fact deprive adjacent property owners of their substantial justice based on the anticipated uses permitted in the R-4 district.*
  - b. Be designed, constructed, operated, maintained and managed so as to be compatible, harmonious and appropriate in appearance with the existing or planned character of the general vicinity, adjacent uses of land, the natural environment, the capacity of public services and facilities affected by the land use, and the community as a whole. *As stated in 3. above, the development of a manufactured housing park will greatly alter the character of the area by creating dwelling units in a development pattern that does not meet the requirements of the district, and thus the character of surrounding parcels. This is supported by the Planning Commission's finding on the rezoning to RMH request that approval of RMH zoning would not be compatible with its surroundings. Granting of the requested variances will have the same effect as the previously requested rezoning.*
  - c. Be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainageways, refuse disposal, or that the persons or agencies responsible for the establishment of the land use or activity shall be able to provide adequately any such service. *As stated in 6. above, it is staff's opinion that granting the requested variances will unreasonably increase the congestion on public streets in the area, as supported by the Planning Commission's finding on the rezoning to RMH request that approval of RMH zoning would increase the potential for development with trip generation that is unsuitable for the area.*
  - d. Not be detrimental, hazardous, or disturbing to existing or future neighboring uses, persons, property or the public welfare. *As stated in 5. above, it is staff's opinion that granting the requested variances will circumvent the intent of the R-4 zoning district by allowing a manufactured home park, which is not permitted in the R-4 district and will in fact deprive adjacent property owners of their substantial justice based on the anticipated uses permitted in the R-4 district.*
  - e. Not create additional requirements at public cost for public facilities and services that will be detrimental to the economic welfare of the community. *The addition of approximately 490 residences will have a substantial impact on public facilities and services, particularly on the amount of daily trips that can be expected to be added to road system and the number of calls placed to police, fire and EMS.*

## Sample Motions

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### **Motion to Approve**

MOTION by \_\_\_\_\_, seconded by \_\_\_\_\_, in the matter of File No. 14-011.2, that the request for a variance from *Section 138-4.100, Section 138-4.200, Section 138-4.300 Section 138-5.100* (as indicated on

the submitted application) of the Rochester Hills Code of Ordinances to allow the development of a manufactured home park, Parcel Nos. 15-24-326-008, totaling 59.42 acres and 15-24-302-007, totaling 18.28 acres, zoned R-4 (One Family Residential), be **APPROVED** because an unnecessary hardship exists on the properties as demonstrated in the record of proceedings and based on the following findings:

1. Compliance with the strict letter of the Zoning Ordinance will unreasonably prevent the owner from using the property for a permitted purpose, or will be unnecessarily burdensome.
2. There are unique circumstances of the property that necessitate granting of the requested variances, and that distinguish the subject properties from other properties with respect to compliance with the ordinance regulations. Specifically, the use of the site as a landfill which presents numerous constraints.
3. Granting of the requested variances will not alter the essential residential character of the area and locality.
4. The requested variances are not the result of a self-created situation.
5. Granting of the requested variances will do substantial justice to the applicant as well as nearby property owners by permitting residential use of land that is consistent with prevailing patterns in the nearby area.
6. Granting of the requested variances will not be materially detrimental to public safety and welfare, impair the adequate supply of light and air to adjacent properties, unreasonably increase congestion, increase the danger of fire, or unreasonably impair established property values in the surrounding area.

**Conditions of Approval.** Approval of the variance is subject to the following conditions:

1. Add any applicable conditions, if any

### ***Motion to Deny***

MOTION by \_\_\_\_\_, seconded by \_\_\_\_\_, in the matter of File No. 14-011.2, that the request for a variance from *Section 138-4.100, Section 138-4.200, Section 138-4.300 Section 138-5.100* (as indicated on the submitted application) of the Rochester Hills Code of Ordinances to allow the development of a manufactured home park, Parcel Nos. 15-24-326-008, totaling 59.42 acres and 15-24-302-007, totaling 18.28 acres, zoned R-4 (One Family Residential), be **DENIED** because an unnecessary hardship does not exist on the properties as demonstrated in the record of proceedings and based on the following findings:

1. Compliance with the strict letter of the Zoning Ordinance will not unreasonably prevent the owner from using the property for a permitted purpose, and will not be unnecessarily burdensome.
2. Granting of the requested variances will alter the essential character of the area and locality by creating dwelling units in a development pattern that does not meet the requirements of the district, and thus the character of surrounding parcels.
3. The requested variances are the result of a self-created situation, specifically the use of the site as a landfill.
4. Granting of the requested variances will not do substantial justice to nearby property owners by permitting residential use of land that is inconsistent with prevailing patterns in the nearby area, thereby circumventing the intent of the R-4 zoning district by allowing a manufactured home park.
5. Granting of the requested variances will have a substantial impact on public facilities and services, particularly on the amount of daily trips that can be expected to be added to road system and the number of calls placed to police, fire and EMS.