



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

May 3, 2015

320 Lehigh Rd. Established Building Line Interpretation	
REQUEST	An interpretation of an Established Building Line as defined in Section 138-5.101.B of the Code of Ordinances
APPLICANT	Gordon Hotchkiss 320 Lehigh Rd. Rochester Hills, MI 48307
LOCATION	320 Lehigh Rd., southwest corner of Lehigh Rd. and Norton Lawn, south of W. Hamlin Rd., and west of S. Rochester Rd.
FILE NO.	17-011
PARCEL NO.	15-27-401-011
ZONING	R-3 One Family Residential
STAFF	Sara Roediger, AICP, Director of Planning

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Requested Variance

An interpretation of an Established Building Line as defined in *Section 138-5.101.B (Footnotes to the Schedule of Regulations)* of the Code of Ordinances. Prior to submitting plans for an addition, that will subsequently be denied as it does not meet the established building line, the applicant is requesting an interpretation of this regulation.

Site Description

The subject parcel contains a single family home and is located on the southwest corner of Lehigh Rd. and Norton Lawn, south of W. Hamlin Rd., and west of S. Rochester Rd., however as an interpretation, this parcel is being used as an example, but the interpretation would be applied city-wide.

Site Photographs

Please see the following page for an aerial of the property.



Analysis

In the case of an interpretation of Zoning Ordinance provisions, *Section 138-2.406* of the Zoning Ordinance states that “the ZBA shall have the power to hear and decide requests for interpretations of Zoning Ordinance provisions in such a way as to preserve and promote the character of the zoning district in question, and carry out the intents and purposes of the Zoning Ordinance and Master Plan.”

The applicant would like to build an addition to his residence, but it will be denied based on the Established Building Line governing the subject parcel, rather than the R-3 zoning district's 30 foot minimum setback requirement. The City's Attorney has provided a legal opinion relative to this issue for the ZBA's consideration which is attached and summarized below:

1. Corner lots have two front yards, and therefore two Established Building Lines (EBL)
2. EBLs are the average of all homes within 200 feet on the same side of the street, minus 10 ft. each
3. The EBL is either the average as established in 2. above OR 60 feet, whichever is less.
4. There is an exception to the EBL if the established building line is less than 10 feet from the district setback then the EBL can be disregarded and the district setback is used. So for an R-3 district the setback is 30 feet, so if the EBL is 39 ft.-31 ft., the district setback of 30 would be used. However if the EBL resulted in 40 ft. or more, the EBL would be used.
5. The regulations apply to both developed and undeveloped lots.
6. In the case of additions of existing houses, it is unclear if the existing home is to be included in the EBL calculations. It is the attorney's opinion that it would be consistent to use the existing home in the calculation of the EBL as it contributes to the EBL.
7. The ordinance language and graphic prove to be confusing and the City should consider re-evaluating to make it easier to interpret or to determine its necessity and appropriateness.

As a result of this request, and many other recent requests for variances from this section, City staff have directed the City's planning consultants to make a recommendation on how to amend the City's current language in consideration of other similar and adjacent communities best practices. Their memo is attached.

Sample Motions

Motion to Affirm Zoning Ordinance Provision

MOTION by _____, seconded by _____, in the matter of File No. 17-011, that the request for an interpretation of an Established Building Line as defined in *Section 138-5.101.B* (Footnotes to the Schedule of Regulations) of the Rochester Hills Code of Ordinances upholds the definition as defined, Parcel Identification Number 15-27-401-011, zoned R-3 (One Family Residential).

AND FURTHER, clarifies that if a house exists on the subject property, the existing house shall be included in the calculations for Established Building Line.

Motion to Reverse Zoning Ordinance Provision

MOTION by _____, seconded by _____, in the matter of File No. 17-011, that the request for an interpretation of an Established Building Line as defined in *Section 138-5.101.B* (Footnotes to the Schedule) of the Rochester Hills Code of Ordinances, goes against the definition as defined, Parcel Identification Number 15-27-401-011, zoned R-3 (One Family Residential).