



Rochester Hills

Minutes

Zoning Board of Appeals

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Home Page:
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Chairperson: Kenneth Koluch; Vice Chairperson: Charles Tischer; Secretary: Jayson Graves
Members: Deborah Brnabic, Marvie Neubauer, Jason Sakis, and John Young

Wednesday, April 9, 2025

7:00 PM

1000 Rochester Hills Drive

CALL TO ORDER

Chairperson Koluch called the Zoning Board of Appeals meeting to order at 7:00 p.m. Michigan Time.

ROLL CALL

Present 6 - Deborah Brnabic, Kenneth Koluch, Charles Tischer, Jason Sakis, Marvie Neubauer and John Young

Excused 1 - Jayson Graves

APPROVAL OF MINUTES

[2025-0157](#) March 12, 2025 Zoning Board of Appeals Minutes

A motion was made by Neubauer, seconded by Young, that this matter be Approved. The motion carried by the following vote:

Aye 6 - Brnabic, Koluch, Tischer, Sakis, Neubauer and Young

Excused 1 - Graves

COMMUNICATIONS

None.

PUBLIC COMMENT

None.

NEW BUSINESS

[2025-0158](#) Public Hearing - File No. PVAI2025-0003

Location: 2480 Harrison Ave., located west of Dequindre, between Auburn and Hamlin, Parcel 15-25-403-043, zoned R-4 One Family Residential

The applicant is requesting a variance from *Sec. 138-5.100 Schedule of Regulations*, which notes that the required side setback for a principal structure in the R-4 One Family Zoning District is 10 feet. The proposed variance, if granted, would allow for an encroachment of 3.75 feet into the required side

setback (south side) for the construction of an attached garage to the existing home.

(Staff Report dated 4-2-25, Location Map, Plans, Building Denial Letter, Application and Public Hearing Notice had been placed on file and by reference became a part of the record hereof.)

Present for the applicant was Jasdeep Sohi, 1080 Collins Ct., Oakland Township.

Chairperson Koluch introduced this request and noted that the applicant is seeking a 3.75 foot variance that involves a side yard setback. He requested Mr. McLeod present the Staff Report.

Mr. McLeod explained that the applicant is requesting a variance from the 10-foot typical side yard setback to reduce that side yard by 3.75 feet, resulting in a 6.25 foot side yard setback on the south property line to construct an attached garage onto the existing or planned renovation of the existing structure located at 2480 Harrison Avenue. He pointed out that some of the aerial photographs are outdated and do not necessarily reflect the current situation. He mentioned that these are the new owners of the property; and explained that previously this was a major enforcement site. He noted that the new owners have been trying to rectify the situation and clean up the site, as well as result in a house that is more typical to the houses within Rochester Hills.

He pointed out that the city has a wide variety of setbacks, parcel configurations and building configurations that sit on each one of the properties; however, in R-4 setbacks of 10 foot side yard for a total of 20 feet is required. He reviewed properties up and down Harrison, noting that some of the structures get pretty close to the side yard property lines. He pointed out that in terms of reviewing variances, the Board must ensure that it is not conveying any special privileges or unique circumstances to this particular property owner that is not triggered by the property itself.

He reiterated that within the R-4 District, side yard setbacks are 10 foot on each side for a total of 20 feet, front yard setback is 25 feet and the rear yard setback is 35 feet; and stated that the application notes that the total of 20 feet for the side yard is met by having 16 feet on the north side of the property. He pointed out that the with configuration of the property for the address directly to the south, granting the variance would result in two structures within 10 or 11 feet of each other. He noted that the proposed garage addition was just over 21 feet wide and just over 26 feet deep, and he explained that the garage would be a pass-through with a two-door entry in the front and single door entry to the rear; and the existing garage accessory structure in the rear would be kept for their personal matters. He reviewed the elevation for the garage door, the overhang, and noted that the 6.25 line would be on the edge of the wall. He suggested that one of the questions raised in the staff report was whether or not the sidewalls could get slightly smaller, as one of the other factors that would be considered is whether that variance is the least possible to make the situation work. He reviewed the considerations that the Board must review as to whether the granting would do substantial justice to the applicant as well as to other property owners in the district, the uniqueness of the property, whether the problem is

self-created, and whether the spirit of the ordinance is observed and public safety and welfare would be maintained.

Chairperson Koluch mentioned that there was an additional document submitted by the applicant noting side setbacks for various nearby properties which had been provided to the Board. He asked the applicant to explain again exactly what they are seeking to do and how they believe that their situation establishes or meets the criteria required in this case.

Ms. Sohi stated that she would like to extend her thanks to law enforcement and the Building Department for helping them with the eviction. She explained that when the house was first built it was on a 40-foot lot, and at some point the frontage is now 80 feet. She pointed out that when combining both sides, the proposed setback meets the 20 foot total, and the proposal also meets the lot coverage requirements. She noted that the house was built decades ago and the setback constraints stem from the original layout, and commented that from the standpoint of reasonable use and practical difficulty, a 10 foot setback makes it impossible to build an attached garage without major demo. She stated that an attached garage is sought for more secure vehicle storage and modern functionality and to add an amenity, and commented that while they are doing extensive renovations to the house, not having an attached garage is not conducive to what they want for a result. She stressed that it is a minimal variance of 3.75 feet and complies with the total of 20 feet, and the overall impact is minimal compared to the full compliance and represents a small practical variance with no negative impact to the neighborhood. She mentioned homes in the immediate neighborhood, noting that for 2479 and 2487 Harrison, the distance between those is only about two feet; for 2495 and 2487, the distance is only 5.75 feet; and the corner house 499 and 2495 have a distance of only six feet. She continued, noting that 2498 and 2492 have a distance of five feet, and she commented that their request complies with local conditions of the surrounding properties. She stated that an attached garage would be consistent with neighborhood improvements and would not harm adjacent properties.

She noted that unique property factors include a narrow building envelope because of the as-built home position. She stressed that the structure does not pose any other difficulties in regard to public safety or welfare and does not have any impact on drainage, traffic or emergency access. She stated that they are requesting the variance as it is needed to overcome an inherited layout that they did not create, and they are seeking minimum relief as it does not have an adverse effect on the neighborhood.

Chairperson Koluch questioned the chart the applicant submitted, and asked Staff when most of those homes were constructed, commenting that they were most likely built in the 1940s with a couple in the mid-1960s, predating the City Charter. He asked what the City's policy is as this happens a lot especially in the Brooklands as the lots are smaller there. He noted that there are properties that are not compliant; however, the City obviously does not issue tickets to every single one of these properties as they have not had updates for as long as they know. He asked how these noncompliant properties are handled.

Mr. McLeod responded that it is a two-phase or two-step process. He explained that existing structures are allowed to maintain, and are viewed as nonconforming structures. As long as those structures were either built legally or predated the Ordinance before it came into place, those structures can remain. He noted that in terms of a requested building permit to modify the structure, as long as the proposed addition met all new Ordinance requirements, the existing structure could remain; and noted that the addition would have to meet the 10 foot side setback and 35 foot rear setback. He added that there is a third provision where even if it is a nonconforming situation, they could extend and maintain that line for a further expansion.

Chairperson Koluch noted that from time to time the Board reviews a situation where the slab is already there and someone will want to do a demo and rebuild in the same spot; however, when those come before the Board they usually do not get granted. He stressed that he does not believe that any of these older houses and older properties were actually built with the approval of the Zoning Board granting a variance request. He pointed out that the garage in the back is approximately two feet from the property line. He mentioned the chart of other setbacks in the area and commented that the back garage would not meet the current requirements for the Ordinance and is grandfathered in. He commented that there is not a set level for granting variances, and stated that the Board has denied requests for less than a foot and granted others for more than five feet. He commented that it more or less has to do with whether the request meets the criteria.

Ms. Brnabic asked whether there was anything on record to show that a variance has been granted in the neighborhood relative to a setback.

Mr. McLeod responded that he does not have that information available of any definitive list of structures that were granted variances in this location as many of the houses in this area are significantly old, and updating the homes is allowed as long as the structure remains the same. He stated that he would venture to guess that the vast majority of these structures were built pre-current Ordinance, and a lot of them may have been built before any ordinance.

Ms. Brnabic asked the size of the existing garage in the back.

Ms. Sohi responded that it is a standard two-car garage and it is her understanding that it is around 20 feet wide and approximately 20 feet deep.

Mr. McLeod noted that it shows the structure at 702 square feet.

Ms. Brnabic noted that a 20 foot by 20 foot garage is nowhere near 702 square feet so it must be larger.

Mr. McLeod stated that going off of the aerial photo, it appears to be approximately 28 feet by just over 28 feet by roofline.

Mr. Tischler asked if there would be any consideration to go down to a one-car garage.

Ms. Sohi responded that it would not be conducive as they are spending all this money and it would most likely be two people with at least two cars wanting to park in the garage. She stated that the garage behind is for her son who likes woodworking and has tools to keep there. She stressed that it is a significant investment in the current property, and noted that her husband looked at 2479 and they seem to have done some improvements and their garage is only two feet away and was most likely built in the last 10-15 years.

Chairperson Koluch stated that he has been on this board for about 13 years and did not grant a variance for that one; and stated that if it was done it was older than that and he has not seen a record of that anywhere.

Mr. Tischer stated that he does not see a practical difficulty here, and he believed that there would be a way that their architect could find three feet.

Ms. Sohi responded that they tried, and she stated that in her opinion, forcing strict compliance would be unnecessary and burdensome to achieve a typical residential amenity. She commented that it would be significant demolition, and mentioned that they have a fireplace on that side of the house.

Chairperson Koluch stated that he wanted to expand on the idea of practical difficulty, and explained that it means that it would prevent use of the property for its intended purpose. He noted that it is a residence right now and could be used as it is right now, provided that it is cleaned up a bit. He suggested that they could probably squeeze a one-car garage in as there is already a two-car garage in the back; and just wanting a two-car garage to increase the value of the property alone is not enough to grant a variance. He added that the addition is not needed to meet any building code requirements.

He noted that there were no members of the public wishing to comment during the public hearing portion.

Ms. Sohi stated that they would be willing to have a one-hour fire rating on the south side of the garage closest to the neighbors if that would be acceptable.

Chairperson Koluch stated that he did not know whether that would be acceptable and would constitute a different application as they are looking at the plans that are submitted right now.

Ms. Brnabic stated that she concurs with Chairperson Koluch and agrees with the other comments made. She noted that she believes that this is a want and not a need, a lot of the mentioned structures and garages were built years ago, and by granting the variance they would be permitting the difference in the setback. She stated that she does not believe there would be adequate separation between the buildings and it would create a fire safety issue. She commented that whatever was done years ago is grandfathered in, and there are ordinances now for a reason.

Ms. Sohi asked if there might be a possibility for granting the variance if it was reduced another foot or foot-and-a-half.

Ms. Neubauer stated that unfortunately, the Board must look at what was presented today. She stated that many of the members have been serving for a long time, and she is confident that once the architect is informed that it is denied he will be able to make the proper adjustments.

Ms. Sohi stated that her concern is the neighborhood and the house has been sitting like this for a long time.

Ms. Neubauer responded that the applicant is basically asking for a four-car garage rather than a two-car garage, and is asking for it to be separated. She commented that she knows its frustrating and that the applicant wants to invest in the property and make it beautiful; however, the rules and regulations must be enforced and exceptions cannot be made because of cosmetic things or a desire for upgrades. She stressed that ordinances were changed for safety reasons, and the feedback the Board receives from public services are pretty compelling to ensure that the ordinances are complied with whenever possible. She commented that she is sure that the Building Department would work with them if they submitted new plans; however, granting a variance is a slippery slope that can turn into a big problem.

Chairperson Koluch added that if this is granted, it basically abolishes the whole point of even having this Ordinance; and every single property in the Brooklands would be able to do the same thing because it was granted one time. He stated that absent of a very unusual circumstance, these requests do not get granted very often especially with respect to side yard setbacks.

Ms. Neubauer made the motion in the packet to deny the variance. The motion was seconded by Mr. Tischer.

Following calling for a roll call vote, Chairperson Koluch announced that the motion to deny the variance passed unanimously.

A motion was made by Neubauer, seconded by Tischer, that this matter be Denied. The motion carried by the following vote:

Aye 6 - Brnabic, Koluch, Tischer, Sakis, Neubauer and Young

Excused 1 - Graves

Resolved, in the matter of File No. PVAI2025-0003, that the request for a variance from Section 138-5.100 Schedule of Regulations which requires the proposed attached garage addition to meet a 10 ft. southerly side setback in the R-4 One Family Residential zoning district, Parcel Identification Number 15-25-403-043, 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 regulations of the Zoning Ordinance will not prevent the owner from constructing an attached garage, albeit potentially a one car garage, that meets the required 10 ft. side setback in a manner that complies with the requirements of the Zoning Ordinance and therefore no practical difficulty has been demonstrated for this property. In addition, a detached accessory structure already exists on the property and can likely be used for the same purposes.

2. Granting the variance will not do substantial justice to nearby property owners as it

would confer special benefits to the applicant that are not enjoyed by other property owners in the vicinity.

3. There are no unique circumstances of the property that have been identified by the applicant that necessitate granting the variance. There are many properties throughout the City that have similar existing setbacks for an accessory structure and the City does not desire to have principle residential building additions constructed with similar side setbacks. Further, the City has established required setbacks for principle residential structures to ensure that there is adequate separation between buildings that are utilized as livable spaces to ensure privacy, open space, and to maintain consistent character of existing residential neighborhoods.

4. 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. 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 requirements of the Zoning Ordinance from applicants.

ANY OTHER BUSINESS

2025-0164

Request for Election of Officers - Chairperson, Vice Chairperson and Secretary for a one-year term to expire the first meeting in April 2026

Mr. Koluch noted that the Board would be considering the request to elect officers for the coming year. He noted that Mr. Graves was the current Secretary and asked whether it was necessary to have a Board Member as Secretary when staff keeps the meeting record.

Mr. McLeod responded that technically the By-Laws stipulate that the Board should have a Secretary; and acknowledged that the role is obviously minimal.

Ms. Brnabic moved that Chairperson Koluch keep his position as Chair. Ms. Neubauer seconded the motion.

Chairperson Koluch called for a voice vote and announced that the motion passed unanimously.

Ms. Neubauer moved that Vice Chairperson Tischer keep his position. Ms. Brnabic seconded the motion.

Chairperson Koluch called for a voice vote and announced that the motion passed unanimously. He moved on to move that Mr. Graves keep his position as Secretary. Ms. Neubauer seconded that motion.

Following calling for a voice vote, he announced that this motion passed unanimously.

He stated that he appreciates the Board's support to remain as Chairperson.

Approved.

NEXT MEETING DATE

- May 14, 2025 Regular Meeting.

ADJOURNMENT

There being no further business to discuss, it was moved by Ms. Neubauer to adjourn the meeting at 7:37 p.m.

Minutes prepared by Jennifer MacDonald.

*Minutes were approved as presented/amended at the _____
2025 Regular Zoning Board of Appeals Meeting.*

*Kenneth Koluch, Chairperson
Rochester Hills
Zoning Board of Appeals*

Jennifer MacDonald, Recording Secretary