



## Department of Planning and Economic Development

### Staff Report to the Zoning Board of Appeals

June 24, 2025

#### PVAI2025-0005

#### 466 Driftwood Ave. – Minimum Lot Width

**REQUEST** The applicant is requesting an appeal of the decision to deny a land division application for the subject property, the denial of which was partially based upon the proposed lots not meeting the minimum required width of 90 feet in the R-3 One Family Residential Zoning District per *Sec. 138-5.100 Schedule of Regulations*.

In addition to the appeal, the applicant is requesting a dimensional variance from *Sec. 138-5.100 Schedule of Regulations*, which requires a minimum lot width of 90 feet in the R-3 One Family Residential Zoning District. The proposed variance, if granted, would potentially allow for the division of the existing parcel into two separate parcels, each with a lot width of 80 feet.

<b>APPLICANT</b>	Ron Whittle, 62135 Kimberly Ln., Washington, MI 48094
<b>LOCATION</b>	466 Driftwood Ave., located south of Bloomer Rd. and west of John R
<b>FILE NO.</b>	PVAI2025-0005
<b>PARCEL NO.</b>	15-14-430-008
<b>ZONING</b>	R-3 One Family Residential District
<b>STAFF</b>	Chris McLeod, Planning Manager

#### Requested Variance

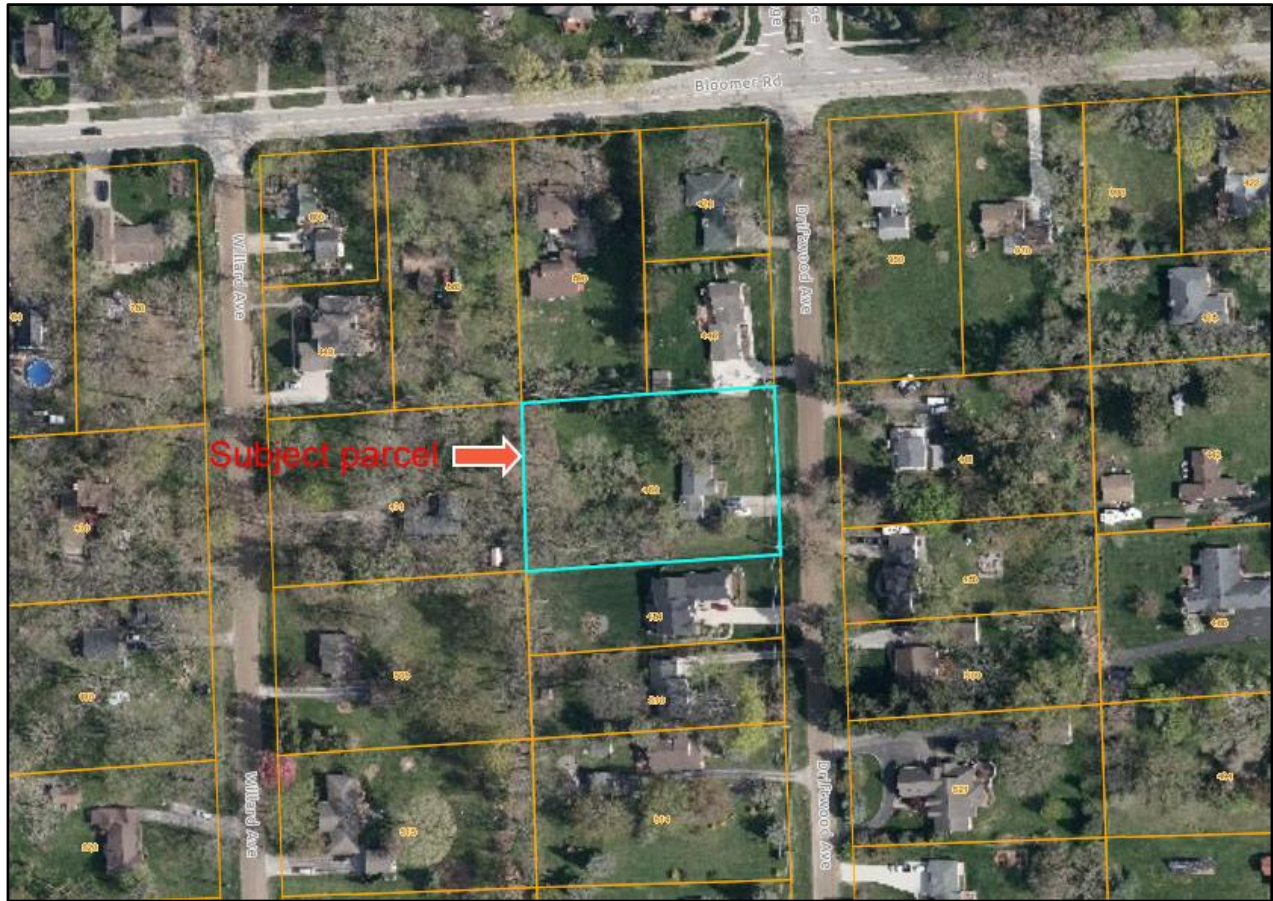
The applicant is requesting a variance from *Sec. 138-5.100 Schedule of Regulations*, which requires a minimum lot width of 90 feet in the R-3 One Family Residential zoning district. The proposed variance, if granted, would allow for the division of the existing parcel into two separate parcels, each with a width of 80 feet.

The subject site is located on the west side of Driftwood Ave., south of Bloomer Rd., west of John R. Rd. 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
<b>Subject Site</b>	<b>R-3 One Family Residential</b>	<b>Residential Home</b>	<b>Residential 4</b>
North	R-3 One Family Residential	Single Family Homes	Residential 4
South	R-3 One Family Residential	Single Family Homes	Residential 4
East (across Driftwood)	R-3 One Family Residential	Single Family Homes	Residential 4
West	R-3 One Family Residential	Single Family Homes	Residential 4

## Site Photograph

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## Application

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The subject parcel is located on the west side of Driftwood Ave., south of Bloomer Road, west of John R. Road. The parcel is currently zoned R-3 One Family Residential District. The R-3 One Family Residential District requires a minimum lot width of 90 feet and a minimum lot area of 12,000 square feet. The subject parcel is a standalone property along with the remaining properties on Driftwood, the subject property is a part of the Eysters Bloomer Park Subdivision.

As noted, the applicant has requested a variance, which if granted, would allow for two parcels to be created from an existing single parcel, each having a lot width of approximately 80 feet, 10 feet less than required by Ordinance. The proposed parcels would both front on Driftwood Ave. The existing parcel, 466 Driftwood, has a width of approximately 160 feet and a depth of approximately 242 feet.

The request is a result of land division application that was previously processed and was denied, due to the resulting parcels not having sufficient width based on the City's requirements, and some additional items including the required demolition of the existing home and utility requirements. The existing parcel currently has a residence centrally located on the parcel. Based on Assessing records, the residence is approximately 1,382 square feet and was constructed in 1948. If the variance is granted, the existing house must be demolished and other city requirements must be met before the lot split is finalized, to allow for each of the resultant parcels to be buildable.

## Ordinance

### SECTION 138-5.100 - Schedule of Regulations

Table 6. Schedule of Regulations - RESIDENTIAL DISTRICTS

District	Minimum Lot		Maximum Building Height <sup>A</sup>		Minimum Yard Setback (feet)				Min.	Max. Lot Coverage (all buildings)
	Area (sq. ft.)	Width (ft.)	Stories	Feet	Front	Side (each)	Side (total)	Rear	Floor Area (sq. ft.)	
RE	43,560	120	2	35	40 <sup>B</sup>	15 <sup>C, D</sup>	30 <sup>D</sup>	35 <sup>D</sup>	1,500	25%
R-1	20,000	100	2	35	40 <sup>B</sup>	15 <sup>C, D</sup>	30 <sup>D</sup>	35 <sup>D</sup>	1,500	25%
R-2	15,000	100	2	35	40 <sup>B</sup>	15 <sup>C, D</sup>	30 <sup>D</sup>	35 <sup>D</sup>	1,400	25%
R-3	12,000	90	2	30 <sup>P</sup>	30 <sup>B</sup>	10 <sup>C, D</sup>	20 <sup>D</sup>	35 <sup>D</sup>	1,200	30%
R-4	9,600 <sup>R</sup>	80 <sup>R</sup>	2	30 <sup>P</sup>	25 <sup>Bj</sup>	10 <sup>C, D</sup>	20 <sup>D</sup>	35 <sup>D</sup>	912	30%
R-5	See <a href="#">Article 6</a> , Chapter 7 for one-family flex residential district regulations									
RM-1	See <a href="#">Article 6</a> , Chapter 1 for multiple family district regulations									
RCD	See <a href="#">Article 6</a> , Chapter 2 for one-family residential cluster district regulations									
RMH	See <a href="#">Article 6</a> , Chapter 4 for manufactured housing park district regulations									
MR	See <a href="#">Article 6</a> , Chapter 5 for mixed residential (overlay) district regulations									

## 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 full 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.* The applicant notes that the resulting lot size for each parcel would be in excess of the lot area required in the R-3 One Family Residential District. Staff notes that the current property has an existing residence on the property, and it would appear that this residence can be expanded or rebuilt if a more modern home which meets today's standards was more desirable. Therefore, given there is an existing residence on the lot that can likely be expanded or rebuilt if desired, the lot appears to be usable in its current configuration.
2. *A granting 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 applicant has indicated that the proposed variance would allow for lots that exceed minimum required area (over 19,000 square feet versus 12,000 square feet required) which will be capable of accommodating compliant setbacks, lot coverage and other dimensional requirements. The applicant further indicates that the proposed lots will maintain the character and density of the neighborhood and indicates that several lots have similar or narrower width. In a review of the nearby lots, it does appear that the lots immediately to the south are 80 feet in width. However, the remainder of lots along Driftwood, with the exception of one (1) additional lot, located south of Gallaland, appear to be in excess of 90 feet in width (compliant with Ordinance minimums for lot width).

3. *The plight of the applicant is due to the unique circumstances of the property.* The applicant notes that the variance results from the unusually wide frontage dimension of the lot as compared to the surrounding neighborhood. The applicant indicates that while the proposed lot width is less than that required by Ordinances, the overall lot area will exceed Ordinance minimums and ensure lots that are generously sized, thereby still meeting the intent of the Zoning Ordinance. Staff notes that the lot currently has an existing residence and is generally similar to other lots in the immediate area. The lots sizes in this area range from 80 feet width, immediately to the south, to approximately 160 feet in width, similar to the subject lot size. Therefore, it does not appear that the property is unique as it relates to the immediate area and likely other similarly zoned areas of the City.
4. *The problem is not self-created.* The applicant indicates that the current lot dimensions were established long before the applicant's involvement and the lot dimensions were a result of historical planning. In reviewing the lot sizes along Driftwood in this block, there are at least four (4) additional lots that have similar frontages (160 feet). There are also a number of lots that have 120-130 feet in width. All of these lots are in excess of the Zoning Ordinance minimum width standards. The lot as it is situated today has a residence currently on the lot and that residence could likely be rebuilt or expanded upon if a more modernized home, meeting today's standards was more desirable. Further, the applicant purchased the property in October of 2024, at which time the current ordinance requirements were in effect. Therefore, the request for an additional lot, via a lot split is being "created".
5. *The spirit of this ordinance will be observed, public safety and welfare secured, and substantial justice done.* The applicant indicates that the proposed variance, which would allow the land division application to be reconsidered, would preserve the low density residential character of the neighborhood, maintains consistency with the surrounding home sizes and spacing, does not create additional traffic, noise, or infrastructure strain since only one additional home would be permitted. Further the applicant indicates that the request is consistent with the intent of the Zoning Ordinance, ensures orderly development, adequate spacing, and preserving neighborhood character. As noted previously, this specific area of the City includes a variety of lot sizes, ranging from 80 foot wide lots to lots of approximately 160 feet in width. The majority of lots in this particularly area of the City are at least 90 feet in width (consistent with the Zoning Ordinance requirements), if not greater. Given the larger lots sizes, including those in excess of the Zoning Ordinance minimums, the character of the area appears to be more consistent with the lot as it exists today.

## Appeal

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In addition to the requested dimensional variance, pursuant to Section 138-2.400 of the City's Zoning Ordinance that addresses the Zoning Board of Appeals authority to consider "appeals", the applicant is also asking to appeal the denial of their land division application. Land division applications are reviewed pursuant to the City's Land Division Ordinance, Chapter 122 – Land Division, specifically, Article II Division or Partition of Land, Section 122-30 Approval Procedure. This section of the City's ordinance is a regulatory ordinance, outside of the City's Zoning Ordinance. Therefore, it is required to prescribe its own approval, denial and appeals processes. The applicable appeals process is noted below:

- (d) *Appeal and review.* If it is determined by one or more of the reviewing departments the division or partition of the resulting parcels would not be in accordance with the findings for approval set forth in subsection (d)(3) of this section, the reviewing departments shall set forth, in writing, the findings reached that resulted in disapproval of the application. If the application is denied, the applicant may appeal the decision to the planning commission for recommendation to the city council for review and final decision. If any of the resulting parcels do not abut a public road or a private road constructed and approved in accordance with this article, the matter must be referred to the city council for approval.
  - (1) *Final decision.* The city shall have the final decision as to any division or partition which is referred to it.

- (2) *Planning commission review.* All matters referred to the city council for final decision under this article shall first be referred to the planning commission for review and recommendation before final decision. The planning commission shall refer to the standards outlined in subsection (d)(3) below in their review and recommendation.
  - a. *Public hearing.* The planning commission shall hold a public hearing before making its recommendation to the city council.
  - b. *Notice of hearing.* Notice of the public hearing shall be published in the city's official newspaper one time only, at least five days before the hearing and notice shall be sent by regular mail at least ten days before the hearing to all property owners owning property within 300 feet of any lands involved in the application for a division or partition.
- (3) *Findings for approval.* The city council shall find in each case, before giving its approval:
  - a. The division or partition will result in lots or parcels of land having a size and shape consistent and harmonious with that of other parcels in the immediate area.
  - b. There has been compliance with the requirements of this article and the other applicable provisions, standards, rules and regulations of this Code.
  - c. The provisions for any private road shall be in compliance with [section 122-31](#) and shall not be injurious to the public health, safety and welfare and shall be generally compatible with the surrounding land use and development.
  - d. The division or partition and the ability to develop buildable sites on resultant parcels will not unreasonably disturb wetlands, floodplains, or other natural features of the land or that any disturbance to these areas is permitted pursuant to a wetland and/or floodplain permit issued by the city.
  - e. The nature and location of vehicular ingress and egress will not unreasonably interfere with or hinder appropriate development and use of adjacent land or unreasonably impair the value thereof or cause a nuisance thereto.
  - f. The location, size, and layout of resultant parcels will not be unreasonably detrimental to nearby residences because of noise, fumes, lights, or other nuisances nor will it interfere with any adequate supply of light and air or otherwise endanger public health, welfare, and safety.
  - g. Adequate access to roads and utilities is provided for each resultant parcel which is otherwise a buildable site.

Therefore, it is Staff's opinion given the construction methodology of the Zoning Ordinance and the language contained within the City's Land Division Ordinance, Chapter 122, which is a regulatory ordinance, the Zoning Board of Appeals cannot specifically rule on appeals relative to the City's Land Division Ordinance, particularly since the denial was on the application not meeting a dimensional requirement of the Zoning Ordinance and therefore the appeal should be denied and the Zoning Board of Appeals can focus on the dimensional variance request of the applicant.

## **Motion to Deny the Appeal Request**

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MOTION by \_\_\_\_\_, seconded by \_\_\_\_\_, in the matter of File No. PVAI2025-0005, to deny the appeal requested by the applicant for denial of their land division application, due to the fact that the Zoning Board of Appeals does not have the authority to hear and opine on appeals of applications for land divisions as specifically outlined within the City's Land Division Ordinance.

## Sample Motions – Variance Request

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### ***Motion to Approve***

**MOTION** by \_\_\_\_\_, seconded by \_\_\_\_\_, in the matter of File No. PVAI2025-0005, that the request for a variance from Section 138-5.100 *Schedule of Regulations* which requires the parcels to have a minimum lot width of 90 feet in the R-3 One Family Residential Zoning District, Parcel Identification Number 15-14-430-008, be **APPROVED** to allow for the proposed parcels to have a lot width of 80 feet, 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 for all future uses with respect to the lot widths for which this variance is granted. This motion is based on the following findings and conditions:

### **Findings**

1. Compliance with the strict letter of the Zoning Ordinance would prohibit the reasonable use of the property and will be unnecessarily burdensome. It is not reasonable for the undivided parcel to continue to be occupied by one home.
2. Granting the variance will preserve a substantial property right for the applicant and thus substantial justice shall be done.
3. A lesser variance will not provide substantial relief, and would not be more consistent with justice to other property owners in the area since a lesser variance would not allow the two (2) resultant lots to be created which are otherwise in compliance or in excess of Zoning Ordinance standards.
4. There are unique circumstances of the property that necessitate granting the variance as described in the above criterion, specifically that the proposed lot widths are consistent with the existing lots immediately to the south, the resultant lot areas would be significantly larger than required by ordinance and that the existing lot is excessively wide and deep for a lot within the R-3 One Family Residential District.
5. The granting of this variance would not be materially detrimental to the public welfare or existing or future neighboring uses since the resulting lots, while less than the minimum lot width for the R-3 One Family Residential District, are larger in overall area and otherwise meet all other setbacks.
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.
7. ***(Insert additional rationale as to why variance should be granted)***

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

**MOTION** by \_\_\_\_\_, seconded by \_\_\_\_\_, in the matter of File No. PVAI2025-0005, that the request for a variance from Section 138-5.100 *Schedule of Regulations* which requires the parcels to have a minimum lot width of 90 feet in the R-3 One Family Residential Zoning District, Parcel Identification Number 15-28-226-009, 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 utilizing the existing parcel for residential purposes in a manner that complies with the requirements of the Zoning Ordinance as demonstrated by the fact that there is an existing residential structure on the parcel and therefore no practical difficulty has been demonstrated for this property.
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 as there are other properties in close proximity, and probably at other locations throughout the City, that are similar in size to the subject parcel.

3. There are no unique circumstances of the property that have been identified by the applicant that necessitate granting the variance. The property size and configuration has not been modified from its original configuration and there are other properties proximate to the subject site and throughout the City that have similar lot widths and the City does not desire to perpetuate the number of lots within the City that do not comply with minimum lot width standards. Further, the City has established the minimum lot width standards for residential zoning districts to ensure that there is not an over-densification of the City and as a means 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.