



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

March 4, 2026

PVAI2026-0003
1300 N. Livernois – Variance for Minimum Lot Size

REQUEST	The applicant is requesting a variance from <i>Sec. 138-5.100 Schedule of Regulations</i> , which requires a minimum lot area of 43,560 square feet in the RE One Family Residential zoning district. The proposed variance, if granted, would allow for a portion of the subject parcel to be divided (subject to further administrative review) and added to the adjoining parcel to the north (1420 N. Livernois), resulting in the subject parcel having a lot area of 0.8 acres or 34,848 square feet, approximately 8,700 square feet less than required by Ordinance. No new parcel would be created as a result of the variance, if granted.
APPLICANT	Kristan M. Cheers 1300N. Livernois Rd. Rochester Hills, MI 48306
LOCATION	1300 N. Livernois Rd., located on the east side of Livernois between Tienken and Dutton
FILE NO.	PVAI2026-0003
PARCEL NO.	15-03-351-006
ZONING	RE One Family Residential.
STAFF	Chris McLeod, Planning Manager

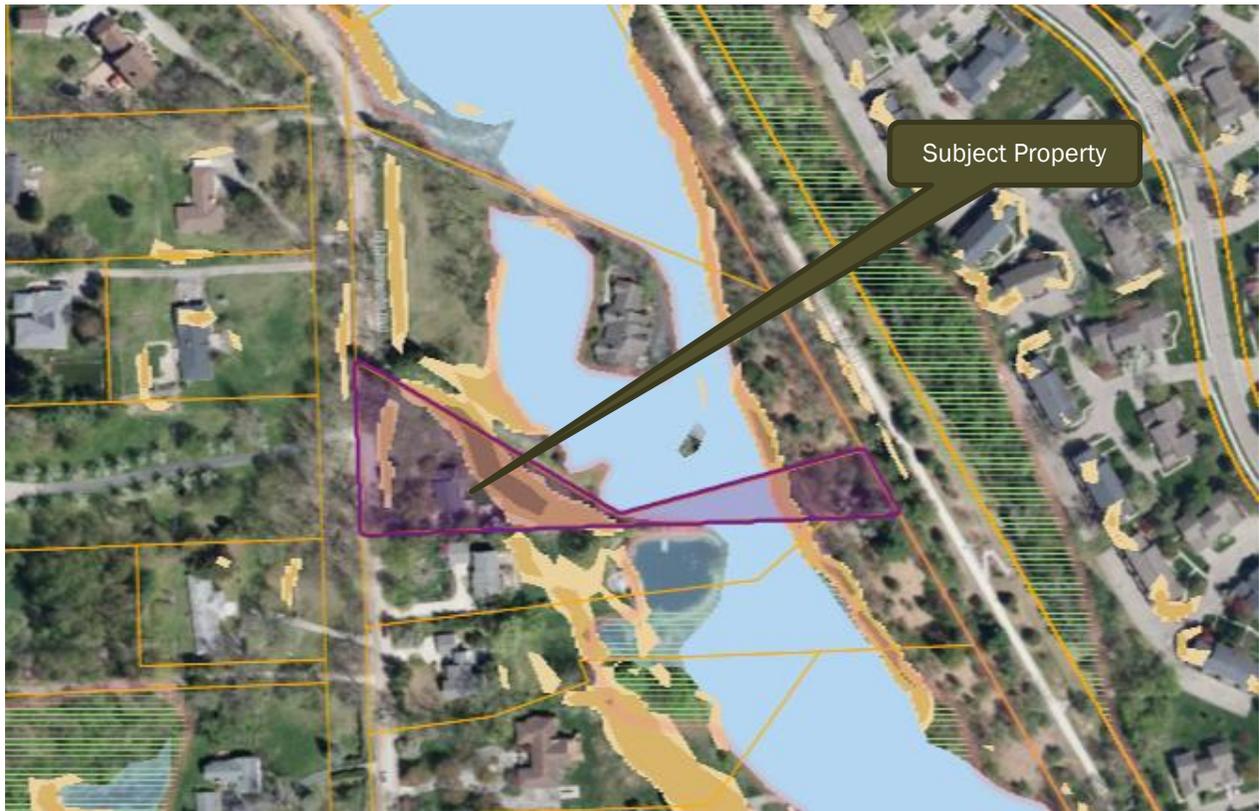
Requested Variance

The applicant is requesting a variance from *Sec. 138-5.100 Schedule of Regulations*, which requires a minimum lot area of 43,560 square feet in the RE One Family Residential zoning district. The proposed variance, if granted, would allow for a portion of the subject parcel to be divided (subject to further administrative review) and added to the adjoining parcel to the north (1420 N. Livernois), resulting in the subject parcel having a lot area of 0.8 acres or 34,848 square feet, approximately 8,700 square feet less than required by Ordinance. No new parcel would be created as a result of the variance, if granted.

The subject site is located on the east side of Livernois between Tienken and Dutton. 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
Subject Site	RE Residential Estate	Residential Home	Open Space Residential
North	RE One Family Residential	Single Family Homes	Open Space Residential
South	RE One Family Residential	Single Family Homes	Open Space Residential
East	RM-1 Multiple Family Residential	Multiple Family Homes (Kings Cove)	Multiple Family Residential
West (across Livernois)	RE One Family Residential	Single Family Homes	Open Space Residential

Site Photograph

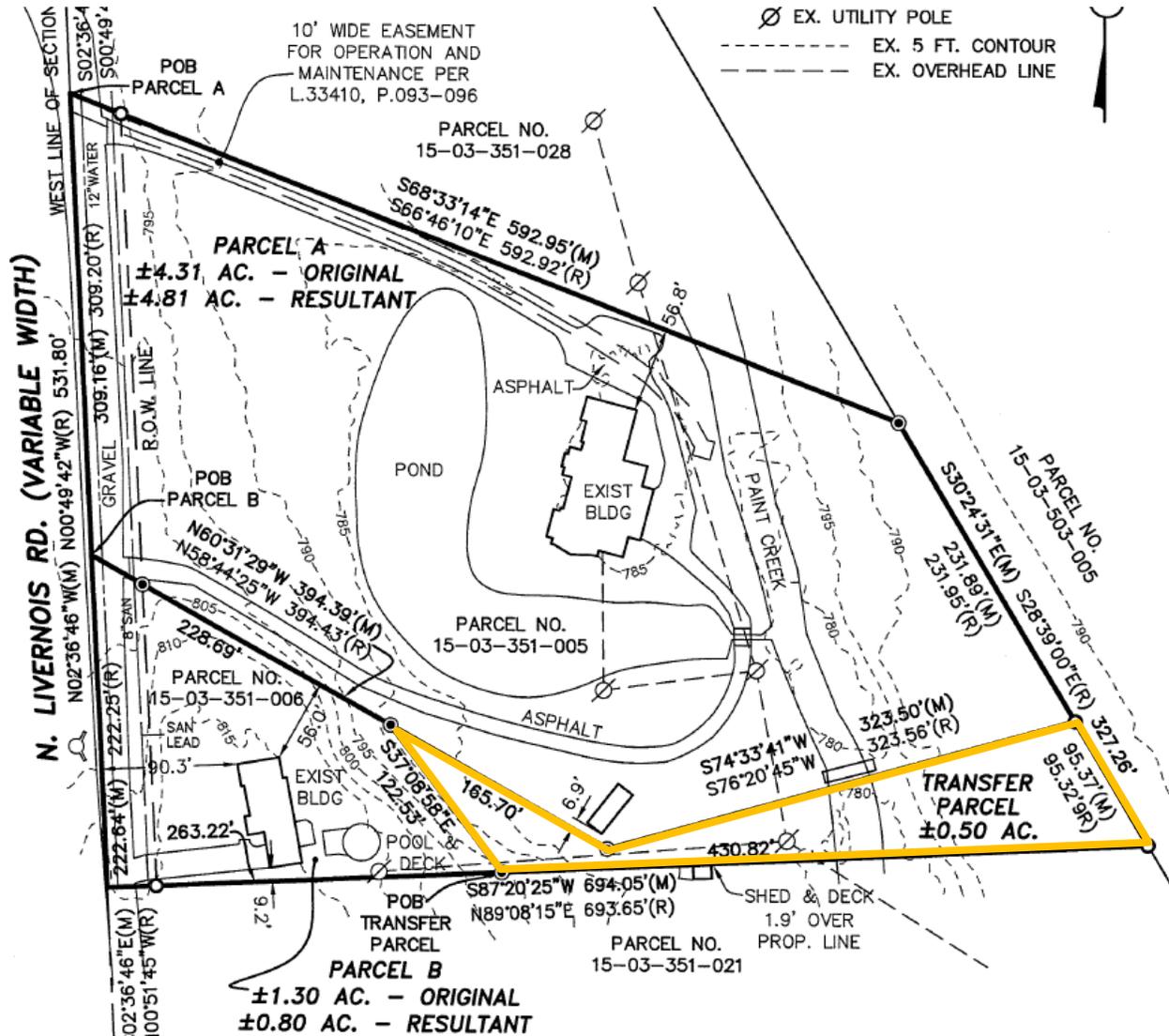


Application

As noted, the applicant has requested a variance, which if granted, would allow for a reduction in the required minimum lot size and therefore a continuation of an administrative land division. The property is zoned RE One Family Residential, which requires a minimum lot size of 1 acre or 43,560 square feet. The variance, if granted, would allow for a resultant lot size of approximately 0.8 acres, which is a reduction of approximately 0.2 acres. The land division application that has been applied for and is currently under administrative review, would split the rear portion of the property from 1300 N. Livernois and combine it with the property located directly to the north, 1420 N. Livernois. No new lot would be created as a result of these actions.

The existing parcel, 1300 N. Livernois, is a unique shaped parcel that appears to be heavily encumbered by wetlands, floodplains and steep slopes as shown on the snapshot of the City's GIS mapping above. The existing residence on the site sits close to N. Livernois. This is the "upland" portion of the site. To the rear of the residence, as shown on the map and in the pictures provided by the applicant, there exists a significant slope that actually is depicted as a steep slope on the City's mapping system. This portion of the lot also leads a "pinch point" in the lot where the lot itself becomes very narrow: based on the GIS mapping system the lot is approximately 10 feet in width at that point. Further east of this pinch point, the lot becomes wider, however, it is also likely encumbered by wetland and floodplain based on the City's generalized mapping (it should be noted that neither an official wetland delineation or floodplain elevation were provided with the submission). The eastern portion of the site is also traversed by the Paint Creek.

The Planning Department, along with the Assessing Department, researched the history of the parcel to try to determine when the parcel was created and to also determine any purpose for the unique shapes of not only this parcel but also several others in the immediate area. Based on an Assessing Department search, it could not be readily determined when the parcels were created and therefore no meaningful assessment of their configuration could be determined. However, due to the age of the home as well as the home to the north at 1420 N. Livernois, Assessing approximates that the lots likely predate the 1950's.



Ordinance

SECTION 138-5.100 - Schedule of Regulations

Table 6. Schedule of Regulations - RESIDENTIAL DISTRICTS

District	Minimum Lot		Maximum Building Height ^A		Minimum Yard Setback (feet)				Min. Floor Area (sq. ft.)	Max. Lot Coverage (all buildings)
	Area (sq. ft.)	Width (ft.)	Stories	Feet	Front	Side (each)	Side (total)	Rear		
RE	43,560	120	2	35	40 ^B	15 ^{C, D}	30 ^D	35 ^D	1,500	25%
R-1	20,000	100	2	35	40 ^B	15 ^{C, D}	30 ^D	35 ^D	1,500	25%
R-2	15,000	100	2	35	40 ^B	15 ^{C, D}	30 ^D	35 ^D	1,400	25%
R-3	12,000	90	2	30 ^P	30 ^B	10 ^{C, D}	20 ^D	35 ^D	1,200	30%
R-4	9,600 ^R	80 ^R	2	30 ^P	25 ^{B1}	10 ^{C, D}	20 ^D	35 ^D	912	30%
R-5	See Article 6, Chapter 7 for one-family flex residential district regulations									
RM-1	See Article 6, Chapter 1 for multiple family district regulations									
RCD	See Article 6, Chapter 2 for one-family residential cluster district regulations									
RMH	See Article 6, Chapter 4 for manufactured housing park district regulations									
MR	See Article 6, Chapter 5 for mixed residential (overlay) district regulations									

As noted, the subject site is zoned RE One Family Residential Zoning District. As noted above, the minimum lot size is 43,560 square feet or 1 acre.

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 has indicated that the variance request is based on a practical difficulty arising from the unique physical characteristics of the land, specifically the irregular shape of the parcel and the significant change in topography. Based on the applicant’s submittal letter, the topographic change is approximately 40 feet and this is generally supported by the City’s Steep Slope data for this property. The applicant also indicates that due to the unique configuration of the property and the topographical changes, there is a natural and functional separation between the two portions of the property. Further, the applicant indicates that the portion of the parcel intended to be split off is at the same elevation as and is accessible by the property to the north. In discussing this issue with the applicant, access and maintenance of the back (eastern) portion of the property is nearly impossible without going onto one of the neighbor’s properties to gain access to the lower portion of their own property.

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 indicates that the proposed variance would allow the applicant to make reasonable use of their property that is uniquely affected by significant natural, topographical conditions and that due to the significant elevation changes in this singular property, it is not comparable to a typical one acre RE parcel. Further, the applicant indicates that there are other properties in the area that are not one (1) acre in size. Finally, the applicant has noted that this is the least relief necessary and that other options have been explored, but that due to the slope and elevation change anything less would deprive reasonable use.
3. *The plight of the applicant is due to the unique circumstances of the property.* The applicant has indicated that the unique characteristic of the subject property is the 40 feet difference in elevation and that the steep slope creates a physical separation that is not typical for other properties.
4. *The problem is not self-created.* The applicant has indicated that the house was constructed in 1940 and the issue was not created by the actions of the applicant. The applicant includes that the practical difficulty is not self-created and results from the natural topography.
5. *The spirit of this ordinance will be observed, public safety and welfare secured, and substantial justice done.* The applicant has indicated that the requested variance will not be materially detrimental to the public welfare since no additional lots are being created as a result of the variance request and that the resultant lot is similar to some of the existing lots in the area. Further, that the requested variance will not adversely affect traffic, drainage utilities, emergency access or other public services.

Sample Motions – Variance Request

Motion to Approve

MOTION by _____, seconded by _____, in the matter of File No. PVAI2026-0003, that the request for a variance of approximately 0.2 acres from *Sec. 138-5-100 Schedule of Regulations*, which requires a minimum lot size of 1 acre or 43,560 square feet in the RE One Family Residential zoning district, 1300 N. Livernois and Parcel Identification Number 15-03-351-006, be **APPROVED** to allow for the reduced lot size and allow the continued review of the proposed lot split, 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 area for which this variance is granted.

1. Compliance with the strict letter of the Zoning Ordinance would prohibit the reasonable use of the entire property and without the variance would be unnecessarily burdensome on the applicant to maintain and access the majority of the rear portion of the property.
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.
4. There are unique circumstances of the property that necessitate granting the variance as described in the above criterion, specifically that the property includes significant steep slopes, potential wetlands and potential floodplains as shown on the City's GIS mapping; the physical shape and layout of the property along with the significant natural features essentially prohibits access to the rear portion of the property for maintenance without entering a neighbor's property; that due to the extensive natural features on the property, issues regarding drainage and trespass onto the property to the north cannot be addressed appropriately and the proposed lot split would help alleviate those issues.
5. The granting of this variance would not be materially detrimental to the public welfare or existing or future neighboring uses. The neighbor to the north is supportive of the variance request.

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 since there is no new building lot being created and that the rear of the lot is essentially not accessible or maintainable in the current configuration.
7. **(Insert additional rationale as to why variance should be granted)**

Motion to Deny

MOTION by _____, seconded by _____, in the matter of File No. PVAI2026-0003, that the request for a variance of approximately 0.2 acres from *Sec. 138-5-100 Schedule of Regulations*, which requires a minimum lot size of 1 acre or 43,560 square feet in the RE One Family Residential zoning district, 1300 N. Livernois and Parcel Identification Number 15-03-351-006, 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 their property in its current configuration since a residence has been constructed on the site and there are upland areas of the site that can be used for such purposes and that the lot in its current configuration, while unique and not ideal, complies with the requirements of the Zoning Ordinance and therefore no practical difficulty has been demonstrated for this property. Further, this condition was present when the current owner purchased the 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. There are other residential lots nearby that also have unique lot configurations, wetlands, flood plains and steep slopes and that have lot sizes that otherwise comply with City Ordinances.
3. There are no unique circumstances of the property that have been identified by the applicant that necessitate granting the variance at this time since the necessity of the variance is a result of the request for a lot split and that both properties already have a residential home constructed upon them. Further, the City does have additional lots in this specific area, although the number of such lots appears to be somewhat limited, and others in the City that are uniquely configured and contain extensive natural features that impacts them.
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.