



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

August 6, 2025

PVAI2025-0007

**1141 Cripple Creek Ln. – Side Setback Variance for Attached
Garage Addition to the Home**

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|-------------------|---|
| REQUEST | The applicant is requesting a variance from <i>Sec. 138-5.100 Schedule of Regulations</i> , which notes that the required side setback for a principal structure in the RE One Family Zoning District is 15 feet. The proposed variance, if granted, would allow for an encroachment of 5.2 feet into the required side setback (west side of property) for the construction of an attached garage to the existing residence. |
| APPLICANT | Greg Doyle 1141 Cripple Creek Ln. Rochester Hills, MI 48306 |
| LOCATION | 1141 Cripple Creek Ln., located west of N. Livernois between Tienken and Dutton Rd. |
| FILE NO. | PVAI2025-0007 |
| PARCEL NO. | 15-04-252-002 |
| ZONING | RE Residential Estate |
| STAFF | Chris McLeod, Planning Manager |

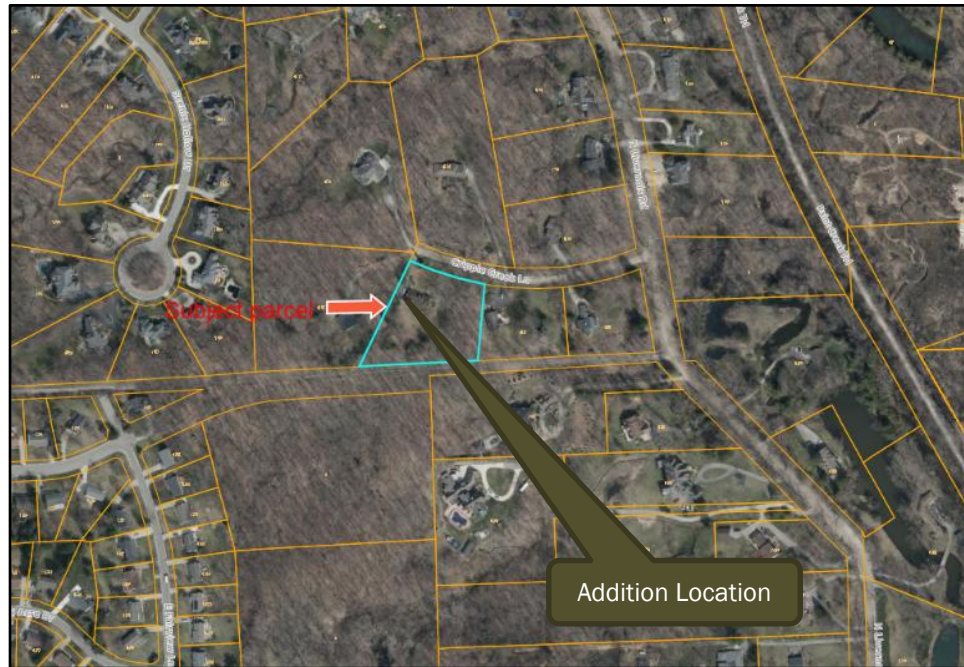
Requested Variance

The applicant is requesting a 5.2-foot variance from *Sec. 138-5.100 Schedule of Regulations*, which requires the proposed attached garage to the existing home, meet a minimum 15-foot side yard setback, with a combined total side yard setback of 30 feet (for both sides combined). The side yard setbacks are proposed 9.8 feet (requiring the variance) and existing 142 feet on the east side.

The subject site is located west of N. Livernois between Tienken and Dutton 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 |
|------------------------|---|---|---|
| Subject Site | RE Residential Estate | Residential Home | Estate Residential |
| North | RE Residential Estate | Single Family Homes | Estate Residential |
| South | RE Residential Estate and R-1 One Family Residential | Single Family Homes and subdivision open space | Estate Residential and Private Recreation/Open Space |
| East (across Harrison) | RE Residential Estate | Single Family Homes | Estate Residential |
| West | RE Residential Estate | Single Family Homes | Estate Residential |

Site Photograph



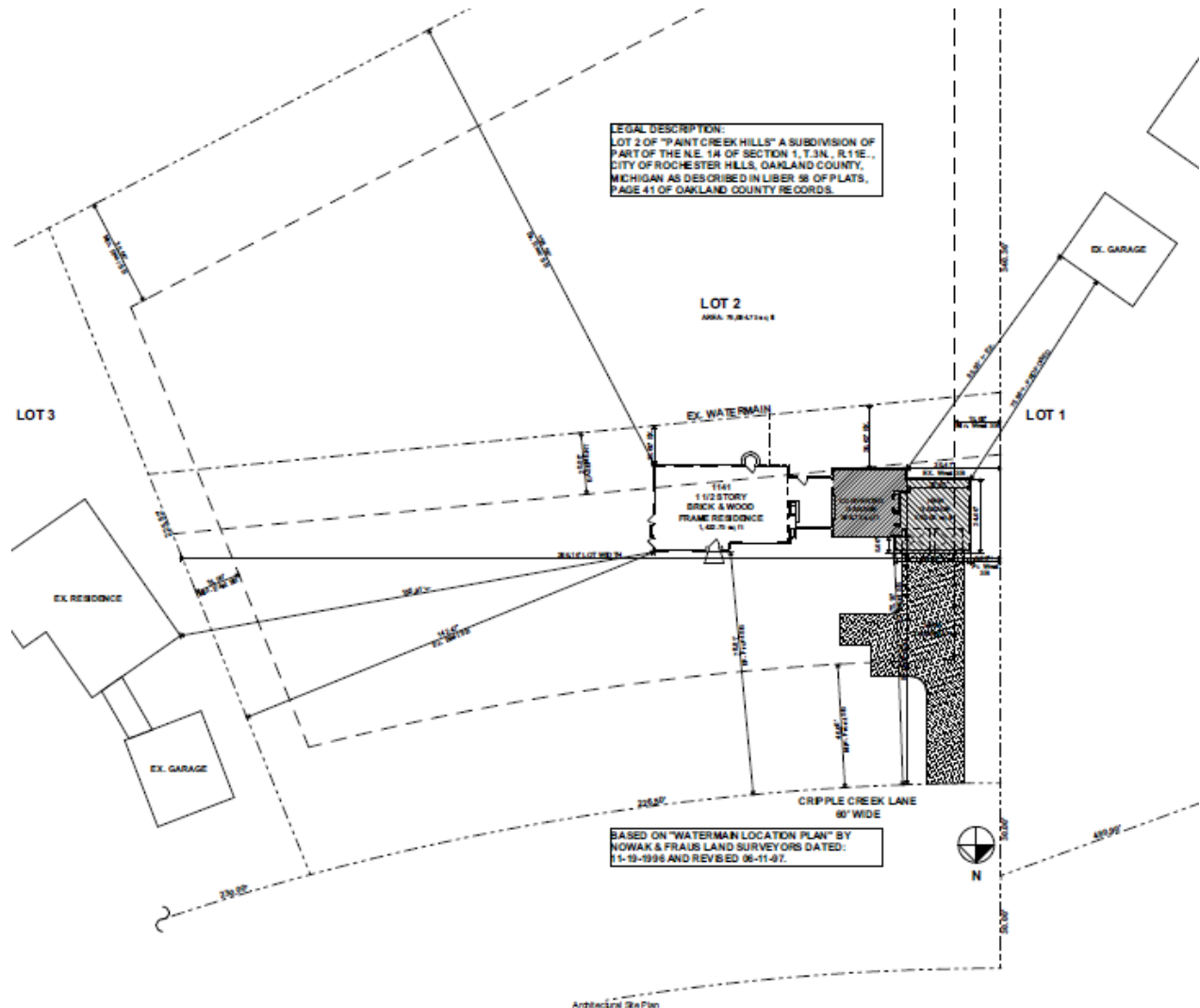
Application

As noted, the applicant has requested a variance, which if granted, would allow for an attached garage to be located in the westerly side setback. The garage addition is proposed to be approximately 24.67 ft. in width and approximately 24 ft. in depth, totaling approximately 545 square feet and will essentially be a two-story addition (although the second floor will only be attic space above the garage as noted on the submitted floor plans). The existing garage for the residence will be converted to living space and the new garage will extend to the west an additional 20 plus feet. This will allow the proposed garage to generally align with the existing driveway.

The overall parcel is approximately 1.77 acres in size. The existing residence is approximately 2,031 square feet in area based on City Assessing records. The existing residence has a front yard setback of 78.81 feet and a side yard setback (west side) of 30.47 feet. Both of these setbacks far exceed the required setbacks of 40 feet and 15 feet respectively.

The property is encumbered by a watermain and a significant watermain easement that traverses the property in an east/west direction. The easement is 20 feet on each side of the actual watermain and actually traverses through a portion of the existing residence. The proposed addition is shown as abutting up against the outer edge of the easement. If approved and constructed, it will need to be ensured that the proposed addition will be constructed completely outside of the easement.

The property to the west of the subject site is another residential property. The existing residence and detached garage are generally shown on the site plan submitted as a part of this application. The neighbor's existing detached garage will be the most impacted by the proposed addition. The existing residence on the subject property is approximately 85 feet from the neighbor's garage. If the addition is constructed as proposed, the addition will be nearly 76 feet from the garage. The neighboring residence is further to the west, beyond the garage noted above and is in part shielded by the garage and the existing wooded area that exists amongst the two abutting parcels (as shown within the photos provided by the applicant). Also, the neighbor to the west is currently constructing a new home on the property, that is even further west of the subject property, increasing the separation. The existing garage on the western adjacent parcel is noted as staying on the plot plan provided to the City.





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 ^{BJ} | 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 Residential Estate. As noted above, side yard setbacks in the RE Residential Estate District are required to be a minimum of ten (15) feet, and a total of thirty (30) feet (total of both sides). The footnotes noted are for corner lots (c) and for reduced side yards if the existing lot is less than sixty (60) feet in width (d), neither of which are applicable in this case.

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 presence of the watermain and watermain easement along the rear portion of the existing residence (part of which actually extends into the easement) renders a large portion of the site as unusable with the current residence's configuration onsite. The applicant also indicates that the proposed addition overlaps with the existing footprint and floorplan that will minimize the overall need for extending further to the west. Finally, the applicant further indicated that if the addition was constructed to the south end of the residence, it would be impractical due to the presence of the bedrooms, the alignment of the driveway and the location of a prominent tree onsite and that a connection to the more "public" portions of the residence would be more practical.
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 notes that the variance would allow them to utilize their property for a logical extension of the house. The variance would provide a measure of relief on the parcel that approximately one half of which is not usable for expanding the current residence based on where it is situated on the property. The applicant also indicates that when they purchased the property, they were unaware of the easement as the title company did not locate such easement.
3. *The plight of the applicant is due to the unique circumstances of the property.* The applicant notes that there were a total of three (3) water mains (and associated easements) that came from the City of Rochester Water Works wells. Over time, two (2) of those mains (and associated easements) were moved off of private property. The watermain and associated easement on the subject property was not moved after the request to move it was denied. While having water lines and easements on a property within the City is not unique, have an easement of this size and location (through the middle of a property) is somewhat unique.
4. *The problem is not self-created.* The applicant indicates that they were unaware of the watermain and easement when they purchased the home in 1989 and that the title company did not pick up the easement. The applicant further indicates it wasn't until they were provided original plans for the house from 1955 that they realized the presence of the easement.
5. *The spirit of this ordinance will be observed, public safety and welfare secured, and substantial justice done.* The applicant indicates that the lots in this area are large, wooded and have undulating terrain and that the houses are well separated from one another and private. The applicant further indicates the residence to the west, that would be most impacted, is 85 feet away and is currently in the process of constructing a new home that will be even further west, increasing the separation. It is also noted that the abutting neighbor has provided a correspondence regarding the requested variance and has no objections to the request as presented.

Sample Motions – Variance Request

Motion to Approve

MOTION by _____, seconded by _____, in the matter of File No. PVAI2025-007, that the request for a variance of 5.2 feet from Sec. 138-5-100 *Schedule of Regulations*, which requires a side setback of 15 ft. in the RE Residential Estate zoning district, Parcel Identification Number 15-04-252-002, be **APPROVED** to allow for the proposed attached garage addition to be constructed at a westerly side setback of 9.8 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 setbacks for which this variance is granted.

1. Compliance with the strict letter of the Zoning Ordinance would prohibit the reasonable use of the property and will be unnecessarily burdensome.
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 is encumbered by a significant watermain and watermain easement, that traverses the site, west to east and limits the location(s) in which the existing residence can be modified/expanded.
5. The granting of this variance would not be materially detrimental to the public welfare or existing or future neighboring uses.
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. PVAI2025-0007, that the request for a variance from Section 138-5.100 *Schedule of Regulations* which requires the proposed attached garage addition to meet a 15 ft. southerly side setback in the RE Residential Estate zoning district, Parcel Identification Number 15-04-252-002, 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 15 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. An additional alternative would be to expand the residence to the north, towards the road to provide the additional buildable area to construct the proposed garage.
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. The property itself is approximately 1.77 acres in size and has adequate area for additional construction outside of the watermain easement area. In addition, the existing structure is already approximately 2,000 square feet in area based on City Assessing records and therefore exceeds the minimum square footage for a residence as required by Ordinance. The denial of the variance does not prohibit the applicant from having a residence that complies with minimum city requirements. Finally, 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.