



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

August 6, 2025

PVAI2025-0006

31 Childress Ave. – Front Setback variance for the construction of a new home

REQUEST	The applicant is requesting a variance from <i>Sec. 138-5.100 Schedule of Regulations</i> , which notes that the required front setback for a principal structure in the R-4 One Family Residential Zoning District is 25 feet. The proposed variance, if granted, would allow for the house to be constructed at a front setback of 20.43 ft., as shown on the submitted site plan.
APPLICANT	Ian McKinzie 904 Little Hill Ct. Rochester Hills, MI 48307
LOCATION	31 Childress Ave., located west of Rochester Rd. and north of Avon Rd.
FILE NO.	PVAI2025-0006
PARCEL NO.	15-15-428-028
ZONING	R-4 One Family Residential District
STAFF	Chris McLeod, Planning Manager

Requested Variance

The required front yard setback for the R-4 One Family Residential zoning district is 25 ft. based on *Sec. 138-5.100 Schedule of Regulations*. The applicant is proposing a front yard setback of 20.43 ft. Therefore, as proposed, a variance of 4.57 feet would be required. The applicant is seeking to construct an approximate 2,873 square foot, two story residence on the existing lot.

The subject site is located west of Rochester Rd. and north of Avon Rd., south of the City of Rochester boundary. 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	R-4 One Family Residential	Residential Home	Residential 4
North	R-4 One Family Residential and NB Neighborhood Business	City owned property (Cloverport open space) and Bravo Barber Spa	Residential 4 and Park/Public Open Space
South	R-4 One Family Residential	Single Family Homes	Residential 4
East	R-4 One Family Residential/NB Neighborhood Business	National Auto Glass & Mirror	Residential 4
West	R-4 One Family Residential	Single Family Homes	Residential 4

Site Photograph



Application

As noted, the applicant has requested a variance, which if granted, would allow for the proposed 2,873 square foot residential structure to be constructed approximately 20.43 feet from the front property line. The residence is proposed to be a brick, two story residence, with an overall height of 31'-3" to the top of the tallest ridge. The roof structure is comprised of a series of different rooflines which step down from the highest point, to the outer edges of the structure. The residence will also include an attached garage to be located outside of the westerly side setback.

The plot plan provided shows both the required setback of 25 feet along with the proposed setback of 20.43 feet, prompting the variance request. The majority of the residence, as proposed, will fully respect the required 25-foot front yard setback. The only portion of the residence that will extend forward into the required front yard setback will be the entryway (bedroom on the second floor). The entry way extends from the main front façade by approximately five (5) feet. The width of the entryway is approximately 14 feet. Therefore, the overall square footage of the footprint that encroaches into the required front yard setback is approximately 70 square feet. The entryway is two stories in height, with an overall height of approximately 28 feet.

The lot is approximately 90 feet in depth along the east property line, and 93 feet along the western property line. The lot width is approximately 100 feet. The lot area as shown on the applicant's survey is approximately 8,973 square feet which is less than the lot size required within the R-4 One Family Residential District and therefore is considered to be a nonconforming lot by ordinance. Based on an initial review by the Building Department of the Zoning Board of Appeals materials provided to this point, the remainder of the required setbacks have been met.



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.	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 ^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 R-4 One Family Residential. As noted above, the front yard setback in the R-4 zoning district is required to be a minimum of twenty-five (25) feet. The footnotes noted are for average front setback (b) and industrial reduced front yard setback (J), 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 has indicated that if the required front yard setback is fully applied, the remaining buildable envelope for this lot is only 27 feet deep which severely limits the ability to design a functional, livable home based on today's standards of living. The applicant further indicates that if the reduced building envelope is required, room sizes would need to be decreased or certain design elements eliminated completely. Based on the floor plan provided, this would include the entryway on the first floor and a portion of the bedroom on the second floor, which would then require modifying the layout as currently proposed).
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 substantial justice will be done by allowing for the construction of a home that meets basic functional and spatial needs and will be similar to those in the neighborhood. He further notes that the granting of a variance will allow for a residence that would not negatively impact the value of surrounding homes in the neighborhood.

3. *The plight of the applicant is due to the unique circumstances of the property.* The applicant notes that the property is uniquely shallow compared to standard residential lots in the same zoning district and that shallow depth significantly limits the building envelope. The specific lot geometry, narrower buildable depth, rather than width, is not common to other lots. The applicant also notes that the limitation arises from the lot's shape and not from a desire to overbuild or maximize square footage.
4. *The problem is not self-created.* The applicant notes that the lot is existing along with the city's zoning regulations and that the lot has a limited buildable depth that require variances to build a suitable, code compliant home. It is noted that the minimum home size required by ordinance in the R-4 One Family residential zoning district is 912 square feet. As noted above, the applicant is seeking to construct a residence of slightly more than 2,800 square feet. The residence to the west that was recently constructed (2022 permit) is approximately 3,300 square feet, and the residence one lot further west which was also recently constructed (2023 permit) is approximately 2,700 square feet.
5. *The spirit of this ordinance will be observed, public safety and welfare secured, and substantial justice done.* The applicant indicates that the proposed encroachment is limited to a 5-foot extension in the front center portion of the house and does not encroach upon any critical sightlines, easements or utilities.

Sample Motions – Variance Request

Motion to Approve

MOTION by _____, seconded by _____, in the matter of File No. PVAI2025-006, that the request for a variance of 4.57 feet from Sec. 138-5-100 *Schedule of Regulations*, which requires a front setback of 25 ft. in the R-4 One Family Residential zoning district, Parcel Identification Number 15-15-428-028, be **APPROVED** to allow for the proposed new home to be constructed at a front setback of 20.43 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 depth of the lot being approximately 90 in depth is relatively shallow for a lot within the R-4 One Family Residential District and the lot is considered to be nonconforming based on lot area. Typical lots within the R-4 One Family Residential District are 120 feet in depth. In addition, the road which the parcel fronts is a local roadway with limited travel and there are no homes on the opposite side of the street since the property to the north is City greenspace.
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. PVAI2025-0006, that the request for a variance from Section 138-5.100 *Schedule of Regulations* which requires the new home to meet a 25 ft. front setback in the R-4 One Family Residential zoning district, Parcel Identification Number 15-15-428-028, 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 a single-family residence on the property that would meet all city regulations. The applicant is proposing a residence of over 2,800 square feet and the portion of the proposed residence that encroaches into the required front yard setback is an entry space on the first floor and a part of a bedroom on the second floor. The floor plans could be adjusted to modify the layout to allow the footprint of the residence to comply with setback requirements.
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 a variety of lot sizes and configurations on both Childress and Cloverport that includes lots to the west that are of less width than required by ordinance and lots to the south, that are slightly deeper than the subject lot, but less than Ordinance would normally require and have houses constructed on them that meet zoning requirements. Further, the City has established required setbacks for principle residential structures to ensure that there is adequate separation between the front of residences and the abutting roadway and to ensure adequate 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.