



# Rochester Hills

## Minutes

### Zoning Board of Appeals

1000 Rochester Hills Dr  
Rochester Hills, MI  
48309  
(248) 656-4600  
Home Page:  
[www.rochesterhills.org](http://www.rochesterhills.org)

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

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Wednesday, August 13, 2025

7:00 PM

1000 Rochester Hills Drive

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## CALL TO ORDER

*Vice Chairperson Tischer called the August 13, 2025 Zoning Board of Appeals meeting to order at 7:00 p.m. Michigan Time.*

## ROLL CALL

**Present** 5 - Deborah Brnabic, Jayson Graves, Charles Tischer, Jason Sakis and John Young  
**Excused** 2 - Kenneth Koluch and Marvie Neubauer

## Others Present:

*Chris McLeod, Planning Manager*  
*Jennifer MacDonald, Recording Secretary*

*Chairperson Koluch and Ms. Neubauer provided prior notice that they would be unable to attend and were excused.*

## APPROVAL OF MINUTES

[2025-0339](#) July 9, 2025 Zoning Board of Appeals Minutes

**A motion was made by Brnabic, seconded by Graves, that this matter be Approved. The motion carried by the following vote:**

**Aye** 5 - Brnabic, Graves, Tischer, Sakis and Young  
**Excused** 2 - Koluch and Neubauer

## COMMUNICATIONS

*It was noted that most Board members receive their Planning Magazine by mail.*

## PUBLIC COMMENT

*None.*

## NEW BUSINESS

[2025-0340](#) Public Hearing - File No. PVAI2025-0006

Location: 31 Childress Ave., located west of Rochester Rd. and north of Avon Rd., Parcel 15-15-428-028, zoned R-4 One Family Residential District

The applicant is requesting a variance from *Sec. 138-5.100 Schedule of Regulations*, 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.

*(Staff Report dated 8/5/25, Location Map, Application, Site Plan, Elevations and Floor Plans dated 6/25/25, Building Department Denial Letter 6/25/25, Reviewed Site Plan and Public Hearing Notice had been placed on file and by reference became a part of the record hereof.*

*Present for the applicant was Ian McKinzie, 904 Little Hill Court, owner of 31 Childress.*

*Vice Chairperson Tischer introduced this item, noting that it is a request for a front setback variance at 31 Childress Avenue, invited the applicant forward, and asked for the Staff Report.*

*Mr. McLeod explained that the applicant at 31 Childress is requesting a variance for a front yard setback. The required front yard setback in this R-4 district is 25 feet, and the applicant proposes to build 4.57 feet into this setback, resulting in an approximate 20-foot setback from the front property line. He pointed out that Childress is a residential street west of Rochester Road, in an older part of the City. Reviewing adjacent properties, he noted that east of the parcel, properties transition to non-residential zones along Rochester Road.*

*He stated that the subject parcel, while slightly wider than the required 80 feet, has a shallower depth than a traditional R-4 lot, resulting in an overall area of just over 9,000 square feet, which is slightly less than the required 9,600 square feet. He commented that the variance specifically applies to a two-story home, and the encroachment into the front yard setback is limited to the front entry vestibule and the second-floor portion of the residence directly above it. He mentioned that the front plane of the main portion of the building aligns with the required setback. This encroaching portion is approximately 14 feet wide and projects about 5 feet into the front yard setback. The rest of the house complies with all applicable setback requirements.*

*He reviewed the standards that the Zoning Board of Appeals must consider relative to granting a variance.*

*Vice Chairperson Tischer asked the applicant if he had anything additional to provide the Board.*

*Mr. McKinzie affirmed the summary provided, adding that the lot's shallow depth makes it challenging to build a functional two-story house with a hallway and rooms on both floors due to the setback requirements. He expressed a desire to build a nice house in Rochester to start a family and noted that neighbors he spoke with did not have issues with the variance.*

*Mr. Graves thanked the applicant for coming to Rochester Hills and commented that the proposed house is very nice looking. He asked if there had been any consideration into requesting a vacation of the alleyway to the rear, to allow for the depth required to move the house in order to provide the required front yard setback.*

*Mr. McKinzie responded that he did not know that was an option, stating that it was his understanding that the alley belonged to the City.*

*Mr. McLeod added that it is dedicated on the plat. He stated that technically, the answer is yes, the alley could be vacated; however, it is a much larger process that would actually require court action and City involvement at a larger scale. He commented that it is beyond what can be answered here in terms of whether it could happen, and it could not be solely for a singular residence. He explained that if the City ultimately decided to do that, it would involve acceptance of all residents within the plat.*

*Vice Chairperson Tischer concurred, stating that a similar issue is under consideration by the Avondale School Board where an entire neighborhood is being taken to court to vacate an easement.*

*Mr. McKinzie commented that he would prefer the variance.*

*Mr. Graves stated that while he understands that this hasn't been explored yet, he would offer it as something to consider. He asked if there were any other situations considered to minimize the need for a variance such as shifting the house and asking for a rear yard setback variance which could take the alleyway into consideration.*

*Mr. McKinzie responded that he did consider asking for a variance for the rear; however, consulting Planning staff he was advised that a smaller variance was more likely to be approved. He noted that he is trying to fill the entire width as it is a good-sized house, and he would be asking for a 40-foot wide setback across the entire back instead of a 14-foot wide setback in the front. He noted that he needs the requisite depth of the house to fit good-sized bedrooms on the second floor. He mentioned that he already moved the staircase to the bottom right corner as it gave him the most room to work with on the second floor, to maximize his use of space and minimize the setback request.*

*Mr. Graves clarified that a variance pertains to the whole envelope.*

*Mr. McLeod noted that the advertisement is for the front yard only, and if this is something deemed to be an option or desired by the applicant, it would have to be re-advertised to show that it is a rear yard variance. He added that the ZBA would have to make a determination as the applicant has indicated that there would be more of the structure in the rear yard, which is probably a negative. He pointed out that if the aerial is reviewed, it can be seen that different property owners have encroached into that alley area. He stated that the main answer is that the plans would have to be redrawn and brought back before the Board at a future date before an official determination could be made.*

Mr. McKinzie stated that he did consider a rear setback variance; however, he was told that these were not blanket setbacks. He commented that the front setback variance would be purely for the 14-foot wide section. He added that in the interest of not making anyone else's property less desirable, he figured that a front setback would be more palatable to everyone.

Ms. Brnabic acknowledged the applicant's exploration of different options and stated that she understands that the property's depth was less than average, although similar situations exist in the city. She commented that while she felt the proposed home was nice and understood the applicant's desire, she viewed the request as a "want" rather than a "practical difficulty." She pointed out that a very nice and feasible home could still be built at a smaller size. She suggested that the applicant had options to decrease the house size or footprint but seemed to be choosing not to. She specifically mentioned the large size of the entryway and suggested that something could be reduced there, or even upstairs, by potentially moving the laundry or having a smaller bedroom or using part of the walk-in closet area. She concluded that the applicant had options, and while she understood the desire, it was a want, not a hardship that met the criteria for a variance. Therefore, she was not willing to support the 4-1/2 foot request, as the applicant seemed set on needing that specific amount of setback relief and did not appear to have explored options for a smaller variance.

Mr. McKinzie responded to Ms. Brnabic's points by acknowledging that the first floor entryway is large, primarily due to the requirements of the second floor, which he stated is the main driving factor for the variance request. He explained that the property's narrowest depth is 27 feet due to the concave front, and after accounting for exterior walls (losing over a foot), a standard three-foot hallway upstairs (losing three feet), and interior walls (losing a foot to two), he is left with about 11 to 12 feet on either side of the hallway. He stated that he cannot place the hallway at the front or back because it would require passing through another room, which is against code. Taking off the four and a half feet variance would leave a total of about 14 feet to place two rooms or one large room. He wanted to make one bedroom a sufficient size, and in his estimation, none of the bedrooms, including the primary one, are overly large. He agreed that the walk-in closet is quite large and he would like a large closet. However, due to the house's shape, extending the hallway to the walk-in closet area would either require variances on the sides or result in very narrow areas where a room couldn't be placed. He added that the walk-in closet must be behind another room and cannot be a bedroom because it would require passing through another room. He admitted that they could probably tighten it up a little bit but was hoping that the four and a half feet variance was not "too outside the bounds of reality." He concluded by understanding that it is a nice, large house and a "want," which is why he was requesting the variance, as it is difficult to fit all of the rooms on the second floor without the variance. He added that he and his wife know how large they want their family to be and are anticipating the bedrooms needed.

Vice Chairperson Tischer noted that there were no speaker's cards received for the public hearing; therefore, he opened and subsequently closed it. He asked

*if anyone wished to make a motion.*

*The motion, as was contained in the meeting packet, was made by Mr. Graves and seconded by Ms. Brnabic, to deny the request for variance.*

*After calling for a roll call vote, Vice Chairperson Tischer announced that the motion passed unanimously and the request for variance was denied.*

*Mr. Graves suggested that Mr. McKinzie work with the Planning Department to explore any suggestions toward vacating the alleyway.*

*Mr. McLeod noted that a typical vacation process would be probably at least a year, if all goes well.*

*Mr. Graves stated that while he could not speak for the Board, if the process were started and a rear setback request came in, he would definitely take that into consideration.*

**A motion was made by Graves, seconded by Brnabic, that this matter be Denied. The motion carried by the following vote:**

**Aye** 5 - Brnabic, Graves, Tischer, Sakis and Young

**Excused** 2 - Koluch and Neubauer

**Resolved**, 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.

2025-0341

## Public Hearing - File No. PVAI2025-0007

Location: 1141 Cripple Creek Ln., located west of Livernois between Tienken and Dutton Rd., Parcel 15-04-252-002, zoned RE Residential Estate.

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 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) for the construction of an attached garage to the existing home.

*(Staff Report dated 8/6/25, Location Map, Application, Questionnaire, Photos and Plans, Building Department Denial Letter dated 7/15/25, Building Department Reviewed Plot Plan and Public Hearing Notice had been placed on file and by reference became a part of the record hereof.)*

*Present for the applicant was Greg Doyle, owner of 1141 Cripple Creek Ln., and William Finn, Finnicum Brownlie Architects.*

*Vice Chairperson Tischer introduced this item, noting that it is a request for a side yard variance for 1141 Cripple Creek. He invited the applicant to the presenter's table and asked for the Staff Report.*

*Mr. McLeod presented the request for a side yard setback variance at 1141 Cripple Creek, located in an RE One Family Residential district. He explained that the district requires a 15-foot side yard setback, and the applicant is proposing a 5.2-foot encroachment into the required western side yard for the construction of an attached garage. This new garage would allow the existing garage to be converted into living space.*

*He stated that the property is heavily wooded, and the proposed addition would be on the right (west) side of the existing residence. The area is predominantly one-family residential, with R-1 residential zoning to the south. He noted that RE district lots require one acre and 120 feet of width, with side setbacks of 15 feet each, totaling 30 feet.*

*He pointed out that an important factor is a water easement and water main that runs through a portion of the existing house and traverses the entire property. He explained that this easement restricts the applicant's ability to expand to the south (top of the screen in the visual) or to the north (bottom of the screen) up to the front yard setback. He stated that the applicant was unaware of this easement when the house was purchased and the City of Rochester is unwilling to move the water main due to the significant cost. This constraint is the primary reason the applicant is requesting to build further to the west.*

*He explained that the first-floor plan shows the existing garage being converted into a new family room, with the new two-car garage shifting to the west. The dotted line on the plan indicates the required setback, showing the portion of the structure that would encroach. The second floor will have new attic space above the proposed garage, with no additional space above the existing garage. The new garage door will face the street. The encroaching area is 24 feet long and extends just over five feet into the side yard setback.*

*He reviewed the five standard criteria the Board must consider when evaluating this dimensional variance request.*

*Mr. Sakis asked if the addition could be moved more to the north.*

*Mr. McLeod stated that from a planning perspective, in theory the structure could move forward; however, they would be dealing with roof lines.*

*Vice Chairperson Tischer asked if the applicant had anything to add.*

*Mr. Doyle stated that they have been in the house for 35 years, and it was built in 1955. He commented that they bought the property because of the charm of the house and the trees, and he stressed that they do not want to take down any trees and want something that looks like it was always designed that way. He added that the home was designed and built by the Ketelsens, a well-known Rochester area family.*

*Mr. Finn explained that moving the addition back (to the east) is not ideal for several reasons, despite understanding that cost and aesthetics are not primary considerations for the board; however, the overall impact on the community and the livability of the home should be considered.*

*He noted the following reasons:*

*Aesthetics and integration: Moving the addition to the front would create an awkward "giant nose" appearance, clashing with the house's design. The current proposal ensures the new garage's volume, materials (brick), and alignment match an existing volume on the east side of the house, creating a symmetrical "bookend" effect consistent with traditional architectural development.*

*Existing conditions and practicality: The new garage's proposed location aligns with the existing driveway. Placing it on the east side would necessitate removing a 200-year-old oak tree and would inconveniently be located next to bedrooms.*

*Interior circulation: The current design allows for efficient circulation from the kitchen through a breezeway and family room directly into the garage, bypassing activity areas. Moving the garage to the front would complicate roof intersections and force traffic through the middle of the family room, compromising its functionality.*

*Minimal impact on neighbors: The variance has zero negative effect on the*

neighborhood or city, only potentially affecting the family to the west. Their newly reconstructed garage would be 85 feet away (measured diagonally), and the proposed five-foot variance would only result in a minimal gain of about three feet of clearance for them. There is also heavy screening on the west side of the property. The existing house of the neighbor is 125 feet away, and the new house would be even further.

*Hardship:* The architect emphasized that the hardship is not self-created but stems from the existing water main easement, which severely limits buildable area (over 50% of the property's usable space), and the inherent organizational and volumetric constraints of the existing house's design. These issues predate the current owner, originating from decisions made about the water main and the house's original siting and design decades ago.

Vice Chairperson Tischer expressed appreciation for the architect's explanation and addressed the concern about potentially moving the addition to the front. He agreed with the architect that a practical difficulty exists in this case, primarily due to the water main running through the property, which severely limits the property's usability and presents a unique, non-self-created situation. While acknowledging the architect's explanation of the desired flow and layout, the Vice Chair considered the potential for setting a precedent if the variance were granted, as other residents might then request to build closer to their side yard setbacks. However, he felt confident that the unique circumstance of the water main easement running through the property, limiting the options for placing the garage, differentiated this case. He also considered the totality of the situation for the applicant, acknowledging that while a one-car garage might avoid the need for a variance, he was looking at the broader picture. He opened the floor for other board members.

Mr. Doyle added that the water line was constructed in 1890. He noted that when they purchased the house, they had the title company perform a survey, and the water main was not identified. He explained that they did not know it was there until the original owners years later mailed them their original survey, which was completed in 1955. He added that there were originally three water lines, and two were moved a couple of years ago; however it was determined that this one would not be moved.

Mr. McLeod mentioned that Staff received correspondence from Gary and Susan Knudsen, the abutting neighbors at 1157 Cripple Creek and noted that they had no objection to the request for a 5.2 foot encroachment for the purpose of building an attached garage to the residence.

Ms. Brnabic stated that she was reviewing the motion for approval, and asked if it could incorporate wording into finding number one that while it does not prohibit reasonable use of the property, it does prohibit a reasonable addition. She added including reference to the oak tree and watermain in that finding.

Mr. McLeod suggested that they could modify finding number one, to state that compliance with the strict letter of the Zoning Ordinance prohibits the reasonable use of the property and would be unnecessarily burdensome; however, he stressed that finding number four introduces why this is all being contemplated



*and is the rationale. He stated that this does not necessarily have to be included in every single finding; however, the Board would have the right to do that.*

*Mr. Graves stated he thought adding a reference to the tree was a good point to consider.*

*Mr. Finn stressed that they did try very hard to mitigate the need for a variance, and got it reduced by overlapping the two volumes. He explained that the original garage was the same size as the garage that is being proposed, but they overlapped it by four feet so that they could get the west wall further from the property line. He commented that they got it as far away as they could because of the circulation, noting that the shape of the family room is 14 feet by 19 feet and needs a useful area for furniture arrangement.*

*Vice Chairperson Tischer opened the public hearing, saw no one wishing to speak, and closed the public hearing. He invited the Board members to entertain a motion.*

*Mr. Graves made the motion in the packet, and consulted the Board members as to how to incorporate reference to the desire to not impact the 200-year-old oak tree. Board members wordsmithed the motion to add reference to the oak in finding number four. The motion was seconded by Ms. Brnabic.*

*After calling for a roll call vote, Vice Chairperson Tischer announced that the motion passed unanimously, and the variance was granted.*

**A motion was made by Graves, seconded by Brnabic, that this matter be Granted. The motion carried by the following vote:**

**Aye** 5 - Brnabic, Graves, Tischer, Sakis and Young

**Excused** 2 - Koluch and Neubauer

**Resolved**, 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. Additionally, the presence of a significant old oak tree limits possible locations for an addition to the east.

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.

## ANY OTHER BUSINESS

*Mr. McLeod noted that the department has one application pending for a property on North Fairview. He mentioned that there had been an application on this property perhaps two years ago for a reduction in front yard setback for a porch that had been constructed erroneously. He explained that this applicant is coming back with a new request for ordinance interpretations related to a determination of the Building Department regarding accessory structures and how they are calculated in terms of area, location, and what constitutes an accessory structure. He commented that it will most likely be on the September meeting agenda.*

## NEXT MEETING DATE

*- September 10, 2025*

## ADJOURNMENT

*There being no further business to discuss, it was moved by Mr. Graves, seconded by Ms. Brnabic, to adjourn the meeting at 7:58 p.m.*

*Minutes prepared by Jennifer MacDonald.*

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

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*Charles Tischler, Vice Chairperson  
Rochester Hills  
Zoning Board of Appeals*

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*Jennifer MacDonald, Recording Secretary*