



Rochester Hills

Minutes

Zoning Board of Appeals

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

Wednesday, July 9, 2025

7:00 PM

1000 Rochester Hills Drive

CALL TO ORDER

Chairperson Koluch called the July 9, 2025 Zoning Board of Appeals meeting to order at 7:00 p.m. Michigan Time.

ROLL CALL

Present 5 - Deborah Brnabic, Jayson Graves, Kenneth Koluch, Jason Sakis and John Young

Excused 2 - Charles Tischer and Marvie Neubauer

Others Present:

Chris McLeod, Planning Manager
Jennifer MacDonald, Recording Secretary

Ms. Neubauer and Mr. Tischer provided prior notice that they would be unable to attend and were excused.

APPROVAL OF MINUTES

[2025-0285](#) June 11, 2025 Zoning Board of Appeals Minutes

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

Aye 5 - Brnabic, Graves, Koluch, Sakis and Young

Excused 2 - Tischer and Neubauer

COMMUNICATIONS

Chairperson Koluch noted that members received their monthly Planning magazines online. He added that emails were received along with the Department receiving one phone call relative to the applicant this evening that he would mention during that item.

PUBLIC COMMENT

None.

NEW BUSINESS**2025-0284** Public Hearing - File No. PVAI2025-0005

Location: 466 Driftwood Ave., located south of Bloomer Rd. and west of John R, Parcel 15-14-430-008, zoned R-3 One Family Residential

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.

(Staff Report dated 6/24/25, Location Map, Applicant's Application and Submittal dated 5/30/25, Application Questionnaire, Public Comment received and Public Hearing Notice had been placed on file and by reference became a part of the record hereof.)

Present for the applicant was Justin Dunaskiss, Dunaskiss Consulting Development, representing owner Ron Whittle, who Mr. Dunaskiss explained had a scheduling conflict and could not attend.

Chairperson Koluch introduced this item, noting that it consisted of two requests including an appeal of a decision regarding the denial of a land division for 466 Driftwood Avenue, and subsequently if that appeal is denied, a dimensional variance for a lot split. He invited Mr. Dunaskiss to present his comments.

Mr. Dunaskiss stated that the subject property does not conform to the underlying strict requirements of the R-3 zoning district, and they are appealing because the split was not granted due to not having the required 90 foot lot width. He explained that the lot width is currently almost double and they are asking for an administrative approval to split the lot.

Chairperson Koluch asked Mr. McLeod to present the Staff's outline of the appeal of the decision to deny the land division.

Mr. McLeod responded that this portion of the request is to appeal the decision of the Administration to deny the land division. He explained that the Land Division Ordinance is a separate ordinance outside of the Zoning Ordinance itself and is a regulatory ordinance that has a separate review process and a separate variance or appeal process. He pointed out that the Zoning Board of Appeals is not a part of that process, and therefore this would not be the proper venue to make that appeal. He suggested that this portion can be dismissed by the Zoning Board of Appeals so that it can get into the heart of the matter, which is the dimensional variance. Should that variance request be successful, it would allow the lot split application to go forward and potentially be approved.

Should the request be denied, the decision of the land division application would stand.

Chairperson Koluch explained to Mr. Dunaskiss that if the variance requested is granted, if that is the only thing holding up granting the split, it would be able to go forward. He stressed that the ZBA does not have the ability to reverse a Planning decision regarding a land division. He noted that the appeal process relative to the denial of the land division goes to Planning Commission and then on to City Council, and stressed that the Zoning Board of Appeals is not involved in that process. He suggested that the motion would be to deny the specific part of the appeal that pertains to the land division application. He made that motion, a draft of which was contained in the Staff Report. The motion was seconded by Ms. Brnabic.

After calling for a roll call vote, he announced that the motion passed unanimously. Following the vote, he stated that the Board would move on to consider the dimensional variance request.

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

Aye 5 - Brnabic, Graves, Koluch, Sakis and Young

Excused 2 - Tischer and Neubauer

Resolved, 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.

2025-0284

Public Hearing - File No. PVAI2025-0005

Location: 466 Driftwood Ave., located south of Bloomer Rd. and west of John R, Parcel 15-14-430-008, zoned R-3 One Family Residential

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.

Following the vote to deny the appeal of the Administration's decision to deny the request for a lot split, Chairperson Koluch instructed that the Board would move on to consider the request for a dimensional variance from the Schedule of Regulations which requires a minimum lot width of 90 feet in the R-3 One Family Residential Zoning District. He explained that, if granted, the proposed variance will potentially allow for the applicant to obtain the approval for a division of the existing parcel, with the two separate parcels each having a lot width of 80

feet. He asked Mr. Dunaskiss to present his comments on behalf of the applicant, and subsequently would ask for Staff's presentation. Following that, he would open the Public Hearing for any interested persons, and then open the discussion to Board members.

Mr. Dunaskiss explained that he has known Mr. Whittle personally for 10 or 12 years now. He commented that he thinks that this request not only meets but exceeds the City's criteria and makes common sense and fits with the development pattern in the area and immediately adjacent parcels, while still preserving the underlying zoning. He pointed out that the strict requirements of the building envelope will be met and no variance will be required for setbacks, lot coverage or building envelope; and he mentioned that the next door neighbor built on an 80-foot lot. He reiterated that it will create two very adequate lots each having over 19,000 square feet, and will meet the development pattern in the area. He added that the request is driven by the unique wide lot that is a carryover from years ago and is not self-created. He suggested that the Board evaluate what is a reasonable request based on real-world conditions in the neighborhood. He commented that it is their view that the spirit of the ordinance will be preserved and stressed that they are not looking to overdevelop the lot or overpopulate the area or strain the infrastructure. He stated that this was not done on pure speculation, and the parcel has been owned for some time.

Mr. McLeod stated that the heart of the matter is the actual variance request. He explained that 466 Driftwood is in a unique area of the city that has a number of older lots that are old platted lots or they have metes and bounds legal descriptions. He noted that the zoning in the area is R-3 which requires a 90-foot lot width and 12,000 square feet in terms of overall size. He showed the area and noted surrounding parcels. He acknowledged that the parcels immediately to the south are 80 foot lots and commented that Assessing records go back to 1971 prior to Avon Township becoming a city, and they do not see a split occurring after that time. He pointed out that the other lots in the area along the several different blocks are 90 feet or above, most are above 100 feet and many even go up to the 160-foot range, like this lot. He confirmed that the remainder of the dimensional requirements for the R-3 District can be met if an 80-foot frontage is granted; however, he stressed that the Zoning Board of Appeals is not a board that gets to make policy or decisions in terms of whether or not lots make sense or are appropriate or good for the city. He noted that these policy decisions are those for the Planning Commission and City Council. He stated that the Board's job is fairly refined and distinct in terms that they are to make a determination as to whether there is a hardship or some practicality in the Ordinance as applied to this particular lot that is unfair and restricting this lot from other privileges of other lots within the district and area. He reiterated that R-3 zoning is predominant around the subject parcel. He mentioned that the future land use designation is R-4, in compliance with the Master Plan.

He reviewed the dimensional requirement of the R-3 District, noting that it is 90 feet wide, 12,000 square foot lot, 30 foot front yard setback, 10 foot side yards, 35 foot rear yard, and minimum housing size of 1,200 square feet. He pointed out that the existing house would need to be removed, and mentioned that the City does not allow for parcel splits to split an existing residential unit. He noted

that two twin lots of 80 feet by 242 feet would result, and both lots would have frontage on Driftwood. He reviewed the criteria for consideration, noting that the Board should consider whether it is unnecessarily burdensome. He pointed out that in this instance, there is no option for a lesser variance. He stressed that while it is always stated that ZBA decisions do not necessarily make precedent, it is only human nature to take this into account. He added that it is a question of what is unique about this property that would justify a variance to go into a substandard lot condition. He noted that economics do not justify a variance.

Chairperson Koluch opened the public hearing and called for public comment.

Bruce Maternowski, 670 Driftwood, stated that he wished to echo Staff findings and did not see a demonstrated hardship. He noted that most of the lots nearby meet or exceed a 90-foot width. He distributed a handout consisting of the plat map with lots labeled under 100 foot in width, and pointed out that the vast majority of these lots are over 100 feet. He stressed that the existing property is fully usable. He commented on the Applicant's application which suggested that the split would create more affordable homes; and noted that the property sold for \$262,000. He stated that he cannot imagine two new homes built on the property going for less than that price. He pointed out that while it has been argued that there is neighbor support, he is a neighbor and knows of a few others that are against it. He stated that this does not reflect the broader neighborhood, and asked the Board to deny the request.

Chairperson Koluch noted that there were two emails received, one from John Bartlett at 484 Driftwood who stated that he was not interested in having a new build on a 160 foot lot as it might affect the value and desirability of other homes in the neighborhood; and one from Jennifer Hamilton at 510 Driftwood. Both supported the application. He pointed out that those two addresses are on lots less than 90 feet. Seeing no other comments, he closed the public hearing and stated that he would turn the discussion over to the Board for questions of the applicant or Staff.

Mr. Graves expressed concern over setting a precedent, noting that there were four similarly-sized properties just to the west of this one that could come back for such a variance. He stated that he would have a hard time supporting a motion to approve.

Ms. Brnabic stated that she also would have a hard time supporting this variance simply because it does not meet the current ordinance requirement and the ordinance is in place for a reason. She commented that if those lots were platted differently in the past, and this house goes back to 1948, then that was what it was then. She stressed that the Board's job is to protect or support the integrity of the ordinance. She observed that there actually is no practical difficulty, and the existing house could be renovated or demolished for a new build. She stated that there is nothing unique about the property because there are properties of similar size in the neighborhood. She commented that she thought that the hardship from the owner's standpoint would purely be from a business profit standpoint, as economically the profit would be better if the lot was split and two houses built; however, she noted that the Board is not here to entertain that idea. She pointed out that the current owner purchased the home

in October of 2024, and it would have been wise to check the current ordinance standard if that is why he purchased it. She mentioned that Mr. McLeod had some information from research in regard to past requests for dimensional variances, whether it was in regard to a lot split or just to request an appearance for something that did not fit the current ordinance standard.

Mr. McLeod responded that as was discussed last month, where there also was a variance request regarding the R-3 District, Staff went back and looked at ZBA cases over the last 30 years. He commented that it was stunning that there were only a handful of cases that were actually brought before the ZBA in terms of lot width. He noted that of the probably four or five cases, one was in the R-3 District and was for a 6.5 foot variance, one was for a two-foot variance in the R-4 District, and one was for a two-foot variance in the R-1 District. He added that one request was 36 feet short of the lot width, but was for an existing lot, and the case was heard as to whether that lot was buildable, and not for a split purpose. He noted another case was for a 10-foot variance, but that case had no result and he believed it was withdrawn. He commented that other than the one case regarding a non-conformity issue for a lot already in existence, none of them have been granted. He stated that he thinks that the ZBA has long stood as a protector of the ordinance. He stressed that they have very strict standards and what they are doing right now is to deliberate to determine whether or not the standards have been met in this particular instance.

Ms. Brnabic thanked Mr. McLeod for the information, and stated that she would absolutely support Mr. Graves' comment that to approve something like this right now would set a precedent. She commented that once they would agree to an 80-foot lot split, then it would break the ordinance and would no longer matter.

Mr. Sakis asked if the intention of the owner at the time of purchase was to split the lot.

Mr. Dunaskiss responded that the owner is a builder, and he built the home next door to the south and wants to build a house here. He stated that it was not bought or made contingent upon a purchase price, and if it had been purchased for the variance, the owner would have made it contingent upon a lot split.

Mr. Young noted that he had the same question, and it had been addressed.

Chairperson Koluch stated that he noticed in the actual application how the applicant responded to some of the criteria, such as a lesser variance would not give substantial relief, it would prevent a reasonable use of the property, and would be unnecessarily burdensome. He noted that the applicant references the fact that he would want to use the property for splitting and for building homes on, and he commented that he can still build on the property and put any type of house there as long as it is large enough to comply with City requirements. He suggested that a bit of due diligence would have disclosed in advance that it would be noncompliant for a split. He commented that he believes that it certainly fails on the self-created aspect; and pointed out that if granted, they would be going from one fully-compliant lot to two that are not in compliance. He stated that furthermore, as Mr. Graves pointed out, there are a number of lots that are close to this size, and some may be a little bigger. He

commented that with the exception of the two lots immediately to the south and then diagonally across the street, most of the lots around this property are larger; and in discussing the character of the neighborhood on the whole, the neighborhood is a pretty solid mix.

He asked if anyone else wanted to present a motion, and stated that if not, he was prepared to present the motion for denial. He made the motion in the packet to deny the request for a dimensional variance, and that motion was seconded by Mr. Graves.

After calling for a roll call vote, he announced that the motion to deny passed unanimously. He thanked Mr. Dunaskiss for his presentation tonight, and noted that the application request was denied.

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

Aye 5 - Brnabic, Graves, Koluch, Sakis and Young

Excused 2 - Tischer and Neubauer

Resolved, 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.

ANY OTHER BUSINESS

Chairperson Koluch asked if there was anything scheduled for the August ZBA meeting, noting that he might be out of town that day.

Mr. McLeod noted that one application has been received for a front yard setback on 31 Childress in the Cloverport area for a new home, and another for a side yard setback for a home addition on Cripple Creek.

NEXT MEETING DATE

- Regular Meeting - August 13, 2025, 7 p.m.

ADJOURNMENT

There being no further business to discuss, it was moved by Chairperson Koluch, seconded by Mr. Graves, to adjourn the meeting at 7:44 p.m.

Minutes prepared by Jennifer MacDonald.

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

*Kenneth Koluch, Chairperson
Rochester Hills
Zoning Board of Appeals*

Jennifer MacDonald, Recording Secretary