



Rochester Hills

Minutes

Zoning Board of Appeals

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

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

Wednesday, February 11, 2026

7:00 PM

1000 Rochester Hills Drive

CALL TO ORDER

Chairperson Koluch called the February 11, 2026 Zoning Board of Appeals meeting to order at 7:00 p.m. Michigan Time.

ROLL CALL

Present 6 - Deborah Brnabic, Kenneth Koluch, Charles Tischer, Jason Sakis, Marvie Neubauer and John Young
Excused 1 - Jayson Graves

Others Present:

Chris McLeod, Planning Manager
Jennifer MacDonald, Recording Secretary

APPROVAL OF MINUTES

[2026-0018](#) November 12, 2025 Zoning Board of Appeals Draft Minutes

A motion was made by Brnabic, seconded by Neubauer, that this matter be Approved. The motion passed by a unanimous vote.

Aye 6 - Brnabic, Koluch, Tischer, Sakis, Neubauer and Young
Excused 1 - Graves

COMMUNICATIONS

None.

PUBLIC COMMENT

None.

NEW BUSINESS

[2026-0042](#) Public Hearing - File No. PVAI2026-0001

Location: 3049 Avalon Rd., located south of Auburn Rd. and east of Adams Rd., Parcel 15-31-102-011, zoned R-4 One Family Residential

The applicant is requesting a variance from Sec. 138-5.100 Schedule of Regulations, which requires a 25-foot front yard setback in the R-4 One Family Residential zoning district. The proposed variance, if granted, would allow for the construction of a covered porch addition to the existing home, resulting in a front yard setback of 21'-6".

(Staff Report dated 2-04-26, Location Map, Plans, Photos & additional documentation, ZBA application, Building dept. reviewed plans, and the Public hearing notice had been placed on file and by reference became a part of the record thereof.)

Present for the applicant was Joseph Fitori, on behalf of Kevin and Sandy Wagner of 3049 Avalon Road, Rochester Hills.

Chairperson Koluch explained that the applicant is requesting a variance from Section 138-5.100 Schedule of Regulations of the Rochester Hills Zoning Ordinance, which requires a 25-foot front yard setback in the R-4 One Family Residential zoning district. The proposed variance would allow for the construction of a covered porch addition to the existing home, resulting in a front yard setback of 21 feet and 6 inches. Chairperson Koluch introduced the item and asked if the applicant was present. The applicants approached the podium to be placed on the record.

Chairperson Koluch explained the meeting process, noting that the applicant would first present their case, followed by a staff analysis. He stated that the Board would then have the opportunity to ask questions of both the applicant and staff before proceeding with deliberations. He invited Mr. Fitori to summarize the request or rely on the documentation previously submitted to the Board.

Mr. Fitori noted that he is a civil engineer and has held a Michigan builder's license since 1991. He stated his professional background includes working for a construction company in Detroit and he has past experience with residential developments in the area. He clarified that he is a longtime family friend of the applicants and has been asked to oversee the proposed home modifications as the project manager.

Mr. Fitori stated that he had reviewed the zoning appeal application and hoped the Board had done the same, noting that the house in question was built in 1940 on a street he considered to be established by the "pilgrims" of the area. He explained that the street was established long before modern zoning protocols were put in place and pointed to documentation prepared by the Wagner family showing that eight of the sixteen houses on the street are currently in violation of the setback. He argued that there has been no deleterious effect to the street because of those existing conditions and emphasized that the variance of three to three and a half feet being requested is actually less of an encroachment than many of the eight homes already in that situation.

Mr. Fitori characterized the street as a "unicorn" for the City of Rochester Hills,

explaining that the applicants are not asking for a global decision that would affect the rest of the community. He described the area as a very old, unique, and eclectic part of the city and asked the Board to keep an open mind and live on the spirit of the law rather than the rule of the law. He noted that there is an existing very small porch on the house that was inherited with the property and which is already in violation, and the proposed modification would actually be less of a violation than what is currently there.

He further clarified that the project is not a closed porch but a covered porch with supports to carry the overhang, which would keep the line of sight clear. Mr. Fitori expressed that he was impressed by the application materials prepared by Mrs. Wagner and stated that the modification would not encumber the city, but would instead assist first responders. He argued that the current entrance is a "hodgepodge," and the proposed design would be an improvement for the safety of city employees should they ever need to attend to a rescue at the residence.

In conclusion, Mr. Fitori stated the request was reasonable and cut and dry, as it satisfies all queries regarding site safety and fits the character of the unique street. He noted the applicants are trying to improve the home for their son to live in and asked the Board if any of them had the opportunity to go down Avalon Road to see the conditions mentioned in the document.

Chairperson Koluch confirmed that he had driven down the street over the weekend to personally view the property, which is located on the east side. Mr. Fitori stated that the Board could see for themselves that the project would not be encumbering upon the existing property or the street. He then concluded his initial presentation and offered to respond to any questions from the Board.

Chairperson Koluch inquired about the current status of the construction process and whether the applicants were waiting on the Building Department. Mr. Fitori clarified that he is acting as a favor to the family and has agreed to oversee the improvements as the project manager if the request is successful. He noted that the project has been at a standstill since approximately last September when it was denied, leading to the current appeal.

In response to a follow-up question regarding the provided imagery of the porch, Mr. Fitori explained that the new proposed porch is detailed in the plans currently held by the Building Department. He stated that the entire project was halted because the department identified the porch as a violation. Chairperson Koluch then called upon Mr. McLeod to present the city's staff report.

Mr. McLeod thanked the Chairperson and explained that the request involves a three-and-a-half-foot encroachment into the 25-foot front yard setback required by the ordinance. He noted that the Building Department had reviewed the request under the averaging provision, but even after that review, the 25-foot setback was maintained for this side of the road because the averaging only considers houses on the same side of the street. While the house directly to the north sits much closer to the road than the proposed addition, the houses to the south generally fall into line with the required setback plus or minus a small amount. He acknowledged that Avalon Road has a mixture of house ages and renovations that vary from current ordinances, but he emphasized that the

Board's role is to determine if a variance is warranted based on the zoning code.

Using aerial imagery, Mr. McLeod pointed out that the house to the north sits closer to the road, while houses to the south either fall in line or sit back slightly. He clarified that the west side of the street is not included in averaging, though those houses generally have much larger setbacks than those on the east side. He showed a Google image for context, noting the blue-gray house to the north that sits closer to the road and the projection to the south that aligns with the current front facade. He informed the Board that the plan is to go vertical to two stories, which would provide much more usable square footage for the home that is currently recorded at just over 800 square feet.

Mr. McLeod explained that the main front facade of the building would be brought into line with the current window plane, but the porch would come out further toward the road. He noted that although it is an open-air structure, the ordinance is triggered to meet the setback requirements as soon as columns come down to the ground.

He suggested a potential point of discussion with the applicant regarding a cantilevered roof overhang, as the ordinance allows for a 24-inch projection without columns, though he admitted this might not provide the full coverage the applicant is seeking. He pointed out on the site plan where the current step-down and porch are located and noted that the proposed covered entrance would be an attractive addition to the overall neighborhood. Finally, he reminded the Board to review the variance against the standards in the zoning ordinance, including whether strict compliance prevents reasonable use, whether the variance provides substantial justice, if the circumstances are unique and not self-created, and if the spirit of the ordinance and public safety are secured.

Chairperson Koluch asked for clarification regarding the averaging provision, inquiring if it applies specifically to all properties in the R4 district. Mr. McLeod confirmed that all properties within the R4 district have the ability to utilize the averaging provision, which looks at the same side of the street for 200 feet in either direction. Chairperson Koluch noted that while the board often encounters this in relation to corner lots, he did not recall applying it to a middle lot recently.

Chairperson Koluch then referred to a photo of the current house and asked about the "notch" previously mentioned by staff. He inquired if a covered porch constructed within that notch would be compliant with the 25-foot setback. Mr. McLeod responded that the current closest portion of the house is compliant, so anything built at that same plane or further away from the road would meet ordinance requirements. He further clarified that if the applicants squared off the building with their addition but placed the porch on the north side without extending beyond the current front line, they would be in compliance.

Ms. Neubauer then addressed Mr. Fitori, referencing the staff report and the standards the board must follow. She noted that while Mr. Fitori had asked the board to follow the spirit of the law rather than the letter of the law, the board is constrained by its regulations. She suggested seeking a compromise to avoid an outright denial and asked if the design could be modified to be column-less, such as an awning or an overhang, since staff had noted the ordinance is

triggered when columns hit the ground. Mr. Fitori indicated they could investigate using a laminated beam tied into the wall to avoid the need for support posts.

Mr. McLeod clarified that while tying back to the house would avoid the column issue, any overhang or projection is strictly limited by the ordinance to 24 inches. He noted that the currently proposed overhang is approximately three and a half feet. Mr. Fitori expressed concern that a two-foot overhang might be too tight for safe egress, arguing from a safety perspective that a three-foot space would be more reasonable for first responders. Ms. Neubauer responded that the city ordinance already takes the requirements of first responders into consideration.

Ms. Neubauer emphasized that the city's first responders are considered "the best of the best" and noted that departments are integrated when rules and regulations, such as the 24-inch overhang allowance, are established. She reiterated that the ordinance requirement is triggered specifically because the pillars hit the ground. She suggested that if the applicant could re-engineer the design to achieve their goals without pillars hitting the ground, or by shifting the build in a different direction as suggested by the Chairperson, it would serve as a viable compromise.

Mr. Fitori asked if the implication was to move the entrance to the north side of the house and agreed that it was something they could look at. He maintained that the purpose of requesting the variance was due to the street being a "unicorn" and quite unique, noting that most of Rochester Hills is not like this and that the area was built "old school" around 1940, likely before current ordinances were in place.

Ms. Neubauer explained that she requested Mr. McLeod to keep the variance standards visible so the applicant could understand the criteria the board must use. She noted that variances are typically reserved for unique, non-self-created situations, such as a house on a corner lot that cannot possibly comply with the ordinance. She stated that in order to be fair to all neighbors, the board must follow the letter of the law, and currently, the request is not something they can grant a variance for under their application of the ordinances. She again urged a re-engineering of the design to reach compliance while still getting what they want. Mr. Fitori responded by again pointing out that eight of the sixteen properties on the street do not currently comport with the rules and that the Wagners' request is less of an encroachment than some existing homes. Ms. Neubauer acknowledged his point.

Chairperson Koluch observed that some of the non-compliant porches on the street may have been grandfathered in if they were constructed before current regulations. He explained that the averaging provision naturally results in some homeowners having more room than others depending on the specific location of their neighbors. While acknowledging the unique nature of this section of Avalon Road, he noted that zooming out to the broader area-including Dodge Auburn Park and Elden Acres-reveals many houses in the R4 district that are subject to the same averaging provision and are located very close to the road.

The Chairperson expressed concern that granting a three-and-a-half-foot variance for one house could set a precedent for numerous other scenarios in the R4 district, where other residents might seek similar or larger setbacks. He emphasized that this issue applies to the setback of the house itself, not just front porches. He noted that lot size and placement often create situations where one neighbor can build something, such as a gazebo or a porch, while another cannot.

Chairperson Koluch further argued that the existence of the averaging provision demonstrates that the city has already recognized and attempted to address potential inequities between houses in this district. He stated that even when applying that provision, the results remained the same for this property. Because there are other building options available to the applicant and the five required criteria for a variance were not established, he stated he could not support the request. He then invited the rest of the board to ask any remaining questions.

Mr. Tischer noted that the area is a difficult one, having lived for many years on Bathurst nearby in the Avondale part of Rochester Hills, which was formerly old Avon Township. He pointed out that with 60 feet of frontage, the lot would be unbuildable today as current standards require 80 feet. While acknowledging his familiarity with the neighborhood and the varying setbacks on streets like St. Clair and York, he echoed the Chairperson's sentiment regarding the need to analyze whether a true practical difficulty exists. He suggested that the applicant consider other alternatives, such as moving the porch to the north side or utilizing a two-foot overhang, noting that while the latter is tight, it remains an option.

Ms. Brnabic asked Mr. McLeod for clarification on whether a porch that was not covered would present a problem. Mr. McLeod responded that a standard porch or stoop would be permissible, provided the structure was made of concrete, noting that the board had reviewed a similar situation on Crooks Road recently. Ms. Brnabic suggested this as an additional thought for the applicant, reiterating that the variance request is only necessary because the porch is covered. She noted that the applicant has several options to avoid the need for a variance, including moving the structure to the north or choosing an uncovered design.

Mr. Wagner, the owner of the house, stated that placing the porch on the north side of the home would not be feasible because the driveway is located there, only about two feet from the house. He further noted that such a change would require a complete revision of the blueprints and moving the front door to accommodate the new layout.

Chairperson Koluch acknowledged that moving the porch was not what the applicants wanted and expressed that he understood the frustration of potentially returning to the drawing board. However, he explained that the criteria for granting a variance are very narrow and he was not sure the board had ever granted one for this specific type of situation. He reiterated that while the averaging provision provides some wiggle room for unequal setbacks, the board remains hesitant to establish a precedent by granting a setback variance when other building options exist.

He suggested the applicants consider alternative designs, such as a two-foot awning or a smaller awning paired with a larger concrete slab. He stated that because there are options available that do not involve encroaching further toward the road, the situation appears to be more of a "want" than a "need," which places the board in a difficult position. He concluded by noting that these factors contribute to the board's inclination toward denying the request.

Mr. Fitori revisited the purpose of the variance, noting that while he understood the Chairperson's concern regarding a potential "Pandora's box" of future requests, he respectfully disagreed. He reiterated that Avalon Road is a very unique street where multiple houses are already in violation of the setback, regardless of whether they were grandfathered in or constructed at a different time. He suggested that the Board could specifically write the variance to exclude other properties by citing the unique factors of this particular location.

Chairperson Koluch responded that the difficulty lies in identifying those specific unique factors. He stated that there are likely thousands of houses in the R4 district located on older streets with homes built in the 1930s and 1940s that are also situated close to the road. While this specific section of Avalon Road might seem unique in isolation, he noted that research into other areas via Google Earth shows many similar streets within the same zoning district. The Chairperson concluded that it would be extremely difficult to pinpoint why this house is different from any other pre-war home in the district, and he could not find a way to tailor a variance that would avoid future precedent issues.

Mr. Tischer asked Mr. Wagner for clarification regarding the feasibility of placing the covered porch on the north side, specifically inquiring if it would block vehicle access to the garage or if it simply required a significant effort to remove concrete. Mr. Wagner stated he did not know the exact answer off the top of his head. Mr. Tischer acknowledged that not having a covered porch is a personal inconvenience, noting issues with wet packages and icy entrances, but emphasized that the board must still apply the standards.

Ms. Neubauer requested that staff display the standards again and stated that while the board members are neighbors who would like to allow the applicants to do what they want with their house, they are bound by six regulations. She argued that granting the variance would indeed open a Pandora's box because inconsistent rulings lead to litigation and the expenditure of taxpayer dollars. She proceeded to review the five standards from the bottom up, noting that the spirit of the ordinance must be observed and substantial justice must be done. She determined that the problem is self-created because other options exist and the proposed design is not a necessity. Furthermore, she argued that the property is not a "unicorn" as there are thousands of similar houses throughout the city that could request the same variance.

Ms. Neubauer emphasized that the Board must be consistent to ensure substantial justice for all property owners. She explained that the Board was suggesting other options, such as re-engineering the design so that pillars do not touch the ground, because they are effectively "handcuffed" by the governing rules. She expressed that it was unfortunate but concluded that they

could not grant the variance due to being bound by the regulations. Ms. Neubauer then stated she would like to make the motion.

Chairperson Koluch briefly interrupted to open the floor for public comment. He subsequently closed the public comment period as no requests to speak had been submitted and invited Ms. Neubauer to proceed with her motion.

Ms. Neubauer moved to deny the request for a three-and-a-half-foot variance from Section 138-5.100 regarding the proposed porch addition at 3049 Avalon Road. She stated the denial was based on the fact that a practical difficulty does not exist on the property as demonstrated in the record and based on the pre-printed conditions. Chairperson Koluch confirmed the incorporation of those conditions by reference and asked for any additions to the motion. The motion was seconded by Mr. Tischer, and there was a unanimous vote to deny the request.

Chairperson Koluch announced that the motion passed and the application was denied, thanking the applicants for their attendance. Mr. Fitori then asked a clarifying question regarding whether an awning overhang projection that is not supported by pillars reaching the ground would be permissible.

Mr. McLeod clarified that, based on the zoning ordinance, a projection could extend 24 inches into the required setback. He explained that as long as the structure is not supported by pillars or anything requiring a footing that makes contact with the ground, a 24-inch overhang is likely permissible. He suggested that such an overhang could be supported by tying it back to the house or using a 45-degree brace. However, Mr. McLeod advised the applicant to verify this interpretation with the Building Department, as they are responsible for the final review of the construction plans.

Chairperson Koluch encouraged the applicants by stating that the Building Department is very helpful and may be able to offer even more options for their project. Ms. Neubauer mentioned that there are other types of horizontal supports available and noted that it was confirmed that such alternative options exist.

Mr. Fitori suggested that he could tie the structure back as is done with commercial overhangs. Mr. McLeod added that if the applicants were already planning to replace the joists between the first and second floors during their renovation, they could potentially project the structure straight out from the house. Ms. Neubauer and Chairperson Koluch agreed that this was a viable technical option to explore.

A motion was made that this matter be Denied. The motion passed by a unanimous vote.

Aye 6 - Brnabic, Koluch, Tischer, Sakis, Neubauer and Young

Excused 1 - Graves

Resolved, in the matter of File No. PVAI2026-0001, that the request for a variance of 3.5 feet from Section 138-5.100 Schedule of Regulations which requires the proposed porch addition to meet a 25 ft. front setback in the R-4 One Family Residential zoning district, Parcel Identification Number 15-31-102-011, 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 porch/entrance structure that is not located on the front façade of the building or that is recessed, for entrance into the residence and that complies with the requirements of the Zoning Ordinance 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. There are other homes nearby that do not have a covered front porch.
3. There are no unique circumstances of the property that have been identified by the applicant that necessitate granting the variance. Further, the necessity of the variance is a result of an addition to the existing home which then prompted the front porch to be located further into the front yard and into the required front yard setback and it is likely this could be designed to be located on the side of the home. In addition, the ordinance allows for average of front yard setbacks and utilizing the averaging of front yard setbacks for homes within 200 feet of either side of the subject residence does not allow for a reduction of the minimum required front yard setback. Also, there does appear to be the ability to construct a landing and stairs along the north side of the home, facing the driveway, that does not require a variance and would still gain access to the same room as the one proposed.
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

2026-0049 Request for Approval of the 2026 Meeting Schedule

Chairperson Koluch introduced the next item of business regarding the approval of the 2026 meeting schedule. A motion was made by Neubauer, seconded by Young, that the 2026 meeting schedule be Approved. The motion passed by a unanimous vote.

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

Aye 6 - Brnabic, Koluch, Tischer, Sakis, Neubauer and Young

Excused 1 - Graves

Resolved, the Rochester Hills Zoning Board of Appeals hereby establishes its 2026 meeting schedule at the February 11, 2026 Regular Meeting as follows:

ROCHESTER HILLS ZONING BOARD OF APPEALS
2026 MEETING DATES*

(January 14, 2026 was cancelled)
February 11, 2026
March 11, 2026
April 8, 2026
May 13, 2026
June 10, 2026
July 8, 2026
August 12, 2026
September 9, 2026
October 14, 2026
November 11, 2026
December 9, 2026

*Meetings will be held on the second Wednesday of the month at 7:00 p.m. The Zoning Board of Appeals reserves the right to add Special Meetings or Workshops as necessary. Meetings may be cancelled if no applications are received in the appropriate timeframe. Meetings will be held in the Auditorium of the City Municipal Offices at 1000 Rochester Hills Dr., Rochester Hills, MI 48309.

Agendas are available on the City's Web Page at www.rochesterhills.org.

NEXT MEETING DATE

- March 11, 2026

Mr. McLeod informed the Board that there are currently two items scheduled for the March meeting. The first involves a sign package for Henry Ford Health, as they are changing out all signs on the hospital. Mr. Tischer noted that because he is tied to Henry Ford Health, he will recuse himself from that specific discussion but intends to be present for the other agenda item.

The second item for March is a variance request for a lot split on North Livernois that was denied due to lot area requirements. Mr. McLeod clarified this is a different case from one discussed in October and is located on the unpaved section of North Livernois.

ADJOURNMENT

There being no further business to discuss, a motion was made by Neubauer, seconded by Tischer, to adjourn the meeting at 7:41 p.m.

Minutes prepared by Jennifer MacDonald.

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

Jennifer MacDonald, Recording Secretary