Department of Planning and Economic Development

Staff Report to the Zoning Board of Appeals

November 5, 2025

PVAI2025-0004 2194 S. Livernois – Minimum Lot Width	
REQUEST	The applicant is requesting a 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 allow for the division of the existing parcel into two separate parcels, each with a width of 88.625 feet.
APPLICANT	Mohamed Sultan Sultan Homes Inc. 3210 Villa Nova Circle Rochester Hills, MI 48307
LOCATION	2194 S. Livernois Rd., located on the west side of Livernois and south of Hamlin
FILE NO.	PVAI2025-0004
PARCEL NO.	15-28-226-009
ZONING	R-3 One Family Residential District
STAFF	Chris McLeod, Planning Manager

Requested Variance

The applicant is requesting a 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 allow for the division of the existing parcel into two separate parcels, each with a width of 88.625 feet.

The applicant first appeared before the Zoning Board of Appeals in June of this year. After consideration of the application, the Zoning Board of Appeals postponed action. The applicant was given up to six (6) months to determine if additional property could be secured from the abutting subdivision to the south, which could be added to the subject property, making the proposed lots compliant with ordinance requirements. Since that time, the applicant has worked with the Homeowners Association of Whispering Willows in an attempt to secure enough land to negate the need for a variance. The applicant and the Homeowners Association agreed in concept to a land purchase. However, to remove the property from the abutting subdivision, court action would be necessary, as it would require an amendment to the original plat. Within the State of Michigan, to amend an originally platted subdivision one of two actions is necessary: either there must be Circuit Court action, or all land owners within the subdivision must provide their “unanimous consent” of the amendment followed by the city approving the amendment and then that documentation being recorded at the county. The applicant has chosen not to pursue either option at this time due to the length of the process and the effort involved.

Site Context

The subject site is located on the west side of Livernois Rd., south of Hamlin. 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-3 One Family Residential**	**Residential Home**	**Suburban Residential**
North	R-3 One Family Residential and MR Mixed Residential Overlay	Single Family Homes	Suburban Residential
South	R-3 One Family Residential	Common space for Whispering Willows	Conservation Open Space and Suburban Residential
East (across S. Livernois)	R-3 One Family Residential and MR Mixed Residential Overlay	Single Family Homes	Suburban Residential
West	R-3 One Family Residential	Single Family Homes	Suburban Residential

Site Photograph

Application

The subject parcel is located north of Maple Leaf Dr. on the west side of S. Livernois Rd. The parcel is currently zoned R-3 One Family Residential District. The R-3 One Family Residential District requires a minimum lot width of 90 feet and a minimum lot area of 12,000 square feet.

The subject parcel is a standalone property that is surrounded by lots within the Whispering Willows (to the south and west) and Woodland Park Developments (to the north). The property immediately to the south of the subject parcel is common space of the Whispering Willows (a portion of this property was the property the applicant was trying to secure), while the properties to the west and north are single family residential properties.

As noted, the applicant has requested a variance, which if granted, would allow for two parcels to be created from an existing single parcel, each having a lot width of approximately 88.625 feet, approximately 1.375 feet less than required by Ordinance. The proposed parcels front on Livernois and would be accessed solely by Livernois. The existing parcel, 2194 Livernois, has a width of approximately 177 feet and a depth of approximately 333 feet.

The request is a result of land division application that was previously processed and was denied, due to the resulting parcels not having sufficient width based on the City's requirements, and some additional items including the required demolition of the existing home and utility requirements. The existing parcel currently has a residence centrally located on the parcel. Based on Assessing records, the residence is approximately 1,800 square feet and was constructed in 1944. If the variance is granted, the existing house must be demolished and other city requirements must be met before the lot split can be finalized, to allow for each of the resultant parcels to be buildable.

Ordinance

SECTION 138-5.100 - Schedule of Regulations
Table 6. Schedule of Regulations - RESIDENTIAL DISTRICTS

District	Minimum Lot		Maximum Building Height [A]		Minimum Yard Setback (feet)				Min. Floor Area (sq. ft.)	Max. Lot Coverage (all buildings)
	Area (sq. ft.)	Width (ft.)	Stories	Feet	Front	Side (each)	Side (total)	Rear		
RE	43,560	120	2	35	40 [B]	15 [C, D]	30 [D]	35 [O]	1,500	25%
R-1	20,000	100	2	35	40 [B]	15 [C, D]	30 [D]	35 [O]	1,500	25%
R-2	15,000	100	2	35	40 [B]	15 [C, D]	30 [D]	35 [O]	1,400	25%
R-3	12,000	90	2	30 [P]	30 [B]	10 [C, D]	20 [D]	35 [O]	1,200	30%
R-4	9,600 [R]	80 [R]	2	30 [P]	25 [BJ]	10 [C, D]	20 [D]	35 [O]	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									

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 the strict enforcement of the 90-foot minimum lot width requirement would unreasonably prevent the division of a large, deep residential property into two, separate buildable lots. The applicant also notes that the resulting lot size for each parcel would be nearly twice as large as normally required in the R-3 One Family Residential District in terms of area due to the depth of the proposed lots.

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 the proposed variance would allow for reasonable residential development, consistent with the surrounding neighborhood and that the resultant lots would maintain neighborhood character and not negatively impact property value or land use. In addition, the applicant has indicated that a lesser variance would not provide substantial relief since a lesser variance would not allow for the two (2) lots to be created. The applicant is correct in this statement, in that this is the least variance request that can be made to allow for a split of the property.

3. **The plight of the applicant is due to the unique circumstances of the property.**

The applicant notes that the variance results from the unique frontage dimension of the lot and that the property is unusually wide and deep but falls just short of being evenly divisible into two fully conforming lots.

The applicant asserts that the condition is not typical of other properties within the R-3 Zoning District. While the applicant's assertion that lots of this size and configuration are not typical in the R-3 Zoning District is generally correct for those properties that have been platted or have been developed as a part of a site condominium, there are unplatted lots in the R-3 District that are located outside of such developments that are more similar to the applicant's existing lot. For example, there are lots along S. Livernois that are similar in nature both to the north and south (approx. 500' in each direction) of the current (undivided) subject parcel.

4. **The problem is not self-created.**

The applicant indicates that the current lot dimensions were established long before the applicant's involvement and the lot dimensions were a result of historical planning. Based on Assessing Department records, the property was purchased by the current owner in February of 2022.

5. **The spirit of this ordinance will be observed, public safety and welfare secured, and substantial justice done.**

The applicant indicates that the proposed variance that would generally allow the proposed lot split to occur would not be detrimental to public welfare or injurious to other properties since all other R-3 One Family Residential District standards would be met and that there are no floodplains or wetlands on the subject site.

While not a specific review standard of the land division request, staff typically tries to reduce the total number of driveways (whether residential or nonresidential) onto the City's main roadways as each driveway can generally be considered to be a potential conflict point. The existing lot has a driveway (a horseshoe driveway) that accesses S. Livernois. If the variance is granted and the land division is finalized, an additional driveway, which can be considered to be a potential conflict point, will be created on S. Livernois (pending Road Commission for Oakland County approval). These residential driveways will be in close proximity to each other and to Maple Leaf Dr. to the south and Prescott Dr. to the north. One consideration may be to limit the number of driveways for the site and require a shared driveway approach as a condition of any variance approval.

Sample Motions – Variance Request

Motion to Approve

MOTION by_____, seconded by _____, in the matter of File No. PVAI2025-0004, 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 APPROVED to allow for the proposed parcels to have a lot width of 88.625 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 lot widths for which this variance is granted. This motion is based on the following findings and conditions:

Findings

1. Compliance with the strict letter of the Zoning Ordinance would prohibit the reasonable use of the property and will be unnecessarily burdensome. It is not reasonable for the undivided parcel to continue to be occupied by one home due to its overall width, depth and area as compared to other lots in the R-3 One Family Residential District.
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 since a lesser variance would not allow the two (2) resultant lots to be created which are otherwise in compliance or in excess of Zoning Ordinance standards.
4. There are unique circumstances of the property that necessitate granting the variance as described in the above criterion, specifically that the existing lot is only approximately two and one half (2 ½) feet short of having the appropriate lot width to allow the lot to be split and that the existing lot is excessively wide and deep for a lot within the R-3 One Family Residential District.
5. The granting of this variance would not be materially detrimental to the public welfare or existing or future neighboring uses since the resulting lots, while less than the minimum lot width for the R-3 One Family Residential District, are larger in overall area and otherwise meet all other setbacks.
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. The granting of this variance does not guarantee a lot split will be granted by the City as the granted of a lot split is an administrative function that includes multiple reviewing departments.
8. *(Insert additional rationale as to why variance should be granted)*

Motion to Deny

MOTION by_____, seconded by _____, 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 that other similar lots with residential structures exist in close proximity to the subject 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 that either meet minimum ordinance requirements for lots of 90 feet in width and 12,000 square feet, or if not platted, 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.