



MEMORANDUM

Report Date: June 27th, 2024
To: City of Madison Heights Zoning Board of Appeals
Meeting Date: July 11th, 2024
From: Matt Lonnerstater, AICP – City Planner
Subject: Lot Area, Lot Width and Setback Variances
PZBA 24-03; 27376 Barrington Street.

NOTE: City Council adopted a new Zoning Ordinance and Zoning Map on May 13th, 2024. The effective date of the new Ordinance and Map is May 29th, 2024. The applicant formally submitted the ZBA application on May 13th, 2024, prior to the effective date of the new Zoning Ordinance. Therefore, this request shall be reviewed and acted upon utilizing the prior Zoning Ordinance.

REQUEST

The applicant and property owner, Magdalena Biriic, requests variances from the City's Zoning Ordinance related to minimum lot area, minimum lot width, and minimum building setbacks in order to divide an existing parcel into two (2) parcels and construct two (2) single-family detached structures. The subject property is located at 27376 Barrington Street (tax parcel #44-25-14-476-003) and is zoned R-3, One-Family Residential. The property is approximately 10,080 square feet in area, 76 feet in width, and is vacant. The property is located on the east side of Barrington Street, between University Avenue and Farnum Avenue.

The applicant requests variances from the following sections of the Zoning Ordinance pertaining to minimum lot area, lot width, and building setbacks:

Variance #1: Section 10.401: Minimum lot area (R-3 district): 5,500 square feet.

Variance #2: Section 10.401: Minimum lot width (R-3 district): 50 feet.

Variance #3: Section 10.401: Minimum side yard setback: 3 feet (total of 12 feet).

The applicant proposes to divide the existing residential parcel into two (2) parcels for the purpose of developing two (2) detached single-family homes. The new parcels are proposed as follows:

Parcel A: 5,038 sq. ft. (462 sq. ft. variance); 38 ft. in width (12 ft. variance).

Parcel B: 5,041 sq. ft. (459 sq. ft. variance); 38 ft. in width (12 ft. variance)

The house on Parcel A is proposed to be set back 2.7 feet from the north property line. The house on Parcel B is proposed to be set back 2.7 feet from the north property line. Therefore, both of these structures require a 0.3 foot side yard setback variance.

These variances are detailed individually on the following pages.

Lot Area Variances

Per Section 10.401 (Schedule of Regulations), new parcels created in the R-3 zoning district shall have a minimum lot area of 5,500 square feet. Both new parcels resulting from the proposed land division fail to meet the minimum lot area requirement. However, the subject parcel comprises two historic lots of the Symphony Park No. 1 subdivision which was platted prior to the 1960s. The historic platted lots on the east side of Barrington Street average approximately 5,300 square feet and do not comply with Zoning Ordinance standards. While several historic lots have been combined to create larger compliant parcels (including the subject parcel), there are four (4) existing parcels on the east side of Barrington Street which are legally non-conforming regarding lot size. Additionally, all but one existing parcel on the west side of Barrington Street have non-conforming lot areas.

Lot widths and lot sizes are denoted in the image below:



Lot Width Variances

Per Section 10.401 (Schedule of Regulations), new parcels created in the R-3 zoning district shall have a minimum lot width of 50 feet. As shown in the aerial image above, the historic platted lots of the Symphony Park #1 subdivision have widths of forty (40) feet, which are legally non-conforming to today's zoning standards. Based on information from the Oakland County Register of Deeds, the northern four (4) feet of the subject parcel was sold to, and combined with, the parcel to the north sometime prior to 1986. Therefore, the proposed land division results in two (2) 38 ft.-wide lots as opposed to two (2) 40 ft.-wide lots. A majority of the existing parcels on the east/west sides of this block of Barrington Street have lot widths of 40 feet, which do not conform to Zoning Ordinance standards. At 38 feet, the proposed lot widths are slightly less than the predominant pattern on the block face.

Setback Variances

Per Section 10.401 (Schedule of Regulations), new principal structures in the R-3 zoning district shall have a minimum side yard setback of three (3) feet on one side, with the two side yards totaling twelve (12) feet; as an example, a house with a 3-foot side yard on one side is required to have a minimum 9-foot side yard on the other. Additionally, per Section 10.401(s), the distance between houses located on adjacent lots in the R-3 district shall be at least 12 feet apart.

Due to the resulting narrow lot widths, the applicant proposes a 2.7-foot side yard setback for both homes; this amounts to a variance request of 0.3 feet, or approximately 3.6 inches. The minimum 12-foot distance between structures would be maintained. Per the survey provided by the applicant, the existing home to the south of the subject site is also located approximately 2.7 feet from the property line and is legally non-conforming.

Additional Setback and Dimensional Standards

The applicant has provided a conceptual architectural site plan and floor plan of the two (2) proposed detached single-family homes. If the requested variances (including the setback variances) and the subsequent land division application are approved, the proposed structures will be required to meet all other dimensional zoning requirements and design requirements, including but not limited to maximum lot coverage, maximum building height, minimum setbacks between structures on adjacent parcels, and building code regulations. Additional dimensional variance(s) will be required for any non-compliant aspect of the proposed structures.

VARIANCE FINDINGS AND CRITERIA

Section 10.804(2) outlines criteria for reviewing variance requests, summarized below:

- ***Exceptional narrowness, shallowness, shape or area of a specific piece of property at the time of enactment of the Zoning Ordinance or by reason of exceptional topographic conditions or other extraordinary or exceptional conditions of such property.***
- ***The strict application of the regulations enacted would result in peculiar or exceptional practical difficulties to, or exceptional undue hardship upon, the owner of such property, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purposes of this ordinance.***

Additional standards for reviewing variance cases, as required per the ZBA application, are outlined below:

- ***The literal interpretation of the provisions of this ordinance deprives the applicant of rights commonly enjoyed by others in the same zoning district.***

- *The special conditions and/or circumstances are not a result of the applicant.*
- *The variance is the minimum variance necessary to provide relief to the applicant.*
- *In the absence of a variance, the property could not be used in a manner permitted by the Ordinance.*

Additional variance review criteria are contained in Section 10.805, listed at the end of this report.

BUILDING OFFICIAL COMMENTS

Per the Building Official, all one-family residential structures, including those with reduced side yard setbacks, shall be built in compliance with Table R302.1(1), *Exterior Walls*, of the Residential Building Code.

STAFF ANALYSIS

The applicant has provided written responses addressing the variance criteria of Section 10.804(2) of the Zoning Ordinance. Per their application, the applicant primarily cites compatibility with adjacent non-conforming parcels as justification for the requested variances.

Practical difficulties relating to dimensional variance requests should generally relate to unique physical constraints on the property, including but not limited to natural features (e.g. wetlands, topography, soil situations) or extraordinary parcel shape. Where physical constraints severely limit the ability to place a legal use or structure on the property, variances may be warranted.

Staff finds that the existing subject parcel is of a regular rectangular shape with adequate lot area, depth, and frontage to accommodate construction of one (1) single-family structure. The dimensions of the existing parcel do not deprive the property owner of rights commonly enjoyed by others in the R-3 zoning district, nor prevent the owner from developing a residential building on the parcel. However, staff notes that the variance requests are minimal when compared with the prevailing historic lot pattern on Barrington Street (40 feet lot widths and 5,225 sq. ft. lot areas). While the variances would result in two lots that are *slightly* smaller and narrower than those existing on the block today, staff does not believe that the variances would result in a substantial detriment to the public good nor significantly alter the character of the neighborhood. Further, while staff cannot verify all the existing building setbacks within the neighborhood, many of the existing homes along this portion of Barrington Street appear to be built very close to the side property lines, including the home directly to the south which is placed 2.7 feet from the property line.

ZBA ACTION

Any ZBA motion, including approval and denial, should include findings of fact relating to the variance criteria listed in Sections 10.804(2) and 10.805. Template approval and denial motions are provided below for the ZBA's consideration. Separate motions should be made for the lot width/area variances and setback variances.

In granting a variance, the ZBA may attach conditions regarding the location, character and other features of the proposed use(s) as it may deem reasonable in furthering the purpose of the Zoning Ordinance. **If the ZBA moves to approve the requested variances, staff suggests the following condition of approval:**

1. Proposed structures on the new residential parcels shall satisfy all other dimensional and design standards contained within the Zoning Ordinance, unless subsequent variances are obtained through the Zoning Board of Appeals, and all pertinent building code regulations.

TEMPLATE MOTIONS – LOT AREA AND LOT WIDTH VARIANCES

APPROVAL

Move to **APPROVE** the dimensional variance requests to allow a land division at 27376 Barrington Street in the R-3 zoning district resulting in the following parcel dimensions:

Parcel A: 5,038 sq. ft. (462 sq. ft. variance); 38 ft. in width (12 ft. variance).

Parcel B: 5,041 sq. ft. (459 sq. ft. variance); 38 ft. in width (12 ft. variance)

The dimensional variances are granted based upon the following findings:

- 1) Section 10.401 of the Zoning Ordinance requires new parcels in the R-3 zoning district to contain a minimum lot area of 5,500 square feet and a minimum width of 50 feet.
- 2) The strict application of the regulations would result in peculiar or exceptional practical difficulties to, or exceptional undue hardship upon, the owner of such property, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purposes of this ordinance.
- 3) The special conditions and/or circumstances are not a result of the applicant.
- 4) The variances are the minimum variance necessary to provide relief to the applicant.

This variance is granted with the following condition:

1. Proposed structures on the new residential parcels shall satisfy all other dimensional and design standards contained within the Zoning Ordinance unless subsequent variances are obtained through the Zoning Board of Appeals, and all pertinent building code regulations.

DENIAL

Move to **DENY** the dimensional variance requests to allow a land division at 27376 Barrington Street in the R-3 zoning district resulting in the following parcel dimensions:

Parcel A: 5,038 sq. ft. (462 sq. ft. variance); 38 ft. in width (12 ft. variance).

Parcel B: 5,041 sq. ft. (459 sq. ft. variance); 38 ft. in width (12 ft. variance)

The dimensional variances are denied based upon the following findings:

- 1) Section 10.401 of the Zoning Ordinance requires new parcels in the R-3 zoning district to contain a minimum lot area of 5,500 square feet and a minimum width of 50 feet.
- 1) Based on the absence of exceptional shape or area, or physical constraints of the specific piece of property, the strict application of the regulations would not result in peculiar or exceptional practical difficulties to, or exceptional undue hardship upon, the owner of such property.
- 2) The literal interpretation of the provisions of this ordinance does not deprive the applicant of rights commonly enjoyed by others in the same zoning district.
- 3) The special conditions and/or circumstances are a result of the applicant.
- 4) The variances are not the minimum variance necessary to provide relief to the applicant.

TEMPLATE MOTIONS – SIDE YARD SETBACK

APPROVAL

Move to **APPROVE** the dimensional variance requests related to the required side yard setback at 27376 Barrington Street resulting in the following setbacks:

Parcel A: 2.7 foot setback from northern property line (0.3 foot variance)

Parcel B: 2.7 foot setback from the northern property line (0.3 foot variance)

The dimensional variances are granted based upon the following findings:

- 1) Section 10.401 of the Zoning Ordinance requires new principal structures in the R-3 zoning district to provide a minimum side yard setback of 3 feet.
- 2) The strict application of the regulations would result in peculiar or exceptional practical difficulties to, or exceptional undue hardship upon, the owner of such property, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purposes of this ordinance.
- 3) The special conditions and/or circumstances are not a result of the applicant.
- 4) The variances are the minimum variance necessary to provide relief to the applicant.

DENIAL

Move to **DENY** the dimensional variance requests related to the required side yard setback at 27376 Barrington Street resulting in the following setbacks:

Parcel A: 2.7 foot setback from northern property line (0.3 foot variance)

Parcel B: 2.7 foot setback from the northern property line (0.3 foot variance)

The dimensional variances are denied based upon the following findings:

- 1) Section 10.401 of the Zoning Ordinance requires new principal structures in the R-3 zoning district to provide a minimum side yard setback of 3 feet.
- 5) Based on the absence of exceptional shape or area, or physical constraints of the specific piece of property, the strict application of the regulations would not result in peculiar or exceptional practical difficulties to, or exceptional undue hardship upon, the owner of such property.
- 6) The literal interpretation of the provisions of this ordinance does not deprive the applicant of rights commonly enjoyed by others in the same zoning district.
- 7) The special conditions and/or circumstances are a result of the applicant.
- 8) The variances are not the minimum variance necessary to provide relief to the applicant.

CODE REFERENCES

Sec. 10.804. - Power of zoning board of appeals.

(2) Variance. *To authorize upon an appeal, a variance from the strict applications of the provisions of this Ordinance where by reason of exceptional narrowness, shallowness, shape or area of a specific piece of property at the time of enactment of this Ordinance or by reason of exceptional topographic conditions or other extraordinary or exceptional conditions of such property, the strict application of the regulations enacted would result in peculiar or exceptional practical difficulties to, or exceptional undue hardship upon the owner of such property, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purposes of this Ordinance. In granting a variance the board may attach thereto such conditions regarding the location, character and other features of the proposed uses as it may deem reasonable in furtherance of the purpose of this Ordinance. In granting a variance, the board shall state the grounds upon which it justifies the granting of a variance.*

Sec. 10.805. - Standards.

Each case before the city council, zoning board of appeals or plan commission shall be considered as an individual case and shall conform to the detailed application of the following standards in a manner appropriate to the particular circumstances of such case. All uses as listed in any district requiring approval for a permit shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is situated and will not be detrimental to the orderly development of adjacent districts. Consideration shall be given to the following:

- 1) The location and size of the use.*
- 2) The nature and intensity of the operations involved in or conducted in connection with it. (See section 10-319(4).)*
- 3) Its size, layout and its relation to pedestrian and vehicular traffic to and from the use.*
- 4) The assembly of persons in connection with it will not be hazardous to the neighborhood or be incongruous therewith or conflict with normal traffic of the neighborhood.*
- 5) Taking into account, among other things, convenient routes of pedestrian traffic, particularly of children.*
- 6) Vehicular turning movements in relation to routes of traffic flow, relation to street intersections, site distance and the general character and intensity of development of the neighborhood.*
- 7) The location and height of buildings, the location, the nature and height of walls, fences and the nature and extent of landscaping of the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.*
- 8) The nature, location, size and site layout of the uses shall be such that it will be a harmonious part of the district in which it is situated taking into account, among other things, prevailing shopping habits, convenience of access by prospective patrons, the physical and economic relationship of one type of use to another and related characteristics.*
- 9) The location, size, intensity and site layout of the use shall be such that its operations will not be objectionable to nearby dwellings, by reason of noise, fumes or flash of lights to a greater degree than is normal with respect to the proximity of commercial to residential uses, not interfere with an adequate supply of light and air, not increase the danger of fire or otherwise endanger the public safety.*

Section 10.401 – Limiting Height, Bulk, Density and Area by Land Use

Use Districts	Minimum Size Lot per Dwelling Unit		Maximum Height of Principal Structures		Minimum Yard Setback (per lot in ft.)				Minimum Floor Area	Maximum Percentage of Lot Coverage
					Sides Least Total					
	Area in Sq. Ft.	Width in Ft.	In Stories	In Feet	Front	One	Two	Rear	Per Unit (sq. ft.)	(area of all buildings)
R-1 One-Family Residential (t)	43,560	150	2	25	25(r)	10	25	50	1,400(b) (p) (q)*	20%
R-2 One-Family Residential (t)	7,200	60	2	25	25(e), (r)	5(a)	14(s)	35	1,200(b) (p) (q)*	30%
R-3 One-Family Residential (t)	5,500	50	2	25	25(e), (r)	3(a)	12(s)	35	950(b) (p) (q)*	35%
R-T Two-Family Residential (t)	4,000	40	2	25	25(c)	10(a)	20	30	650(b)	35%
R-M Multiple-FamilyResidential (t)	(c)	(c)	3	35	25(e)	10	20	30	(c)	35%
O-1 Office Building (u)	—	—	2(h)	30(h)	20(c), (l)	(f)	(f)	20	—	—
B-1 LocalBusiness (u)	—	—	2(h)	30(v)	5(e), (v)	(f), (v)	(f), (v)	20(g), (v)	—	—
B-2 PlannedBusiness (u)	—	—	3(h)	40(h), (v)	75	20(j), (v)	(j), (v)	20(g), (j), (v)	—	—
B-3 GeneralBusiness (u)	(w)	(w)	3(h), (w)	40(h)	5(e), (w)	(f)	(f)	20(g)	(w)	—
M-1 Light Industrial (u)	—	—	—	40(h)	50(e), (l), (j)	20(j), (l)	—	(j), (l)	—	—