

Aerial Image of Subject Property



Streetview from Townley St.



Streetview from E. 11 Mile Rd.



VARIANCE FINDINGS AND CRITERIA

Section 15.06.2 of the Zoning Ordinance grants the Zoning Board of Appeals the power to authorize dimensional variances from building setback requirements, provided that such variances will not be inconsistent with the purpose and intent of such requirements. In granting a variance, the Zoning Boards of Appeals shall make findings that the petitioner has adequately proven the existence of a “practical difficulty”, explicitly with regard to the following criteria:

- A. That strict compliance with area, setbacks, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for a permitted purpose, and would thereby render the conformity unnecessarily burdensome for other than financial reasons; and
- B. That a variance will provide and preserve a substantial property right similar to that possessed by other properties within the same zoning district and in the neighboring area, provided that possible increased financial return shall not of itself be deemed sufficient to warrant a variance; and
- C. That the plight of the owner is due to unique circumstances of the property, such as the shape of the parcel, unique topographic or environmental conditions, or any other physical situation on the land, building or structure deemed by the Zoning Board of Appeals to be extraordinary; and
- D. That the requested variance is the minimum amount necessary to permit reasonable use of the land, building or structure; and
- E. That the authorization of such variance will not be of substantial detriment to adjacent properties and will not materially impair the intent and purpose of this Ordinance or the public health, safety, and general welfare of the community; and
- F. That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).

In granting any variance, the ZBA may prescribe appropriate conditions and safeguards in conformity with the Ordinance, provided that said conditions are designed to protect natural resources, the health, safety, and welfare and social and economic well-being of the public. Such conditions shall be necessary to meet the intent and purpose of the Ordinance, be related to the standards established in the section for the land use or activity under consideration and be necessary to ensure compliance with those standards.

STAFF ANALYSIS

Per historic aerial photographs and city records, the existing building was expanded to its current footprint in 1988. As shown in the images on the previous page, there is an existing eight foot (8') tall masonry wall on the northern property line which separates the subject site from the single-family residential properties to the north. The masonry wall extends to portions of the western property line between the subject site and the apartment building to the west (note that the existing building is built directly to the western property line).

The intent behind the fifty (50) foot residential setback requirement for veterinary clinics is to protect adjacent residential properties from potential adverse impacts of the use, including but not limited to animal noises and odors. The applicant has provided written responses addressing the variance criteria of Section 15.06.2 of the Zoning Ordinance. The applicant primarily cites the fact that the building is pre-existing as justification for the variance request. As the Zoning Ordinance requires a 50-foot separation between *any* portion of the veterinary building and a residential property line, strict compliance with the standards would require the applicant to demolish portions of the existing building or seek an alternate location. Staff notes that the existing masonry walls could reduce the severity of adverse impacts on

adjacent properties. However, additional conditions could be placed on the variance request to further protect these residential properties in accordance with Section 15.06.2.

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

If a motion to approve the variance is presented, staff recommends several conditions of approval to further limit adverse impacts on adjacent properties and meet the spirit of the use-specific standards for veterinary clinics:

Suggested conditions:

1. Hours of operation shall be limited to between 7 a.m. and 10 p.m.
2. Overnight boarding shall not be permitted.

ZBA ACTION

Any ZBA motion, including approval and denial, shall include findings of fact relating to the variance criteria listed in Sections 15.06.2 of the Zoning Ordinance. Template approval and denial motions are provided below for the ZBA's consideration, which may be modified at the discretion of the board.

TEMPLATE MOTIONS

Variance— Residential Setback Requirement

APPROVE (NOTE: ALL STANDARDS NEED TO BE LISTED TO MOVE FOR APPROVAL)

Move that the Zoning Board of Appeals APPROVE a building setback variance from Section **7.03.46.A** of the Zoning Ordinance to permit a veterinary clinic to operate from the existing building at 241/245 E. 11 Mile Road, located within fifty feet (50)' of adjacent residentially zoned and used parcels. This motion, being made after the required public hearing, is based upon the following findings:

- 1) That 7.03.46.a of the Zoning Ordinance states that, *"Buildings wherein animals are kept, treated, or serviced shall be set back a minimum of fifty (50) feet from any residentially-zoned or used property."*
- 2) That strict compliance with the building setback requirement would unreasonably prevent the owner from using the property as a veterinary clinic and would thereby render the conformity unnecessarily burdensome for other than financial reasons; and
- 3) That a variance will provide and preserve a substantial property right similar to that possessed by other properties within the same zoning district and in the neighboring area, provided that possible increased financial return shall not of itself be deemed sufficient to warrant a variance; and
- 4) That the plight of the owner is due to unique circumstances of the property, including pre-existing building and site conditions; and
- 5) That the requested variance is the minimum amount necessary to permit reasonable use of the land, building or structure; and
- 6) That, with conditions, the authorization of such variance will not be of substantial detriment to adjacent properties and will not materially impair the intent and purpose of this Ordinance or the public health, safety, and general welfare of the community; and

- 7) That, due to the fact that the existing building footprint was established over 30 years prior to the date of this application, the need for the requested variance is not the result of actions of the property owner.

Approval is granted with the following **conditions** designed to ensure compliance with the intent and purpose of the use-specific regulations:

1. Hours of operation shall be limited to between 7 a.m. and 10 p.m.
2. Overnight boarding shall not be permitted.

DENIAL (NOTE: ONLY ONE NON-COMPLIANT STANDARD NEEDS TO BE LISTED TO MOVE FOR DENIAL)

Move that the Zoning Board of Appeals DENY a building setback variance from Section **7.03.46.A** of the Zoning Ordinance to permit a veterinary clinic to operate from the existing building at 241/245 E. 11 Mile Road, located within fifty feet (50)' of adjacent residentially zoned and used parcels. This motion, being made after the required public hearing, is based upon the following findings

- 1) That 7.03.46.a of the Zoning Ordinance states that, *"Buildings wherein animals are kept, treated, or serviced shall be set back a minimum of fifty (50) feet from any residentially-zoned or used property."*
- 2) That strict compliance with the building setback requirement would not unreasonably prevent the owner from using the property for a permitted purpose other than a veterinary clinic, and would thereby render the conformity unnecessarily burdensome for other than financial reasons; and
- 3) That the authorization of such variance would be a substantial detriment to adjacent properties and will materially impair the intent and purpose of this Ordinance or the public health, safety, and general welfare of the community; and
- 4) That the need for the requested variance is a result of actions of previous property owners.

Attachments

- Maps
- ZBA Application and Documents
- Section 7.03.46 – [Use Specific Standards] Veterinary Clinics and Animal Grooming
- Section 15.06 – Variances and Appeals
- Public Hearing Notice