

**ROYAL OAK ZONING BOARD OF APPEALS
CITY OF ROYAL OAK, MICHIGAN**

**Thursday, May 9, 2019
7:00 P.M.**

Present

Paul Curtis
Clyde Esbri, Chairperson
Robert Gavin
Jeff Klatt
Alan Kroll
Anthony Offak, Vice Chairperson
Deborah Zukin

Absent

Leslie Anderson

Joseph M. Murphy, Director of Planning
Julianna Tschirhart, Planner
Ryan Kaluzny, Assistant City Attorney

Agenda

A. Call to Order

B. Approval of Minutes for April 11, 2019

C. Old / Unfinished Business

D. New Business

1. **Case No. 19-05-12** – public hearing on the appeal of Zen Mode LLC, petitioner & Avenue Eleven LLC, owner, for the following variances:
 - (a) use variance
 - (b) waive 827 ft. of the minimum required 1,000 ft. distance from a school, library, park, playground, licenses day-care, or religious institution
 - (c) waive 150 ft. of the minimum required 150 ft. distance from a residential zone
 - (d) waive 6.5 ft. of the minimum required 20 ft. two-way drive aisle width to permit a personal service spa with massage services which is defined as an adult-oriented business at **317 E. 11 Mile Rd.** (25-15-357-032)

2. **Case No. 19-05-13** – public hearing on the appeal of Young & Young Architects, petitioner & Joshua Alpert, owner, for the following variances:
 - (a) waive 19.3 ft. of the minimum required 35 ft. south rear yard setback to permit construction of a new single-family dwelling with an attached garage at **720 E. Farnum Ave.** (25-15-379-013)

3. **Case No. 19-05-14** – public hearing on the appeal of Michael Lemanski, petitioner & owner, for the following variances:
 - (a) alter/expand a non-conforming structure
 - (b) waive 2.2 ft. of the minimum required south side yard setback of 8 ft. to permit construction of a rear yard addition to an existing, non-conforming single-family dwelling at **1203 N. Blair Ave.** (25-15-208-030)

E. Other Business

F. Public Comment

Call to Order

The meeting was called to order at 7:07 p.m. by Chairperson Esbri. He informed the audience that the board does not write the zoning ordinance but does have the authority to grant relief from it where practical difficulty or unnecessary hardship would result. He stated the board will vote on each agenda item following a public hearing. Use variance requests require a minimum of 6 affirmative votes in order to grant the requested variances. Non-use variance requests require a minimum of 5 affirmative votes in order to grant the variances. Petitioners were directed to limit their presentations to 10 minutes and that each participant in a public hearing limit their comments to 3 minutes. He further pointed out to petitioners the absence of a full board at tonight's meeting and their opportunity to request that their agenda item be adjourned until the next regular meeting due to the circumstances.

Approval of Minutes for April 11, 2019

Moved by: Mr. Kroll
Supported by: Mrs. Zukin

Moved, that the minutes of the April 11, 2019 regular meeting be approved as presented.

Motion adopted unanimously.

Old / Unfinished Business

None.

New Business**1. Case No. 19-05-12 – 317 E. 11 Mile Rd. (25-15-357-032)**

Moved by: Mr. Kroll
Supported by: Mrs. Zukin

Moved, that the appeal of Zen Mode LLC, petitioner & Avenue Eleven LLC, owner, for the following variances:

- (a) use variance
- (b) waive 827 ft. of the minimum required 1,000 ft. distance from a school, library, park, playground, licensed day-care, or religious institution
- (c) waive 150 ft. of the minimum required 150 ft. distance from a residential zone
- (d) waive 6.5 ft. of the minimum required 20 ft. two-way drive aisle width to permit a personal service spa with massage services which is defined as an adult-oriented business at 317 E. 11 Mile Rd., be granted.

Motion adopted unanimously.

Granting the use and non-use variances is based upon the petitioner's ability to present evidence demonstrating that all of the following requirements have been met:

1. The property cannot be reasonably used for the purposes permitted in the multiple-family residential zoning district. Strict compliance with the zoning ordinance provisions would prevent the property owner from use and enjoyment of the property and would render conformity with such provisions unnecessarily burdensome.

2. The appeal results from unique circumstances peculiar to the property and not the general conditions of the surrounding area. Further, the requested use would not alter the essential character of the area.
3. The alleged hardship has not been created by the petitioner and/or property owner. There are circumstances or conditions inherently unique to the property.
4. The requested use is a substantial property right possessed by other property owners in the multiple-family residential zoning district.

It is further the finding of the board that the spirit of the zoning ordinance will be observed, public safety secured, and substantial justice rendered by granting the variances.

2. Case No. 19-05-13 – 720 E. Farnum Ave. (25-15-379-013)

Moved by: Mr. Offak
Supported by: Mr. Klatt

Moved, that the appeal of Young & Young Architects, petitioner & Joshua Alpert, owner, for the following variance:

- (a) waive 19.3 ft. of the minimum required 35 ft. south rear yard setback to permit construction of a new single-family dwelling with an attached garage at 720 E. Farnum Ave., be granted.

Motion adopted 6-1 (Mrs. Zukin).

Granting the variance is based upon the following:

1. Strict compliance with the zoning ordinance provisions will unreasonably prevent the petitioner from use and enjoyment of the property for a permitted purpose, or would render conformity with such provisions unnecessarily burdensome.
2. Granting the variance will do substantial justice to the petitioner and will not prove detrimental to other property owners in the area, and is the least relief required in order to afford substantial justice to the petitioner or be more consistent with justice to nearby property owners.
3. There are circumstances or conditions inherently unique to the property that necessitates granting the variance.
4. There is evidence of practical difficulty that has not been created by the petitioner and/or property owner but instead results from the inherently unique circumstances or conditions of the property that requires granting the variance.

It is further the finding of the board that the spirit of the zoning ordinance will be observed, public safety secured, and substantial justice rendered by granting the variance.

3. Case No. 19-05-14 – 1203 N. Blair Ave. (25-15-208-030)

The petitioner submitted a written request to postpone the item until the next regularly scheduled meeting due to their inability to be present at tonight's meeting.

Moved by: Mr. Kroll
Supported by: Mr. Curtis

Moved, that the appeal of Michael Lemanski, petitioner & owner, for the following variances:

- (a) alter/expand a non-conforming structure
- (b) waive 2.2 ft. of the minimum required south side yard setback of 8 ft.

to permit construction of a rear yard addition to an existing, non-conforming single-family dwelling at 1203 N. Blair Ave., be postponed.

Motion adopted unanimously.

Other Business

None.

Public Comment

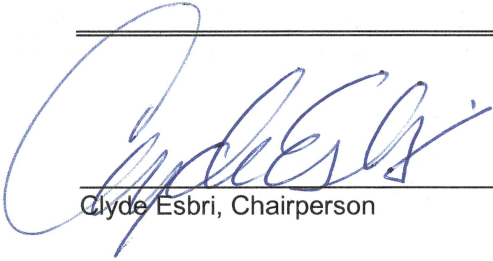
None.

Adjournment

Moved by: Mr. Kroll
Supported by: Mr. Klatt

Moved, that the meeting adjourned at 8:16 p.m.

Motion adopted unanimously.



Clyde Esbri, Chairperson



Joseph M. Murphy, Director of Planning