

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

**Thursday, June 11, 2020
7:00 P.M.**

Present

Leslie Anderson
Paul Curtis
Clyde Esbri, Chairperson
Robert Gavin (7:04 p.m.)
Jeff Klatt
Alan Kroll
Anthony Offak, Vice Chairperson
Nancy Robinson
Deborah Zukin

Absent

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

Agenda

A. Call to Order

B. Approval of Minutes for February 13, 2020

C. Old / Unfinished Business

D. New Business

1. **Case No. 20-04-03** – public hearing on the appeal of William Finnicum, petitioner, & Karen Reese, owner, for the following variances:
 - (a) alter / expand a nonconforming structure
 - (b) waive 1.27 ft. of the minimum required 18 ft. east front yard setback measured to an unenclosed front porch and steps
to allow expansion of a nonconforming second story balcony along the south front façade of the dwelling at **3321 Vinsetta Blvd.** (25-09-427-019).

2. **Case No. 20-04-04** – public hearing on the appeal of Steven Kalmar, petitioner & owner, for the following variances:
 - (a) waive 1 ft. of the minimum required 5 ft. south side yard setback
 - (b) waive 1 ft. of the minimum required 5 ft. north side yard setback
to permit construction of a single-family home with an attached accessory structure / garage at **906 Hoffman Ave.** (25-22-426-022).

3. **Case No. 20-04-05** – public hearing on the appeal of Jim Yost, petitioner & owner, for the following variances:
 - (a) alter / expand a nonconforming structure
 - (b) waive 0.8 ft. of the minimum required 5 ft. west side yard setback
 - (c) waive 1.7 ft. of the minimum required 33.3 ft. south front yard setback
to permit construction of cantilevered second-story addition to an existing non-conforming, single-family dwelling at **1006 Cloverdale Dr.** (25-16-177-013).

4. **Case No. 20-04-06** – public hearing on the appeal of George Gegaj, petitioner & owner, for the following variances:
 - (a) waive 1.3 ft. of the minimum required 5 ft. east side yard setback
 - (b) waive 1.3 ft. of the minimum required 15 ft. combined side yard setback
to permit construction of a new two-story, single-family dwelling on an existing foundation at **1613 Poplar Ave.** (25-09-103-008).

5. **Case No. 20-04-07** – public hearing on the appeal of Alimoff Building & Development LLC, petitioner & owner, for the following variances:

(a) waive 14.8 ft. of the minimum required 44.5 ft. south front yard setback
(b) waive 11.5 ft. of the minimum required 37.5 ft. south front yard setback measured to an unenclosed front porch and steps
to permit construction of a two-story, single-family dwelling with an attached accessory structure / garage at **415 Edmund Ave.** (25-03-330-026).

6. **Case No. 20-04-08** – public hearing on the appeal Alimoff Building & Development LLC, petitioner & owner, for the following variances:
 - (a) waive 14.8 ft. of the minimum required 44.5 ft. south front yard setback
 - (b) waive 10.8 ft. of the minimum required 37.5 ft. south front yard setback measured to an unenclosed front porch and stepsto permit construction of a two-story, single-family dwelling with an attached accessory structure / garage at **3904 Bellevue Ave.** (25-03-330-025)
7. **Case No. 20-04-09** – public hearing on the appeal of Daniel Hagedorn, petitioner & owner, for the following variances:
 - (a) waive 4 ft. of the minimum required 50 ft. in lot width for Parcel “A”
 - (b) waive 480 sq. ft. of the minimum required 6,000 sq. ft. lot area for Parcel “A”to permit a land division for a single-family home site along N. Campbell Rd at **2500 N. Wilson Ave.** (25-10-429-034).
8. **Case No. F-20-06-01** – public hearing on the appeal of Andrew Fairless, petitioner & owner, for the following variance to the city’s Fence Ordinance:
 - (a) waive 2 ft. of the maximum permitted 4 ft. fence height within a front yard setback along E. 2nd St. to install a 6 ft. sight obscuring wood fence within a front yard setback as defined in the Zoning Ordinance at **203 S. Gainsborough Ave.** (25-22-204-001).
9. **Case No. 20-06-10** – public hearing on the appeal of Duane Barbat, RO Investments, LLC, petitioner & owner, for the following variance:
 - (a) waive 3 of the minimum required 26 off-street parking spacesto demolish the existing building and construct a new building for a physical therapy office at **32934 Woodward Ave.** (25-06-126-005) **and adjacent parking lot** (25-06-126-021).
10. **Case No. 20-06-11** – public hearing on the appeal of Zeidman’s Jewelry, petitioner, & Nomie LLC, owner, for the following variances:
 - (a) waive 765 ft. of the minimum required 1,000 ft. distance from a school, library, park, playground, licensed day care, or religious institution
 - (b) waive 130 ft. of the minimum required 150 ft. distance from a residential zoneto permit a jewelry store with a pawnbroker’s license which is defined as an adult-oriented business at **32302 Woodward Ave.** (25-06-180-011).
11. **Case No. 20-06-12** – public hearing on the appeal of Buddy Demer, owner, & Hillan Homes, petitioner, for the following variances:
 - (a) waive 10 ft. of the minimum required 50 ft. lot width for Parcel “A”
 - (b) waive 800 sq. ft. of the minimum required 6,000 sq. ft. lot area for Parcel “A”
 - (c) waive 10 ft. of the minimum required 50 ft. lot width for Parcel “B”
 - (d) waive 800 sq. ft. of the minimum required 6,000 sq. ft. lot area for Parcel “B”to permit a land division and create two vacant, single-family home sites at **417 N. Connecticut Ave** (25-15-477-020).

E. Other Business

F. Public Comment

Call to Order

The virtual meeting was called to order at 7:02 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.

Roll Call

Present

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

Absent

Approval of Minutes for February 13, 2020

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

Moved, that the minutes of the February 13, 2020 regular meeting be approved as presented.

Motion adopted unanimously.

Old / Unfinished Business

None.

New Business

1. Case No. 20-04-03 – 3321 Vinsetta Blvd. (25-09-427-019)

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

Moved, that the appeal of William Finnicum, petitioner, & Karen Reese, owner, for the following variances:

- (a) alter / expand a nonconforming structure
 - (b) waive 1.27 ft. of the minimum required 18 ft. east front yard setback measured to an unenclosed front porch and steps
- to allow expansion of a nonconforming second story balcony along the south front façade of the dwelling at 3321 Vinsetta Blvd., be granted.

Motion adopted unanimously.

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 variances 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 variances.
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 variances.

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. 20-04-04 – 906 Hoffman Ave. (25-22-426-022)

Moved by: Mr. Curtis
Supported by: Ms. Anderson

Moved, that the appeal of Steven Kalmar, petitioner & owner, for the following variances:
(a) waive 1 ft. of the minimum required 5 ft. south side yard setback
(b) waive 1 ft. of the minimum required 5 ft. north side yard setback
to permit construction of a single-family home with an attached accessory structure / garage at 906 Hoffman Ave., be denied.

Motion adopted unanimously.

Denying the variances is based upon the following:

1. Strict compliance with the zoning ordinance provisions would not unreasonably prevent the petitioner from use and enjoyment of the property for a permitted purpose, and would not render conformity with such provisions unnecessarily burdensome.
2. Granting the variances would prove detrimental to other property owners in the area.
3. There are no circumstances or conditions inherently unique to the property that necessitates granting the variances.
4. There is no evidence of practical difficulty that has not been created by the petitioner / property owner.

3. Case No. 20-04-05 – 1006 Cloverdale Dr. (25-16-177-013)

Moved by: Mr. Offak
Supported by: Mr. Gavin

Moved, that the appeal of Jim Yost, petitioner & owner, for the following variances:
(a) alter / expand a nonconforming structure
(b) waive 0.8 ft. of the minimum required 5 ft. west side yard setback
to permit construction of cantilevered second-story addition to an existing non-conforming, single-family dwelling at 1006 Cloverdale Dr., be granted.

Motion adopted (7-2).

Yes: Ms. Anderson, Mr. Curtis, Chairperson Esbri, Mr. Klatt, Mr. Kroll, Ms. Robinson, Ms. Zukin

No: Mr. Offak, Mr. Gavin

Moved by: Mr. Kroll

Supported by: Mr. Curtis

Moved, that the appeal of Jim Yost, petitioner & owner, for the following variances:

(c) waive 1.7 ft. of the minimum required 33.3 ft. south front yard setback to permit construction of cantilevered second-story addition to an existing non-conforming, single-family dwelling at 1006 Cloverdale Dr., be granted.

Motion adopted (8-1).

Yes: Ms. Anderson, Mr. Curtis, Chairperson Esbri, Mr. Gavin, Mr. Klatt, Mr. Kroll, Ms. Robinson, Ms. Zukin

No: Mr. Offak

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 variances 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 variances.
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 variances.

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.

4. Case No. 20-04-06 – 1613 Poplar Ave. (25-09-103-008)

Moved by: Mr. Kroll

Supported by: Mr. Klatt

Moved, that the appeal of George Gegaj, petitioner & owner, for the following variances:

(a) waive 1.3 ft. of the minimum required 5 ft. east side yard setback

(b) waive 1.3 ft. of the minimum required 15 ft. combined side yard setback

to permit construction of a new two-story, single-family dwelling on an existing foundation at 1613 Poplar Ave., be granted.

Motion adopted unanimously.

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 variances 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 variances.
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 variances.

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.

5. Case No. 20-04-07 – 415 Edmund Ave. (25-03-330-026)

Moved by: Mr. Offak
Supported by: Mr. Kroll

Moved, that the appeal of Alimoff Building & Development LLC, petitioner & owner, for the following variances:

- (a) waive 14.8 ft. of the minimum required 44.5 ft. south front yard setback
 - (b) waive 11.5 ft. of the minimum required 37.5 ft. south front yard setback measured to an unenclosed front porch and steps
- to permit construction of a two-story, single-family dwelling with an attached accessory structure / garage at 415 Edmund Ave., be granted.

Motion adopted unanimously.

Granting the variances 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 variances 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 variances.
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 variances.

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.

6. Case No. 20-04-08 – 3904 Bellevue Ave. (25-03-330-025)

Mr. Murphy announced that the request was removed from the agenda.

7. Case No. 20-04-09 – 2500 N. Wilson Ave. (25-09-427-019)

Moved by: Mr. Kroll
Supported by: Ms. Anderson

Moved, that the appeal of Daniel Hagedorn, petitioner & owner, for the following variances:
(a) waive 4 ft. of the minimum required 50 ft. in lot width for Parcel "A"
(b) waive 480 sq. ft. of the minimum required 6,000 sq. ft. lot area for Parcel "A"
to permit a land division for a single-family home site along N. Campbell Rd at 2500 N. Wilson Ave.,
be denied.

Motion fails (2-7).

Yes: Ms. Anderson, Mr. Kroll

No: Chairperson Esbri, Mr. Curtis, Mr. Gavin, Mr. Klatt, Mr. Offak, Ms. Robinson, Ms. Zukin

Moved by: Mr. Offak

Supported by: Mr. Gavin

Moved, that the appeal of Daniel Hagedorn, petitioner & owner, for the following variances:
(a) waive 4 ft. of the minimum required 50 ft. in lot width for Parcel "A"
(b) waive 480 sq. ft. of the minimum required 6,000 sq. ft. lot area for Parcel "A"
to permit a land division for a single-family home site along N. Campbell Rd at 2500 N. Wilson Ave.,
be granted.

Motion adopted (7-2)

Yes: Chairperson Esbri, Mr. Curtis, Mr. Gavin, Mr. Klatt, Mr. Offak, Ms. Robinson, Ms. Zukin

No: Ms. Anderson, Mr. Kroll

Granting the variances 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 variances 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 variances.
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 variances.
5. The proposed lots are consistent with the width, size and general character of the lots in the neighborhood. Further, the proposed lot size provides adequate "buildable" area to allow the construction of a dwelling which in character with the neighborhood.

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.

8. Case No. F-20-06-01 – 203 S. Gainsborough Ave. (25-22-204-001)

Moved by: Ms. Anderson

Supported by: Ms. Zukin

Moved, that the appeal of Andrew Fairless, petitioner & owner, for the following variance to the City's Fence Ordinance:

(a) waive 2 ft. of the maximum permitted 4 ft. fence height within a front yard setback along E. 2nd St. to install a 6 ft. sight obscuring wood fence within a front yard setback as defined in the Zoning Ordinance at 203 S. Gainsborough Ave., be denied.

Motion adopted unanimously.

Denying the variance is based upon the following:

1. The petitioner has failed to demonstrate that practical difficulties exist in strict compliance with the Fence Ordinance provisions.
2. Denying the variance will not prove detrimental to the petitioner.
3. Denying the variance is done in light of public health, safety and welfare concerns.

9. Case No. 20-06-10 – 32934 Woodward Ave. (25-06-126-005)

Moved by: Mr. Offak

Supported by: Mr. Curtis

Moved, that the appeal of Duane Barbat, RO Investments, LLC, petitioner & owner, for the following variance:

(a) waive 3 of the minimum required 26 off-street parking spaces to demolish the existing building and construct a new building for a physical therapy office at **32934 Woodward Ave. (25-06-126-005) and adjacent parking lot (25-06-126-021)**, be granted.

Motion adopted unanimously.

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.

10. Case No. 20-06-11 – 32302 Woodward Ave. (25-06-180-011)

Mr. Murphy announced that the request was removed from the agenda.

11. Case No. 20-06-12 – 417 N. Connecticut Ave. (25-15-477-020)

Moved by: Mr. Offak

Supported by: Ms. Anderson

Moved, that the appeal of Buddy Demer, owner, & Hillan Homes, petitioner, for the following variances:

- (a) waive 10 ft. of the minimum required 50 ft. lot width for Parcel "A"
 - (b) waive 800 sq. ft. of the minimum required 6,000 sq. ft. lot area for Parcel "A"
 - (c) waive 10 ft. of the minimum required 50 ft. lot width for Parcel "B"
 - (d) waive 800 sq. ft. of the minimum required 6,000 sq. ft. lot area for Parcel "B"
- to permit a land division and create two vacant, single-family home sites at 417 N. Connecticut Ave., be denied.

Motion adopted (7-2).

Yes: Ms. Anderson, Mr. Gavin, Mr. Klatt, Mr. Kroll, Mr. Offak, Ms. Robinson, Ms. Zakin

No: Chairperson Esbri, Mr. Curtis

Denying the variances is based upon the following:

1. Strict compliance with the zoning ordinance provisions will not unreasonably prevent the petitioner from use and enjoyment of the property for a permitted purpose, or would not render conformity with such provisions unnecessarily burdensome.
2. Granting the variances would prove detrimental to other property owners in the area.
3. There are not circumstances or conditions inherently unique to the property that necessitates granting the variances.
4. There is no evidence of practical difficulty and there are not inherently unique circumstances or conditions of the property that requires granting the variances.
5. The proposed lots would not be consistent with the width, size and general character of the lots in the neighborhood. Further, the proposed lot sizes would not provide adequate "buildable" area to allow the construction of a dwelling which in character with the neighborhood.

Other Business

None.

Public Comment

None.

Adjournment

Moved by: Mr. Kroll
Supported by: Ms. Robinson

Moved, that the meeting adjourned at 10:05.

Motion adopted unanimously.



Anthony Offak, Vice Chairperson



Joseph M. Murphy, Director of Planning