

CITY OF SOUTHGATE

Board of Zoning Appeals

AGENDA

MONDAY, March 11, 2024

5:30 PM

I. CALL TO ORDER

II. ROLL CALL

Anderson, Coombs, Foucher, Martin, Poirier, Richardson, Stephan

III. MINUTES

1. Minutes of regular Board of Zoning Appeals Meeting dates September 11, 2023

IV. ADMINISTRATIVE REPORTS

V. PUBLIC HEARINGS

1. Variance application for 12930 Churchill

VI. NEW BUSINESS

1. Election of Officers

VII. OLD BUSINESS

VIII. ANNOUNCEMENTS

IX. ADJOURNMENT

City of Southgate
Board of Zoning Appeals
SEPTEMBER 11, 2023

A meeting of the Board of Zoning Appeals of the City of Southgate was held in the Municipal Council Chambers, 14400 Dix-Toledo Highway, Southgate, Michigan on Monday, September 11, 2023 and called to order by Gary Martin, Vice Chairperson at 5:30 p.m.

PRESENT: Gary Martin, Pat Poirier, Dennis Richardson, Tim Foucher, Patricia Anderson, Jill Stephan

ABSENT: Tom Coombs

Also Present: City Planner Joe Pezzotti, Building Official Tim Leach, City Administrator Dan Marsh, City Attorney Ed Zelenak

Minutes:

Moved by Anderson, supported by Foucher, to approve the minutes of the Board of Zoning Appeals Meeting dated August 14, 2023. Motion Carried Unanimously.

Administrative Reports:

Will be starting on updating the Master Plan.

Public Hearing:

1. Rocco Daversa, 13327 Mark, Variance for a Fence.

A PUBLIC HEARING WAS HELD FOR ROCCO DAVERSA, 13327 MARK, VARIANCE FOR A FENCE.

Notices were sent out.

Moved by Foucher, supported by Richardson, to open this Public Hearing.

The applicant is requesting expanding a fence that will encroach into the Sycamore front yard. The lot fronts two streets creating two front yards. The applicant is requesting this fence variance in order to extend the existing fence in the backyard closer to the sidewalk for enjoyment and provide fencing that most homes in the City not on a corner lot are permitted to install. The property is located within the R-1B One-Family Residential district. A privacy fence six feet in height consisting of white PVC material will replace the current wire fencing that is visible from the front yard along Sycamore Street. The requested variance is an encroachment of approximately fifteen feet into the required twenty-five foot front yard setback.

We believe the requested variance is reasonable and appropriate based on the location of the site. We recommend approval of the requested dimensional variance.

No public comments were received.

Moved by Martin, supported by Foucher, to close this Public Hearing.

Moved by Anderson, supported by Poirier, that the Board of Zoning Appeals, APPROVES, the application at the request of Rocco Daversa, 13327 Mark St. for the requested dimensional variance of approximately fifteen feet (15') into the required twenty-five foot (25') front yard setback. BZA 05-2023. Motion Carried Unanimously.

New Business:

None.

Old Business:

None.

Announcements:

None.

Moved by Martin, supported by Richardson, that this meeting of the Board of Zoning Appeals be adjourned at 5:38 p.m. Motion Carried Unanimously.

Angie Shurkus
Recording Secretary
September 11, 2023



Carlisle | Wortman
ASSOCIATES, INC.

117 NORTH FIRST STREET SUITE 70 ANN ARBOR, MI 48104 734.662.2200 734.662.1935 FAX

Date: March 6, 2024

**VARIANCE ANALYSIS
FOR
THE CITY OF SOUTHGATE**

APPLICANT INFORMATION

APPLICANT:	Raymond and Sarah Good
ADDRESS:	12930 Churchill Street
PARCEL ID:	53 005 02 0050 000
CURRENT ZONING:	R-1B, One Family Residential
ACTION REQUESTED:	Variance approval to allow extended driveway made of brick pavers

VARIANCE REQUEST

The applicant is requesting a variance for the approval of an existing ten (10) by forty (40) foot access drive/ driveway addition. The site is located at 12930 Churchill Street in the R-1B, One Family Residential District, southeast of Dix-Toledo between McCann Ave and Devoe Street. The parcel is 0.27 acres and is shown in Figure 1 on the following page.

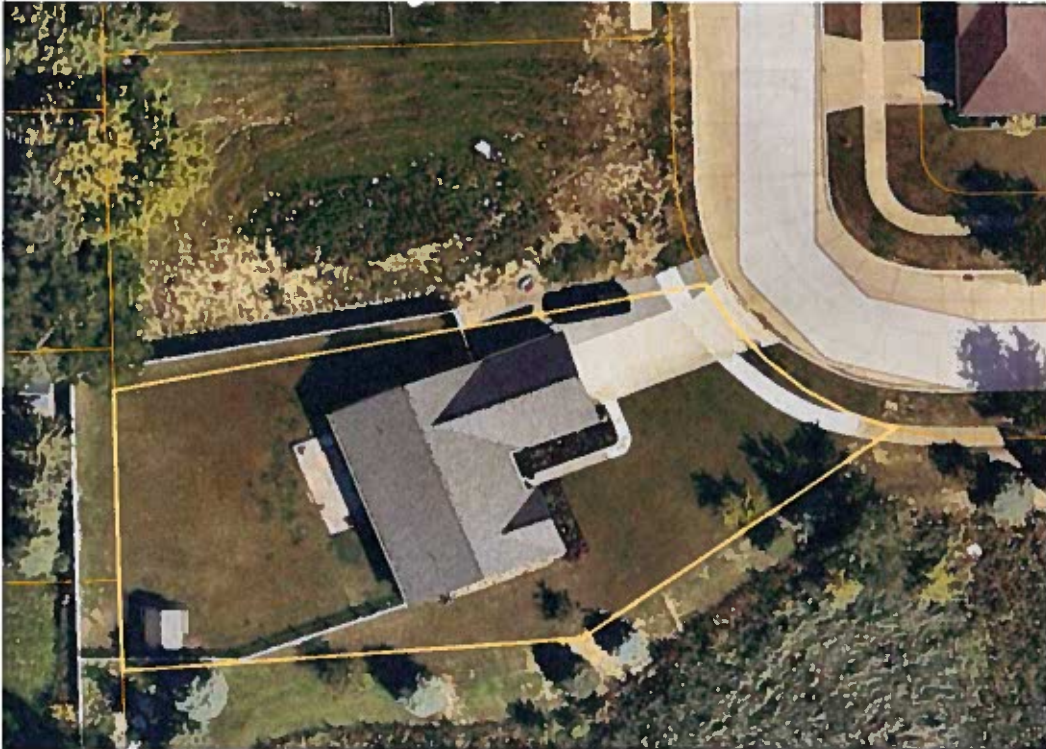
The application to extend the driveway was previously denied per the ordinance in Section 1292.03(k)(5) that reads *"Single-family residences with a garage may install a driveway as wide as the garage wall subject to the requirements of Sections 1298.04(a)(1) and 1298.04(a)(3) containing the vehicle entrance door."* As of the writing of this review, brick pavers have been installed.

The applicant had noted in their previous application the reason for the requested variance is because of the location of their home on a corner and lack of sufficient lighting. In addition, the driveway extension would allow them to pull their cars out of the right-of-way and into their driveway, therefore, reducing the likelihood of vehicles being damaged. The diagrams provided on the application show the driveway being widened from the residence up to the sidewalk and then continuing at the same width to the curb. Figure 2 shows the existing conditions of the driveway. In the current application, the applicant is citing section 1294.08 Access Through Yards for the Board of Zoning Appeals to reconsider his original request:

"For the purpose of this Zoning Code, access drives may be placed in the required front or side yard so as to provide access to accessory or attached structures. These drives shall not be considered as structural violations in front and side yards. Further, no walk, terrace, or other pavement servicing a like function,

and not in excess of nine inches above the grade upon which it is placed, shall, for the purpose of this Zoning Code, be considered to be a structure, and the same shall be permitted in any required yard."

Figure 1. Aerial View of Property



Source: NearMap, aerial photo date September 3, 2023

Figure 2. Existing Conditions



Source: Applicant

VARIANCE CONSIDERATIONS

Section 1264.04 of the City of Southgate Zoning Ordinance states The Board of Zoning Appeals shall have the power to vary or modify any ordinance provision whenever there are practical difficulties or unnecessary hardships imposed on the property owner if the strict letter of the ordinance is carried out. The Board of Zoning Appeals shall decide appeals in such a manner that the spirit of the ordinance is observed, public safety secured, and substantial justice done.

Further, dimensional, and other non-use variances shall not be granted by the Board of Appeals (BZA) unless it can be determined that all the following facts and conditions exist.

In the Board's decision-making process, the following conditions must be determined to exist:

a) That compliance with the ordinance results in a practical difficulty:

CWA Comment: The applicant states that compliance with the ordinance would require removing the already installed brick pavers. Alternatively, the applicant can keep the pavers as wide as the garage itself without any zoning issues. If the applicant chose this alternative, it would allow approximately twenty (20) feet of driveway width and could accommodate two (2) parked cars in addition to a two-car garage. We are of the opinion that compliant with section 1292.03(k)(5) would not result in a practical difficulty.

b) That the problem requiring the variance is unique to the applicant's property and is not shared by properties in the same zoning district:

CWA Comment: The problem requiring a variance is not unique to the applicant's property and is shared by other properties on the same street/in same zoning district. The applicant previously noted they were concerned with their car being damaged if parked in the street. Many properties within the vicinity also face the same risk.

c) That the problem is not self-inflicted:

CWA Comment: The problem is self-inflicted as the driveway addition has already been installed without approval.

d) That the variance is the minimum necessary to permit reasonable use of the property:

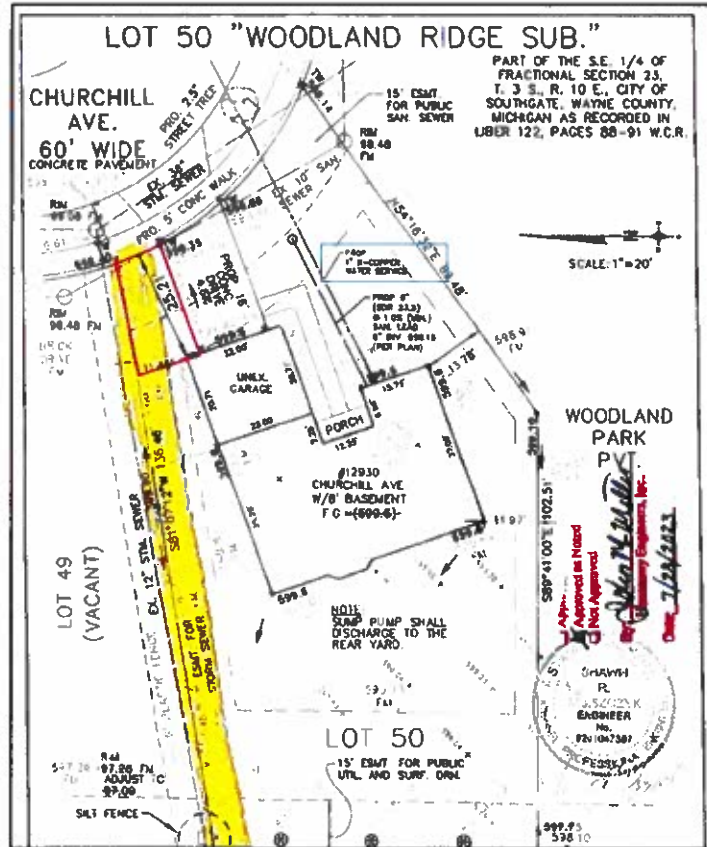
CWA Comment: We do not find this is the minimum variance necessary. Adequate parking space could be provided if section 1292.03(k)(5) were to be followed.

e.) That the variance, if granted, would not compromise the public health, safety, and welfare:

CWA Comment: The requested variance, if granted, has the potential to impact the overall health, safety, and welfare of the public, as the installed addition can lead to greater flooding on the adjacent property.

PREVIOUS APPLICATION CONSIDERATIONS/EXISTING CONDITIONS

1. An existing utility easement is in the same location as the existing addition, which now covers a portion of said easement as shown below, with a red line delineating the approximate location of the addition:



2. The installation of the existing pavers/addition was completed without a permit.
3. Section 1294.08 was previously interpreted as only applying to commercial uses, not residential.
4. The subject site is not classified as a cul-de-sac lot and would not meet the requirements of section 1292.03 (k)(8) as the garage entrance is greater than twenty (20) feet to the existing sidewalk.
 - a. "Cul-de-sac" means a minor street of short length having one end permanently terminated by a vehicular turnaround.
 - b. 1292.03(k)(8): Single-family residences on a corner lot with the garage entrance less than twenty (20) feet from the existing sidewalk may install an additional parallel paved parking area on the garage entrance side of the corner lot, within their existing road right-of-way, between the sidewalk and curb. Only one (1) parallel to the road space shall be permitted and shall meet the following requirements.
5. The application mentions other homes nearby have similar driveway additions. These additions were either legally nonconforming or have been illegally installed.
6. The applicant has labeled the extension as an "access drive" per section 1294.08. The Building Director previously interpreted that this section was for the purpose of accessing utility

structures, rather than structures related to a residential use. We are of the opinion that the Building Director's interpretation is valid, as there is no specific mention of residential structures.

RECOMMENDATION

As noted, the applicant throughout this case has attempted to compare and call out other locations in the City that this situation may have occurred. We remind the BZA that zoning variances should stand on their own merit and do not establish a binding precedent for future cases. Each variance application should be evaluated based on its unique circumstances, considering factors such as the specific property, its surroundings, and the intent of the zoning regulations. While past decisions may offer guidance, they do not dictate the outcome of subsequent requests. This approach ensures that zoning decisions remain flexible and responsive to evolving needs and conditions within a community. By treating each variance application independently, authorities can uphold the integrity of zoning regulations while also accommodating reasonable exceptions when warranted. Thus, while zoning variances may provide insights, they do not establish a precedent that must be followed in future cases.

We do not recommend approval of the requested variance based on the following factors:

1. The requested variance is a result of a self-inflicted problem, that being the installation of the driveway addition without proper permitting and approval from the building department.
2. The requested variance has the potential to be injurious to the surrounding properties with the possibility of increased flooding onto the neighboring property.
3. The existing addition was constructed over an existing utility easement.
4. Bringing the exiting addition in conformance of section 1292.03(k)(5) would provide adequate parking space.



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