

CITY OF SOUTHGATE

BOARD OF ZONING APPEALS

AGENDA

MONDAY, JUNE 12, 2023
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 dated March 13, 2023

IV. ADMINISTRATIVE REPORTS

V. PUBLIC HEARINGS

1. Case BZA-04-2023 – Exterior Building Material Variance – 14333 Pearl Street
2. Case BZA-05-2023 – Access Drive Variance - 12930 Churchill

VI. NEW BUSINESS

1. Case BZA-04-2023 – Exterior Building Material Variance – 14333 Pearl Street
2. Case BZA-05-2023 – Access Drive Variance - 12930 Churchill

VII. OLD BUSINESS

VIII. ANNOUNCEMENTS

IX. ADJOURNMENT

NEXT MEETING
July 10, 2023

City of Southgate
Board of Zoning Appeals
MARCH 13, 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, March 13, 2023 and called to order by Tom Coombs, Chairperson at 5:35 p.m.

PRESENT: Gary Martin, Pat Poirier, Dennis Richardson, Tom Coombs, Jill Stephan

ABSENT: Tim Foucher, Patricia Anderson

Also Present: Plan Consultant Alissa Starling, Building Official Tim Leach, City Administrator Dan Marsh, Council Member Graziani

Minutes:

Moved by Richardson, supported by Martin, to approve the minutes of the Board of Zoning Appeals Meeting dated February 13, 2023. Motion Carried Unanimously.

Public Hearing:

A. Case BZA 01-2023; Roberto & Mattina Merucci, 15071 Walnut Ave, Side yard shed.

A PUBLIC HEARING WAS HELD FOR ROBERTO & MATTINA MERUCCI, 15071 WALNUT AVE. SIDE YARD SHED. BZA 01-2023.

Notices were sent out.

Moved by Poirier, supported by Martin, to open this Public Hearing.

Plan Consultant Starling stated the applicant is requesting a dimensional variance relief for a detached accessory structure (shed) in the interior side yard, positioned four (4) feet from the primary structure.

The proposed subject site has a storm drain easement in the southeast corner of the rear yard. In addition, the applicant notes the southwest corner, opposite of the drain, has a slope of 14°. The degree of the slope causes this area to flood, producing standing water and prohibiting placement closer to the rear lot line.

Further, the purpose of the building-to-building setback is to reduce the likelihood of fire spreading from one structure to another.

The applicant stated due to the layout and terrain makeup of the back yard, there was no other practical choice but to place the shed in said area. The backline southwest corner is the low point of the back yard due to its slope floods significantly and results in standing water. The shed has already been installed.

No public comments were received.

Moved by Poirier, supported by Richardson, to close this Public Hearing.

Moved by Poirer, supported by Richardson, that the Board of Zoning Appeals, DENIES, the application at the request of Roberto & Mattina Merucci, 15071 Walnut Ave, for side yard shed. BZA 01-2023.

Ayes: Poirier, Coombs, Martin, Richardson

Nays: Stephan

Absent: Anderson, Foucher

MOTION CARRIED TO DENY.

Old Business:

None.

New Business:

Ms. Stephan has declined to accept to serve as Vice Chairperson of the Board of Zoning Appeals for the year 2023.

Election of Vice Chairperson for 2023

Moved by Richardson, supported by Poirier, to nominate Gary Martin, to serve as Vice Chairperson of the Board of Zoning Appeals for the year 2023, and having no other nominations for Vice Chairperson, Gary Martin, is hereby elected to serve as Vice Chairperson of the Board of Zoning Appeals for the year 2023.

Moved by Martin, supported by Stephan, that this meeting of the Board of Zoning Appeals be adjourned at 6:08 p.m. Motion Carried Unanimously.

Angie Shurkus
Recording Secretary
March 13, 2023

RETURN TO
Building Department
City of Southgate
14400 Dix-Toledo Road
Southgate, MI 48185

Form No. 02
Case No. BZ/ 04-2023
Date Received 5-15-23

CITY OF SOUTHGATE
APPLICATION FOR BOARD OF ZONING APPEALS

Concerning an appeal to vary or modify certain regulations established in TITLE SIX, commonly referred to as the Zoning Code for the City of Southgate:

TO BE COMPLETED BY THE APPLICANT:

Owner/Applicant	Agent
Name <u>Jeff & Barbie Moore</u>	Name <u>Kyle Adkins</u>
Address <u>14344 Pearl</u> <u>Southgate mi 48195</u> (City) (State) (Zip)	Address <u>13789 Dix Toledo</u> <u>Southgate mi 48195</u> (City) (State) (Zip)
Telephone <u>734-276-6781</u>	Telephone <u>934-231-6726</u>

Information regarding the site:

Street Address: 14344 Pearl Southgate mi 48195

Major Cross Streets: Superior & Trenton

Parcel No. _____

Acres: _____ Dimensions of Parcel: _____ Frontage: _____

Current Zoning (please circle): (RE) R-1 R-1A R-1B RM RO C-1 C-2 C-3 M-1 MH PD P-1

Current Use: Single family Home

Requested action:

☐ Dimensional Variance Requested Variance: _____
(For example -- Front yard setback from 25 feet to 20 feet.)

☐ Interpretation of the Zoning Ordinance or Map

☐ Appeal from the Planning Commission or Zoning Administrator

☒ Other
Please Specify metal roof on porch standing seam

Information regarding request:

I hereby request a hearing before this body to

(Please supply detailed information. For example, why you are requesting the proposed action, a complete description of the project, how the request is compatible with adjacent land uses and zoning districts, any information you feel is pertinent to your application, etc. Feel free to attach additional documents to this application if it will help describe your project or if you need more room than is provided below.)

Have seen multiple roofs similar to
what is wanted see photos
Porches
gov. buildings fire dept post office

A SKETCH CLEARLY DEPICTING THE REQUEST MUST BE ATTACHED TO THIS APPLICATION FOR IT TO BE VALID. IF REQUESTING A DIMENSIONAL VARIANCE, FORM 02A MUST BE ATTACHED.

The Applicant / Agent must appear before the Board of Zoning Appeals on _____
(Date)

THE OWNER / AGENT OF THE PROPERTY DESCRIBED ON THIS APPLICATION SUBMIT THAT ALL STATEMENTS HEREIN AND IN THE DOCUMENTS PROVIDED ARE TRUE.

Signature – Owner / Agent: _____ Date: _____

To review your application properly, Board of Zoning Appeals members may need access to the property in question. Please initial if permission is given for property access. INITIALS _____

Fees must be paid at the same time this application is submitted to the City.

OFFICE USE:

Date Received _____ Received By _____
Fees Charged _____ (Staff's Name)
Check No.: _____ Receipt No.: _____

**ATTACH TO YOUR BZA APPLICATION
AND RETURN TO:**

Building Department
City of Southgate
14400 Dix-Toledo Road
Southgate, MI 48195

Form No. 02A

Case No. BZA _____

Date Received _____

**APPLICATION FOR BOARD OF ZONING APPEALS
DIMENSIONAL VARIANCE**

The City of Southgate Board of Zoning Appeals is required by state law to support its decisions with evidence of "practical difficulty." In order to prove your property is entitled to a variance, please provide answers to the following questions:

1. Why compliance with the Ordinance results in a practical difficulty?
*matching existing shingles will not be close enough.
new metal roofs outperform asphalt shingles
better for the low slope situation*

2. Why the problem requiring the variance is unique to your property and not shared by properties in the same zoning district?

It is only over porch on existing home.

3. Why the problem is not self-inflicted? *?*

4. That the variance is the minimum necessary to permit reasonable use of the property?

5. That the variance, if granted, would not compromise the public health, safety and welfare?

this only improves the look and performance of home.

May 15, 2023

City of Southgate, Variance Board

To: Board Members

From: Jeffrey P. Moore, Sr & Barbara A. Moore

14344 Pearl Street

RE: Variance for metal roof on porches

We are asking for your approval of this variance to allow us to put a metal roof on our brand new covered porches. A metal roof was recommended to us by our builder in the design phase. After seeing metal porch roofs and metal garage roofs on other residences in Southgate (pictures included), we believe it would add to the aesthetics of our home.

We respectfully request that you allow the variance so that we can continue to improve our home.

Thank you for your consideration of this matter.

A handwritten signature in black ink that reads "Barbara A. Moore". The signature is written in a cursive style with a long, sweeping horizontal line extending to the right.

Barbara A. Moore















Carlisle | Wortman
ASSOCIATES, INC.

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

Date: May 22, 2023

VARIANCE ANALYSIS FOR THE CITY OF SOUTHGATE

APPLICANT INFORMATION

APPLICANT: Jeff & Barbie Moore
ADDRESS: 14344 Pearl Street
PARCEL ID: 53-012-02-02-46-000
CURRENT ZONING: R-1B, One Family Residential
ACTION REQUESTED: Variance Approval

VARIANCE REQUEST

The applicant is requesting a variance from the Board of Zoning Appeals to grant a deviation in permitted exterior materials on a residential structure to install standing-seam metal roofing above front porch. The site is located at 14344 Pearl Street in the R-1B, One Family Residential District, southeast of Dix-Toledo, on the west side of Pearl, between Chestnut and Mercier Street. Parcel size is 0.17 acres and is shown in Figure 1 on the following page, with a white line delineating the location of the subject site. The application was denied due to the choice of exterior building materials. Per Section 1298.17, EXTERIOR BUILDING WALL MATERIALS:

"The erection and maintenance of single-family detached dwellings including any additions shall not be grossly dissimilar to the exterior design, appearance and color of existing detached single-family dwellings in the surrounding area.

In the case of three or less one, two or multiple-dwelling buildings, the surrounding neighborhood shall mean all the principal residential buildings within 300 feet, measured in all directions from the subject property lines.

In conversation with the City of Southgate Building Department, Building Official Leach noted that metal roof tiling and similar materials are permitted. The applicant's choice of standing seam metal sheet roofing materials does not comply with the exterior materials used within the 300-foot radius, specified above in Section 1298. 17 of the Zoning Ordinance. Figure 2 shows the home and surrounding neighborhood with the

Benjamin R. Carlisle, *President* Douglas J. Lewan, *Executive Vice President* John L. Enos, *Vice-President*
Richard K. Carlisle, *Principal* David Scurto, *Principal* Sally M. Elmiger, *Principal* Craig Strong, *Principal* R. Donald Wortman, *Principal*
Laura K. Kreps, *Principal* Paul Montagno, *Principal* Megan Masson-Minock, *Principal*

300-foot buffer, indicating which residences are within. Figure 3 illustrates a metal roofing material that complies with the ordinance.

Figure 1. Aerial View of Property

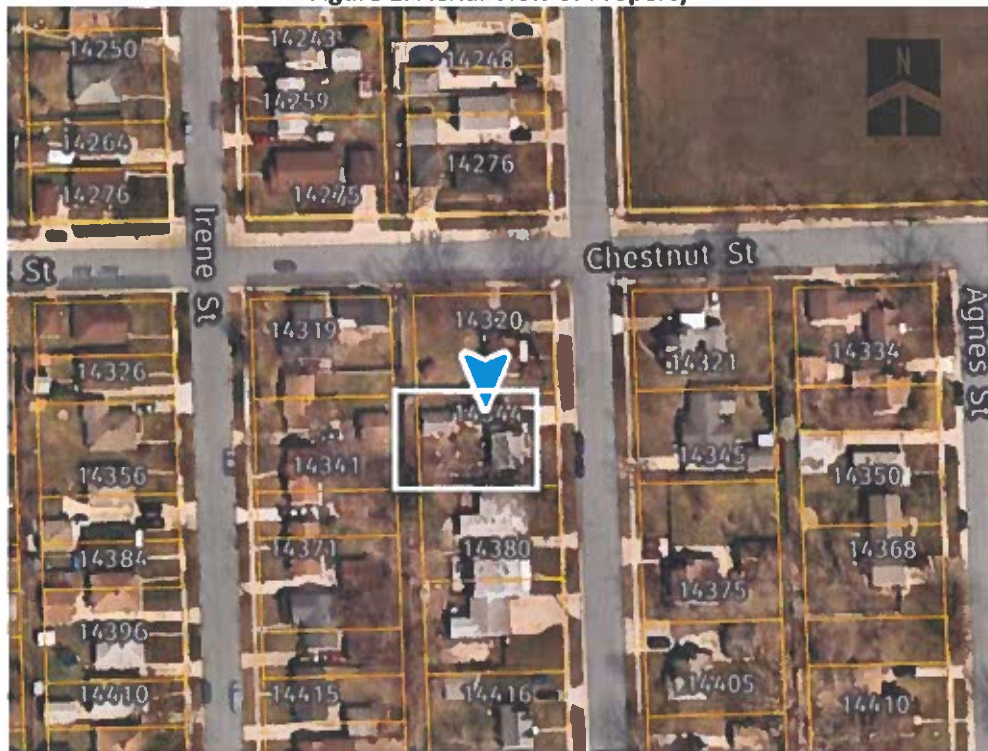


Figure 2. 300 Foot Radius



Figure 3. Metal Shingles



VARIANCE CONSIDERATIONS

Section 16.04.04 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 of the follow 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: *We do not find this to be the case as this is a matter of choice of material used.*

- 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: *Due to this being an aesthetic request, we do not find the variance request is unique to the subject site in comparison to surrounding residential properties.*

- c) **That the problem is not self-inflicted:**

CWA Comment: *We find the problem is self-inflicted as the variance request is for personal preferences, not a matter of the property itself.*

- 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. As illustrated in Figure 3, there are other variations of metal roofs that do comply with the ordinance.*

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

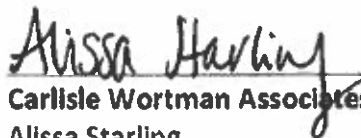
CWA Comment: *The requested variance, if granted, will not compromise the public health, safety, and welfare.*

RECOMMENDATION

We do not recommend approval of the variance request for a standing seam roof accent. Per Building Official Leach's recommendation, there are other metal roofing materials that are in compliance with the ordinance that we find would be more consistent with the surrounding residential structures.



Carlisle Wortman Associates, Inc.
John Enos, AICP
Principal



Carlisle Wortman Associates, Inc.
Alissa Starling
Planner

RETURN TO:
Building Department
City of Southgate
14400 Dix-Toledo Road
Southgate, MI 48185

Form No. 02

Case No. BZ 02-2023

Date Received 4-13-2023

**CITY OF SOUTHGATE
APPLICATION FOR BOARD OF ZONING APPEALS**

Concerning an appeal to vary or modify certain regulations established in TITLE SIX, commonly referred to as the Zoning Code for the City of Southgate:

TO BE COMPLETED BY THE APPLICANT:

Owner/Applicant	Agent
Name <u>Raymond / Sarah Good</u>	Name _____
Address <u>12930 Churchill</u>	Address _____
<u>Southgate, MI. 48195</u>	_____
(City) (State) (Zip)	(City) (State) (Zip)
Telephone <u>313-402-8635</u>	Telephone _____

Information regarding the site:

Street Address: 12930 Churchill

Major Cross Streets: McCann - Northline

Parcel No. 53 005 02 0050 000

Acreage: 0.189 Dimensions of Parcel: 55.00ft x 130.46ft Frontage: 55.00 ft

Current Zoning (please circle): RE R-1 R-1A R-1B RM RO C-1 C-2 C-3 M-1 MH PD P-1

Current Use: Residential

Requested action:

- ☐ Dimensional Variance Requested Variance: _____
(For example -- Front yard setback from 25 feet to 20 feet.)
- ☒ Interpretation of the Zoning Ordinance or Map
- ☐ Appeal from the Planning Commission or Zoning Administrator
- ☐ Other
Please Specify _____

Information regarding request:

I hereby request a hearing before this body to:

(Please supply detailed information. For example, why you are requesting the proposed action, a complete description of the project, how the request is compatible with adjacent land uses and zoning districts, any information you feel is pertinent to your application, etc. Feel free to attach additional documents to this application if it will help describe your project or if you need more room than is provided below.)

Requesting a variance for an Access Drive per 1294.08 Access Through Yard (Fig. 1a) and if granted it would allow access to accessory in rear yard and eliminating further damage to my front and side yard.

- We currently don't have an adjacent land user and the project will be within the property lines.
- I submitted a City of Southgate Building Permit Application (Fig. 5) to install an Access Drive per 1294.08 (Fig. 1a) and the Building Department denied my application noting that we are in violation of Ordinance 1292.03 (k)(6) (Fig. 1b) "may install a driveway as wide as the front garage wall".
- I requested a meeting to discuss zoning code 1294.08 with the Southgate Building Department and they replied via email "No need for a meeting. This isn't a point you're going to change my view on". (Fig. 2a)

A SKETCH CLEARLY DEPICTING THE REQUEST MUST BE ATTACHED TO THIS APPLICATION FOR IT TO BE VALID. IF REQUESTING A DIMENSIONAL VARIANCE, FORM 02A MUST BE ATTACHED. Fig. 3a & 3b

The Applicant / Agent must appear before the Board of Zoning Appeals on _____
(Date)

THE OWNER / AGENT OF THE PROPERTY DESCRIBED ON THIS APPLICATION SUBMIT THAT ALL STATEMENTS HEREIN AND IN THE DOCUMENTS PROVIDED ARE TRUE.

Signature – Owner / Agent: Raymond Reed Date: 4/13/2023

To review your application properly, Board of Zoning Appeals members may need access to the property in question. Please initial if permission is given for property access. INITIALS _____

Fees must be paid at the same time this application is submitted to the City.

OFFICE USE:

Date Received: _____

Received By: _____
(Staff's Name)

Fee Charged: _____

Check No.: _____

Receipt No.: _____

**ATTACH TO YOUR BZA APPLICATION
AND RETURN TO:**
Building Department
City of Southgate
14400 Dix-Toledo Road
Southgate, MI 48195

Form No. 02A

Case No. BZA _____

Date Received _____

**APPLICATION FOR BOARD OF ZONING APPEALS
DIMENSIONAL VARIANCE**

The City of Southgate Board of Zoning Appeals is required by state law to support its decisions with evidence of "practical difficulty." In order to prove your property is entitled to a variance, please provide answers to the following questions:

1. Why compliance with the Ordinance results in a practical difficulty?

I have an accessory located in my rear yard and I am being denied an "Access Drive" to access it.

Zoning Code 1294.08 Access Through Yard (Fig. 1a) states that an access drive may be placed in the required front or side yard and these drives **Shall Not be considered as structural violations**, and any combination of a drive is considered a structure and shall be permitted in any required yard.

2. Why the problem requiring the variance is unique to your property and not shared by properties in the same zoning district?

This is unique to my situation because I have been denied an "Access Drive" when many properties within Southgate meet the requirements of 1294.08 (Access Through Yard (Fig. 1a)) and have an approved permit from the city.

13739 Flanders St (Access Drive) (Fig. 6)

They have an accessory in the rear yard.

They have a short path leading from a public road to an accessory.

They have an Access Drive in the front and side yards that allow them access to an accessory in the rear yard (these drives shall not be considered as structural violations per 1294.08 (Fig. 1a)).

3. Why the problem is not self-inflicted?

The problem is not self-inflicting:

I feel that this is not self-inflecting. I use the front and side yards to access my rear yard, but this repetitive action is causing damage to my yard. What I am trying to do is reduce the blight caused by driving over the yard. Installing an Access Drive would eliminate any blight that may lead to future code violations and penalties.

I meet the requirements of 1294.08 that would allow an Access Drive to access the rear yard.

Fact 1. I have an accessory in the rear yard.

Fact 2. I have a short path leading from a public road to an accessory.

Fact 3. I am missing an Access Drive that zoning code 1294.08 allows. Also, I would like to avoid further damage to my yard.

Fact 4. This is a general exception that the city recognizes by having its own Zoning Code 1294.08 Access Through Yards. This Zoning Code accommodates the residents of Southgate and their need for an access drive.

4. That the variance is the minimum necessary to permit reasonable use of the property?

Yes, this approved variance would allow reasonable use of the property by allowing access to my accessory in the rear yard.

This would also improve the aesthetics of our property without disturbing the integrity of our neighborhood. The consequences of a denial will lead to damage to my lawn (dirt paths, blight). Ultimately affecting future curb appeal and future ordinance violations.

5. That the variance, if granted, would not compromise the public health, safety and welfare?

If granted it would not compromise public health, safety, and welfare.

1294.08 ACCESS THROUGH YARDS.

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**.

Fig. 1a

1292.03 LAYOUT, CONSTRUCTION AND MAINTENANCE OF PARKING AREAS.

(k)(6) Single-family residences with an attached garage on a cul-de-sac or concaved curve lot at the street property line may install a driveway as wide as the front garage wall, subject to Section 1298.04(a)(1), containing the vehicle entrance door; however, the drive must gradually taper to the City sidewalk not to exceed forty percent of the front lot width.

Fig. 1b

Note: I sent an email to Tim asking for a meeting to discuss 1294.08.

Per Tim Leach Email:

"No need for a meeting. **This isn't a point you're going to change my view on.**"

(Note Ray Good clipped email and enlarged the font.)

Fig. 2a

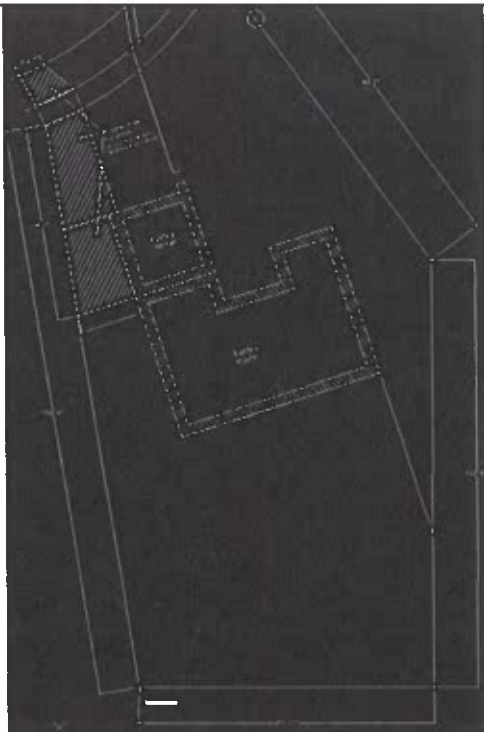


Fig. 3a (Access Drive Location)

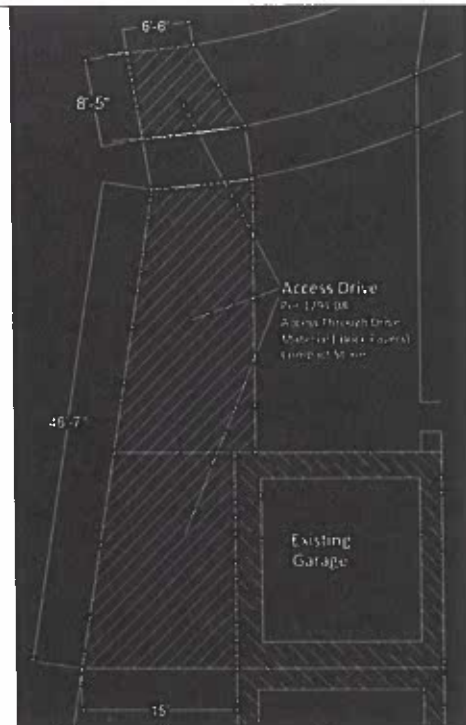


Fig. 3b (Access Drive Location)



City of Southgate
 DEPARTMENT OF BUILDING AND SAFETY ENGINEERING
 14400 DIK-TOLEDO ROAD, SOUTHGATE MICHIGAN 48195
 PHONE (734) 258-3027
 FAX (734) 281-6670
<http://www.southgate.org>

March 29, 2023

Raymond Good
 12930 Churchill
 Southgate, MI 48195

The application to install an access drive on approach, front and side yard for 12930 Churchill has been reviewed.

This proposed site plan is not permitted as defined by Section 1292.03 (k) (6) of the Planning and Zoning code (See Attached)

In view of the above, by law, your request must be denied. If you have any questions, feel free to contact the Building Department for 734-258-3010 ext. 3131

Sincerely,

Timothy L. Leach
 Building Inspections Director

TLL/mg

Fig. 4 (Denial Letter)

Number	PB23-0135	Category	DRIVEWAY
Type	ZONING	Status	HOLD FOR INVOICE
Applied Date	03/22/2023	Expire Date	No Data to Display
Issue Date	No Data to Display	Final Date	No Data to Display
Work Description	INSTALL ACCESS DRIVE (PER 1294.08) LOCATION (APPROACH,FRONT,SIDE YARD) MATERIAL: BRICK PAVERS AS PER APPROVED		

Fig. 5 (City of Southgate Building Permit Application)(12930 Churchill)

Number	PB20-0137	Category	DRIVEWAY
Type	ZONING	Status	EXPIRED
Applied Date	04/23/2020	Expire Date	12/08/2020
Issue Date	06/11/2020	Final Date	No Data to Display
Work Description	REPLACE DRIVEWAY 11 X60 (4) RIBBONS 11 X 17, APPROACH 17 X24 AS PER APPROVED PLAN.		

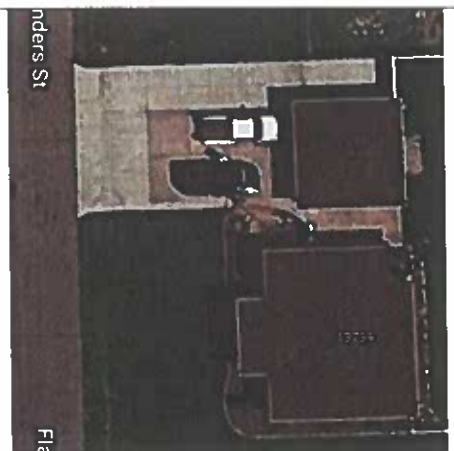


Fig. 6 (13739 Flanders St – Access Drive)



Carlisle | Wortman
ASSOCIATES, INC.

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

Date: January 22, 2023
May 19, 2023

BOARD OF ZONING APPEALS ANALYSIS

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:	Ordinance Interpretation

PETITION DESCRIPTION

The applicant has petitioned the Board of Zoning Appeals for interpretation of the Zoning Ordinance to permit the installation of an access drive in the side yard of a residential property. 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. Parcel size is 0.27 acres and is shown in Figure 1 on the following page, with a white dashed line delineating the location of the subject site. The existing driveway is approximately twenty-six and a half (26.5) feet and the width of the front garage facade is twenty-two (22) feet.

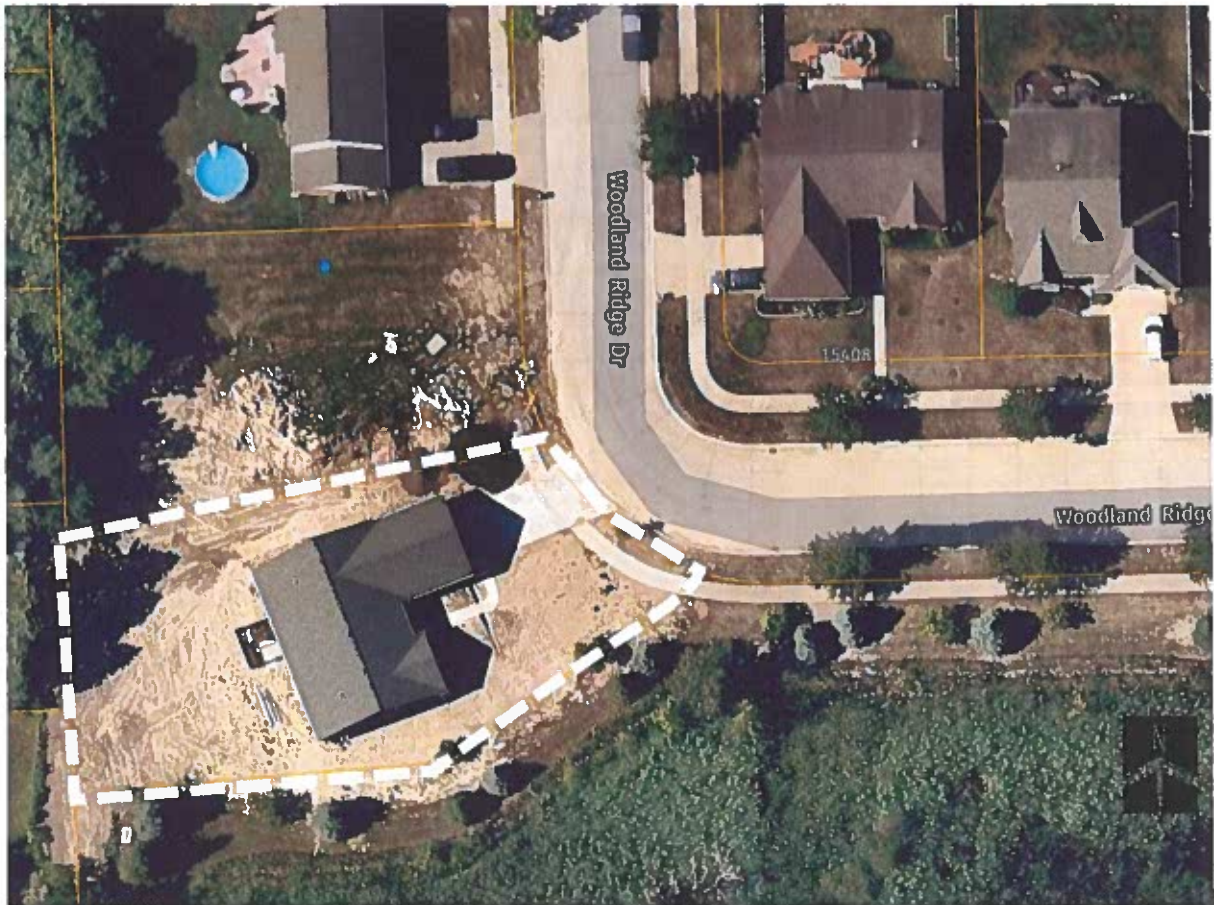
As the City of Southgate's Zoning Ordinance Interpreting Body of Authority, the applicant is requesting the Board of Zoning Appeals interpretation of the following ordinance:

"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."

We note this is the third time the applicant has come before the City to request approval for a driveway. In December 2022, the applicant presented their case to the Board of Zoning Appeals. A decision was postponed, allowing for revisions of the driveway configuration, working in conjunction with the Building Department. The applicant refused to modify the driveway at the following meeting in January, and the petition was subsequently denied.

Benjamin R. Carlisle, *President* Douglas J. Lewan, *Executive Vice President* John L. Enos, *Vice-President*
Richard K. Carlisle, *Principal* David Scurto, *Principal* Sally M. Elmiger, *Principal* Craig Strong, *Principal* R. Donald Wortman, *Principal*
Laura K. Kreps, *Principal* Paul Montagno, *Principal* Megan Masson-Minock, *Principal*

Figure 1. Aerial View of Property



Source: NearMap

Figure 2. Existing Conditions



Source: Applicant

Figure 3: Aerial Images (April 2023)



Source: NearMap

The current ordinance regulating single-family residential driveways, per Section 1292.03(k)(1):

1. ***Driveways serving single-family residences shall be by means of clearly limited and defined drives which shall consist of either concrete, brick pavers, or a combination of both.***
2. ***Driveways and approaches must be the same width at the City sidewalk, and driveways must be located on the same side of the lot as adjoining properties, unless approved in advance in writing by the Building Department or, if denied, the applicant must seek approval of the Board of Zoning Appeals after review and approval by the Planning Commission.***
3. ***Single-family residences without a garage may install a driveway not more than twelve feet wide. When the width of the side yard between the house and the side lot line is less than twelve feet wide, in front of the house the driveway may be expanded to the maximum permitted width but may not extend across the front of the house more than two feet, and may extend to the street at that width.***
4. ***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. When the width of the side yard between the house and the side lot line is less than twelve feet wide, in front of the house the driveway may be expanded to the maximum permitted width but may not extend across the front of the house more than two feet, and may extend to the street at that width.***
5. ***Single-family residences with an attached garage on a cul-de-sac or concaved curve lot at the street property line may install a driveway as wide as the front garage wall, subject to Section***

1298.04(a)(1), containing the vehicle entrance door; however, the drive must gradually taper to the City sidewalk not to exceed forty percent of the front lot width.

6. Front yard circle driveways may be installed on any lot that has a minimum front yard width of seventy-five feet. The driveway width for the circle cannot exceed twelve feet and shall have a minimum side yard setback of five feet for each side.
7. 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.

INTERPRETATION AUTHORITY

Per Section 1264.05 Appeals. "An appeal may be taken to the Board of Zoning Appeals by any person wishing to appeal any ordinance provision or any final decision of the Director of Inspections or the Planning Commission. All appeals must be applied for in writing on forms provided by the City. The Board of Zoning Appeals shall give notice of the hearing to the parties involved. The Board of Zoning Appeals shall also give notice to owners and occupants of property within a minimum of 300 feet from the property lines of the property, which is the subject of the appeal. Notice shall be by regular mail or personal delivery and shall be sent to the property owners as shown on the latest tax assessment roll. Notice shall be given at least fifteen days prior to the hearing in accordance with Public Act 110 of 2006, as may be amended. The Board of Zoning Appeals shall hear the following:

(a) Administrative Review. To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Director of Inspections or other administrative official in carrying out or enforcing this Zoning Code;

(b) Variances. To authorize, upon an appeal, a variance from the strict application of the provisions of this Zoning Code where, by reason of exceptional narrowness, shallowness, shape or area of a specific piece of property at the time of enactment of this Zoning Code (Ordinance 458, passed January 4, 1989), or by reason of exceptional topographic conditions or other extraordinary or exceptional conditions of such property, the strict application of this Zoning Code 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 purpose of this Zoning Code.

(c) Exceptions and Special Approvals. To hear and decide, in accordance with this Zoning Code, requests for exceptions, for interpretations of the Zoning Map and for decisions on special approval situations on which this Zoning Code specifically authorizes the Board to pass. Any exception shall be subject to such conditions as the Board may require to preserve and promote the character of the district in question and to otherwise promote the purposes of this Zoning Code. "

The above text states that the Board of Zoning Appeals is the body of authority in interpreting the Zoning Ordinance. As stated above, the applicant is requesting interpretation of Section

INTERPRETATION

The Board of Zoning Appeals, per Section 1260.02 Interpretation:

- a. *"In their interpretation and application, the provisions of this Zoning Code shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience, or general welfare. It is not intended by this Zoning Code to repeal, abrogate, annul*

or in any way impair or interfere with any existing provision of law or ordinance, or with any rule, regulation or permit previously adopted or issued or which shall be adopted or issued pursuant to the law relating to the use of buildings or premises. However, where this Zoning Code imposes a greater restriction than is required by any existing ordinance or by rules, regulations or permits, this Zoning Code shall control.

- b. ***Nothing in this Zoning Code shall be interpreted or construed to give rise to any permanent vested right in the continuation of any particular use, district, zoning classification or permissible activity therein. They are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of the public health, safety and welfare.***

CWA FINDINGS

In review of the ordinance, no definition for "access drive" is provided. However, when searching the term, all definitions with the words "Access drive", "access", or "drive", were associated with development or commercial nature. Examples are as follows:

Driveway. "Driveway" means any area or portion of a premises, lot, parcel or yard used or proposed to be used to provide a means of ingress, egress, access and circulation of vehicles and traffic to, from and between any public or private street or road, principal or accessory building, use or structure, loading space or parking lot or space.

Maneuvering lane or aisle. "Maneuvering lane or aisle" means an open unobstructed area located directly behind an off-street parking space or loading/unloading area and which is to be used to gain access to and exit from a parking space or loading/unloading area. A maneuvering lane or aisle may serve a single row of off-street parking spaces or may be used jointly when located between two opposing rows of parking spaces.

Marginal access road. "Marginal access road" means a service roadway parallel to a feeder road or to a street, which service roadway provides access to abutting properties and protection from through traffic.

Off-street parking lot. "Off-street parking lot" means a facility providing vehicular parking spaces, along with adequate drives and aisles, for maneuvering so as to provide access for entrances and exits for the parking of more than three vehicles.

Parking space. "Parking space" means an area of definite length and width. Such area shall be exclusive of drives, aisles or entrances giving access thereto and shall be fully accessible for the parking of permitted vehicles.

Planned development (PD). "Planned development (PD)" means a specific parcel of land or several contiguous parcels of land under single ownership and control for which a comprehensive physical plan has been developed establishing functional use areas, density patterns where applicable, fixed systems of streets, marginal access drives where required, service drives and provisions for public utilities, drainage and other essential services, all of which shall be subject to review and approval by the Planning Commission and Council and which shall be developed in full accordance with the approved plan.

1292.03 LAYOUT, CONSTRUCTION AND MAINTENANCE OF PARKING AREAS.

(k)(6) Single-family residences with an attached garage on a cul-de-sac or concaved curve lot at the street property line may install a driveway as wide as the front garage wall, subject to Section 1298.04(a)(1), containing the vehicle entrance door; however, the drive must gradually taper to the City sidewalk not to exceed forty percent of the front lot width.

The driveway the home was initially approved with was twenty-two (22) feet and the applicant widened it without a permit to twenty-six and a half (26.5) feet. The front garage façade is twenty-two (22) feet and the lot itself is approximately sixty (60) feet. → 40% of 60 = 24

At the driveway's widest point, per the above code, it should not exceed twenty-four (24) feet. The existing driveway is at least an additional two and a half (2.5) feet. We find an additional access drive is excessive, in addition to the disproportionate width of the existing driveway.

The Zoning Ordinance does not have language speaking directly to access drives in residential areas. The following language is the most similar text that would apply in a case as such:

1292.03 LAYOUT, CONSTRUCTION AND MAINTENANCE OF PARKING AREAS.

Further, ingress and egress to a parking lot lying in an area zoned for a nonresidential use shall not be across land zoned for a residential use, nor shall access to a local residential street be permitted except as may otherwise be permitted in Section 1298.16.

- (e) All maneuvering lane widths shall permit one-way traffic movement, except that the ninety-degree pattern may permit two-way traffic movement.*
- (f) Each entrance to and exit from any off-street parking lot located in an area zoned for other than a single-family residential use shall be at least twenty-five feet distant from adjacent property located in any One-Family Residential District.*
- (g) The off-street parking area of any nonresidential use permitted in a Residential District shall be provided with a continuous and obscuring wall or landscaped earth berm not less than four feet, six inches in height measured from the surface of the parking area. This wall or berm shall be provided on all sides where the next zoning district is designated as a Residential District and shall contain materials as set forth in Section 1298.13.*

An access drive would not be needed unless a non-residential use was being conducted in the rear yard. If that is the case, the above language would apply in any other scenario. We do not find this to be fitting or in line with the scope of the residential area in which the subject site is located.

CONDITIONS OF APPROVAL

The Board of Zoning Appeals shall make a decision based on the following criteria, per Section 1264.07, Conditions of Approval:

Any conditions of approval imposed by the Board of Zoning Appeals shall meet the following requirements:

- a. Be designed to protect natural resources, the health, safety, and welfare and the social and economic wellbeing of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.*

CWA FINDINGS: We do not find the proposed access drive is in accordance with the utmost level of concern for the welfare of the landowners immediately adjacent to the proposed land use or activity, and the community as a whole. While the property may be vacant as of this date, it won't be forever. We find

the applicant's argument that nobody lives there is null and void as there will be a resident there eventually as planned for accordingly in the Future Land Use map.

- b. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.*


CWA FINDINGS: We find this is a valid use of the Zoning Board of Appeal's authority. The applicant has not provided any information for determination that there is a specific circumstance or unique use in the rear yard that requires an access drive. The application states that the front yard is being degraded by the continuous use of the lawn for access. However, there is no record on file with the City of a home occupation or secondary, accessory use in the rear yard of the subject site, which would require the installation of an access drive.

- c. Be necessary to meet the intent and purpose of the Zoning Code, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.*


CWA FINDINGS: As stated in the intent for interpretation of the Zoning Ordinance, the purpose is to "adopted for the promotion of the public health, morals, safety, comfort, convenience, or general welfare". Due to the lack of information provided regarding what is driving the need for the access drive, the fact that it will be on or over the property line, and the applicant's refusal to work with the Building Department, we do not find this to be in the best interest of the community at large.

RECOMMENDATION

We find the interpretation of an access drive in a residential area does not support the Intent and Purpose of the Zoning Ordinance. Moreover, the Ordinance provides clear and concise descriptions of what constitutes a driveway and concessions made for homes frontage along a curve. Upon reviewing these standards against the subject site, we find the Ordinance meets the inherent expectations of a residential property and provides ample parking space within its current parameters.



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