

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

Thursday, September 12, 2019
7:00 P.M.

Present

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

Absent

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

Agenda

A. Call to Order

B. Approval of Minutes for August 8, 2019

C. Old / Unfinished Business

D. New Business

1. **Case No. F-19-09-05** – public hearing on the appeal of Kimberley Sloan, petitioner & owner, for the following variance:
 - (a) waive 2 ft. of the maximum permitted 4 ft. fence height within a front yard setback to permit construction of a 6 ft. tall privacy fence along the secondary front property line at **2204 Starr Rd.** (25-05-453-044).
2. **Case No. 19-09-32** – public hearing on the appeal of Parent Avenue Properties, LLC, petitioner & owner, for the following variances:
 - (a) waive 3 of the maximum allowable 12 dwelling units
 - (b) waive 10 ft. of the maximum allowable height of 30 ft.to permit construction of a four-story, 15-unit multiple-family building at **127-207 W. Parent Ave.** (25-21-435-008, -009, -010).
3. **Case No. 19-09-33** – public hearing on the appeal of Mike Daubenmire, Fortune Wireless, petitioner, & AT&T, owner, for the following variances:
 - (a) waive 193.9 ft. of the minimum required 250 ft. setback from a public right-of-way (E. 4th St.)
 - (b) waive 30 ft. of the minimum required 250 ft. setback from a residential zone districtto permit construction of a 250 ft. wireless communication support structure within an off-street parking lot at **421 S. Williams St.** (25-22-109-004).
4. **Case No. 19-09-34** – public hearing on the appeal of Daniel & Gail Meissner, petitioner & owner, for the following variance:
 - (a) waive the requirement that off-street parking be located in the side or rear yard to permit construction of a driveway / parking pad within the front yard of a single-family dwelling at **116 S. Laurel St.** (25-21-204-010).

5. **Case No. 19-09-35**– public hearing on the appeal of James Coslow, petitioner & owner, for the following variances:
 - (a) alter / expand a nonconforming structure
 - (b) waive 10 ft. of the minimum required 35 ft. rear yard setback
 - (c) waive 2.5% (149.2 sq. ft.) of the maximum allowable lot coverage of 30% to permit construction of a rear addition to a single-family home at **237 Edmund Ave.** (25-03-302-020).

6. **Case No. 19-09-36**– public hearing on the appeal of Charles McPeck, petitioner & owner, for the following variance:
 - (a) waive the minimum required 6 ft. masonry screening wall to permit removal of the existing masonry screening wall along the north property line at **1702 W. 13 Mile Rd.** (25-05-477-044).

E. Other Business

F. Public Comment

Call to Order

The meeting was called to order at 7:01 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.

Approval of Minutes for August 8, 2019

Moved by: Mr. Kroll
Supported by: Mr. Gavin

Moved, that the minutes of the August 8, 2019 regular meeting be approved as presented.

Motion adopted unanimously.

Old / Unfinished Business

None.

New Business

1. Case No. F-19-09-05 – 2204 Starr Rd. (25-05-453-044)

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

Moved, that the appeal of Kimberley Sloan, petitioner & owner, for the following variance:

- (a) waive 2 ft. of the maximum permitted 4 ft. fence height within a front yard setback to permit construction of a 6 ft. tall privacy fence along the secondary front property line at 2204 Star 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.

2. Case No. 19-09-32 – 127-207 W. Parent Ave. (25-21-435-008, -009, -010)

Moved by: Mr. Klatt

Supported by: Mr. Kroll

Moved, that the appeal of Parent Avenue Properties, LLC, petitioner & owner, for the following variances:

(a) waive 3 of the maximum allowable 12 dwelling units

(b) waive 10 ft. of the maximum allowable height of 30 ft.

to permit construction of a four-story, 15-unit multiple-family building at 127-207 W. Parent Ave., be granted.

Motion adopted 5-4 (Ms. Anderson, Mr. Offak, Ms. Robinson, Ms. Zukin).

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.

3. Case No. 19-09-33 – 421 S. Williams St. (25-22-109-004)

Moved by: Mr. Curtis

Supported by: Mr. Kroll

Moved, that the appeal of Mike Daubenmire, Fortune Wireless, petitioner, & AT&T, owner, for the following variances:

(a) waive 193.9 ft. of the minimum required 250 ft. setback from a public right-of-way (E. 4th St.)

(b) waive 30 ft. of the minimum required 250 ft. setback from a residential zone district

to permit construction of a 250 ft. wireless communication support structure within an off-street parking lot at 421 S. Williams St., be postponed.

Motion adopted unanimously.

4. Case No. 19-09-34 – 116 S. Laurel St. (25-21-204-010)

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

Moved, that the appeal of Daniel & Gail Meissner, petitioner & owner, for the following variance:
(a) waive the requirement that off-street parking be located in the side or rear yard to permit construction of a driveway / parking pad within the front yard of a single-family dwelling at 116 S. Laurel St. 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.

5. Case No. 19-09-35 – 237 Edmund Ave. (25-03-302-020)

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

Moved, that the appeal of James Coslow, petitioner & owner, for the following variances:
(a) alter / expand a nonconforming structure
(b) waive 10 ft. of the minimum required 35 ft. rear yard setback
(c) waive 2.5% (149.2 sq. ft.) of the maximum allowable lot coverage of 30%
to permit construction of a rear addition to a single-family home at 237 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. 19-09-36 – 1702 W. 13 Mile Rd. (25-05-477-044)

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

Moved, that the appeal of Charles McPeek, petitioner & owner, for the following variance:
(a) waive the minimum required 6 ft. masonry screening wall to permit removal of the existing masonry screening wall along the north property line at 1702 W. 13 Mile Rd., be granted, contingent upon the petitioner installing a height-appropriate retaining wall along the north property line as agreed upon by the petitioner.

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.

Other Business

1. Case No. 19-08-29 – 212 N. Edgeworth Ave. (25-14-377-007)

Mr. Murphy explained that a request for reconsideration for the above request was submitted to Planning staff by the petitioner. He further explained that the Zoning Board of Appeals has the authority to reconsider an earlier decision if, in the opinion of the Board, circumstances justify taking such action.

Moved: Mr. Kroll
Supported by: Mr. Gavin

Moved, that the appeal of Christopher Adams, petitioner & owner, to be reconsidered for the following variances:

- (a) Expand / alter a nonconforming structure
- (b) Waive 9.8 ft. of the minimum required front yard setback measured to an unenclosed front porch and steps
- (c) Waive 3.3 ft. of the maximum allowable driveway width of 25 ft.
- (d) Waive the requirement prohibiting driveways in the front yard setback
- (e) Waive 250 sq. ft. of the maximum allowable 800 sq. ft. accessory structure ground floor area.
- (f) Waive 6.9 % of the maximum allowable lot coverage of 10% for an accessory structure
- (g) Waive 3 ft. of the minimum required south side yard setback of 5 ft. for an accessory structure.
- (h) Waive 4.8% of the maximum allowable total lot coverage of 30%.

to permit the expansion of a nonconforming two-family dwelling, construction of a new and expanded drive approach and driveway, and construction of a new 1,050 sq. ft. accessory structure / garage at 212 N. Edgeworth Ave., be granted.

Motion failed 1-8 (Ms. Anderson, Mr. Curtis, Mr. Esbri, Mr. Gavin, Mr. Klatt, Mr. Offak, Ms. Robinson, Ms. Zukin).

Public Comment

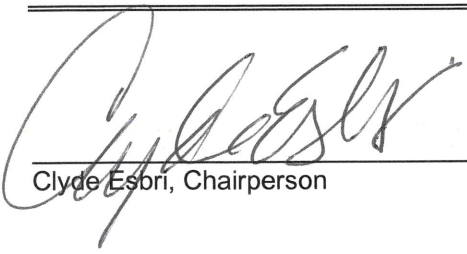
None.

Adjournment

Moved by: Mr. Kroll
Supported by: Mr. Gavin

Moved, that the meeting adjourned at 9:51p.m.

Motion adopted unanimously.



Clyde Esbri, Chairperson



Joseph M. Murphy, Director of Planning