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

Thursday, August 8, 2019
7:00 P.M.

Present
Leslie Anderson
Paul Curtis
Robert Gavin
Alan Kroll
Anthony Offak, Vice Chairperson
Nancy Robinson
Deborah Zukin

Absent
Clyde Esbri, Chairperson
Jeff Kiatt

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

Agenda

A. Call to Order

B. Approval of Minutes for July 11, 2019

C. Old / Unfinished Business

1. Case No. 19-07-23 – public hearing on the appeal of Kelli Lewton, petitioner & owner, for the following variances:
   (a) waive 9.4 ft. of the minimum required north front yard setback of 44.4 ft
   (b) waive 7 ft. of the minimum required rear yard setback of 35 ft.
   (c) waive 2.8% of the maximum allowable total lot coverage requirement of 30%
   (d) waive 286 sq. ft. of the maximum allowable ground floor area of 800 sq. ft. for an accessory structure to permit the construction of a one-story single-family home with an attached garage at 4105 Highfield Rd. (25-06-309-007)

D. New Business

1. Case No. F-19-08-04 – public hearing on the appeal of Gina G. Rozak, 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 625 Midland Ave. (25-03-377-023).

2. Case No. 19-08-29 – public hearing on the appeal of Christopher Adams, petitioner & owner, 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 total 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. (25-14-377-007).
3. **Case No. 19-08-30** – public hearing on the appeal of Jacqueline Keena, petitioner & owner, for the following variances:
(a) Expand / alter a nonconforming structure.
(b) Waive 1.5 ft. of the minimum required 4 ft. east side yard setback.
(c) Waive 1% of the maximum allowable lot coverage of 10% for an accessory structure / garage to permit construction of an addition to an existing, nonconforming single-family dwelling and new accessory structure at **618 E. University Ave.** (25-15-382-007).

4. **Case No. 19-08-31** – public hearing on the appeal of Eric Smethurst, petitioner & owner, for the following variance:
(a) waive 6.5 ft. of the minimum required 35 ft. rear yard setback to permit the construction of an attached garage and second story living space at **220 Josephine Ave.** (25-16-379-040).

**E. Other Business**

**F. Public Comment**

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**Call to Order**

The meeting was called to order at 7:00 p.m. by Vice Chairperson O'Fikk. 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.

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**Approval of Minutes for July 11, 2019**

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

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

Motion adopted unanimously.

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**Old / Unfinished Business**

1. **Case No. 19-07-23 – 4105 Highfield Rd. (25-06-309-007)**

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

Moved, that the appeal of Kelli Lewton, petitioner & owner, for the following variances:
(a) waive 9.4 ft. of the minimum required north front yard setback of 44.4 ft
(b) waive 7 ft. of the minimum required rear yard setback of 35 ft.
(c) waive 2.8% of the maximum allowable total lot coverage requirement of 30%  
(d) waive 286 sq. ft. of the maximum allowable ground floor area of 800 sq. ft. for an accessory structure
to permit the construction of a one-story single-family home with an attached garage at 4105 Highfield Rd., 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.

New Business


   Moved by: Mrs. Anderson
   Supported by: Mrs. Zukin

   Moved, that the appeal of Gina G. Rozak, 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 625 Midland 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. 19-08-29 – 212 N. Edgeworth Ave. (25-14-377-007)

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

   Moved, that the appeal of Christopher Adams, petitioner & owner, 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 denied.

Motion adopted unanimously.

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 not evidence of practical difficulty and there are not inherently unique circumstances or conditions of the property that requires granting the variances.

3. **Case No. 19-08-30 – 618 E. University (25-15-382-007)**

Moved by: Mr. Curtis
Supported by: Mr. Gavin

Moved, that the appeal of Jacqueline Keena, petitioner & owner, for the following variances:
(a) Expand / alter a nonconforming structure.
(b) Waive 1.5 ft. of the minimum required 4 ft. east side yard setback.
(c) Waive 1% of the maximum allowable lot coverage of 10% for an accessory structure / garage to permit construction of an addition to an existing, nonconforming single-family dwelling and new accessory structure at 618 E. University 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.

4. **Case No. 19-08-31 – 220 Josephine Ave.** (25-16-379-040)

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

Moved, that the appeal of Eric Smethurst, petitioner & owner, for the following variance:
(a) waive 6.5 ft. of the minimum required 35 ft. rear yard setback to permit the construction of an attached garage and second story living space at 220 Josephine Ave., be granted.

Motion adopted 6-1 (Mr. Offak).

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**

None.

**Public Comment**

None.

**Adjournment**

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

Moved, that the meeting adjourned at 8:47 p.m.
Motion adopted unanimously.

Clyde Esbri, Chairperson

Joseph M. Murphy, Director of Planning

Anthony Offer, Vice-Chair