PUBLIC NOTICE

City of Berkley, Michigan
Regular Meeting of the Zoning Board of Appeals
Monday, December 9, 2019
7:00 PM – City Hall
Council Chambers
Information: (248) 658-3320

CALL TO ORDER
PLEDGE OF ALLEGIANCE
ROLL CALL
APPROVAL OF AGENDA
APPROVAL OF MINUTES – Meeting of November 12, 2019

ITEMS FOR THE AGENDA

1. APPLICATION PBA-05-19
   Conor & Elizabeth Shaw-Draves, 2287 Franklin, request a dimensional variance for side yard setback along Berkley Ave.

2. APPLICATION PBA-06-19
   Applicant Intergrated M.R.I. dba Complete Imaging, 2571 Coolidge Hwy, request three variances to permit a trailer-based accessory structure on site, to permit accessory structure to occupy parking spaces on site, and to permit reduction in parking spaces for the medical office use of the building.

OTHER BUSINESS
LIAISON REPORT
PUBLIC COMMENTS
ADJOURN

Notice: Official Minutes of the Zoning Board of Appeals are stored and available for review at the Office of the City Clerk. The City of Berkley will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities at the meeting upon four working days notice to the city. Individuals with disabilities requiring auxiliary aids or services should contact the city by writing or calling: City Clerk, ADA Contact, Berkley City Hall, 3338 Coolidge, Berkley, Michigan 48072, (248) 658-3300.
A MEETING OF THE ZONING BOARD OF APPEALS WAS CALLED TO ORDER AT 7:00 PM, TUESDAY, NOVEMBER 12, 2019 BY CHAIR EVANS.

PRESENT:  Board Members        Alternates Seated as Board Members
          Paul Evans                Michael Hanchett
          Ryan Gesund               Maria Ward
          Steve Allen               
          Miles Uhlar               

ABSENT:    Joe Krug
          Greg Butts
          Sue McAlpine

ALSO PRESENT: Erin Schlutow, Community Development Director
              Dennis Hennen, City Council Liaison
              Michael Gordon
              Jason & Kendra Bath
              Members of public

APPROVAL OF AGENDA
It was moved by Ms. Ward to approve the agenda as presented. Motion was seconded by Mr. Allen.

AYES:      Gesund, Uhlar, Hanchett, Ward, Allen, Evans
NAYS:      None
ABSENT:    Butts, Krug, McAlpine

Motion Carried.

APPROVAL OF MINUTES
It was moved by Mr. Allen to approve the minutes of September 9, 2019 and supported by Mr. Gesund.

AYES:      Uhlar, Hanchett, Ward, Allen, Gesund, Evans
NAYS:      None
ABSENT:    Butts, Krug, McAlpine

Motion Carried.

REGULAR AGENDA

1. Application PBA-04-19; 1811 Earlmont
   Community Development Director Schlutow provided a brief summary of the requested side yard setback variance at 1811 Earlmont for the proposed addition to the principal single family home.

   Applicant Michael Gordon, Architect, provided explanation of the project and reasons for the variance.

   Homeowners, Jason and Kendra Bath, answered questions posed by the Zoning Board of Appeals related to the history of the property and reason for the variance.
Chair Evans opened the Public Hearing at 7:14pm.

Gerald Gallagher, 1812 Earlmont, spoke in support of the proposed project and the requested variance. He noted that the homeowners at 1811 Earlmont have made improvements to the property since they moved in. He noted that the conceptual rendering of the proposed addition was beautiful.

Chair Evans closed the Public Hearing at 7:15pm.

Community Development Director Schlutow summarized written comments received from Brett & Jodi Miller, 1877 Earlmont. The homeowners recognize the need for the variance from the City and do not believe that the addition would negatively impact the neighborhood and welcome the investment in the community.

Board members discussed the variance request.

Mr. Allen concerned about the visibility at the intersection but does not think that the proposed addition will cause any problems seeing oncoming traffic or stop sign.

Ms. Ward noted that it would improve the neighborhood. She noted that she didn't have any problem with the project. They have constructed a new garage and new driveway and these were nice enhancements to what was there.

Mr. Uhlar agrees that it looks nice, but it doesn’t fit the criteria for granting of a variance.

Ms. Ward referenced the properties submitted by the applicant that show other properties with similar encroachment into the side yard setback. She noted that what they are proposing would allow them to stay in their home and it improves the neighborhood and the value of the property.

Chair Evans thinks it’s a wonderful addition and shares concerns about aging in place in the community. However, Chair Evans isn’t sure the request meets all the standards for granting a variance.

Mr. Gesund inquired about the size of the lot and lot coverage maximum with the proposed addition.

Board Members inquired whether it would be permitted to construct the addition on the rear of the house rather than on the side of the house, as proposed. Community Development Director Schlutow had discussed this possibility with the applicant but they moved forward with the variance request onto the side yard.

Applicant Gordon addressed questions of rear yard distance from the garage to the principal structure. If the addition in the rear, it would occupy the entire rear yard space.

Chair Evans inquired about the side setback for the district. Community Development Director Schlutow noted that it was a combined 5ft. and 10 ft., where the setbacks can be offset, but there is a required 15 ft. between structures.

Chair Evans read through the five standards of review one at a time.

Based on the finding of fact, it was moved by Mr. Allen to deny the requested side yard setback variance, PBA-04-19, as Standards for Review A, B, C, D have not been met. Second by Mr. Gesund.
AYES: Hanchett, Allen, Gesund, Uhlar, Evans
NAYES: Ward
ABSENT: Butts, Krug, McApline

Motion Carried

2. **Meeting Dates**: Review of meeting dates for 2020 calendar year.

   Mr. Hanchett motioned to approve the meeting dates for the 2020 calendar year. Seconded by Mr. Gesund.

   AYES: Ward, Allen, Gesund, Uhlar, Hanchett, Evans
   NAYS: None
   ABSENT: Butts, Krug, McApline

   Motion Carried

**OTHER BUSINESS**

None.

**LIAISON COMMENTS**

Councilmember Hennen summarized the timeline for the marihuana ordinance. On November 26, 2019, the Planning Commission will make a recommendation to City Council. City Council will have first reading of the licensing ordinance on November 18, 2019, and the second reading on December 2, 2019. The City Council will have the first reading of the Zoning Ordinance on December 2, 2019 and the second reading on December 16, 2019. The licensing ordinance will be in place prior to the moratorium expires, Council will not need to renew the temporary ban that is in place. The City can hold off on accepting applications until the Zoning Ordinance has taken effect.

**BOARD COMMENTS**

None

**PUBLIC COMMENTS**

None. *******

With no further business, Chair Evans adjourned the meeting at 7:46 PM.
A complete application, a check payable to the 'City of Berkley', and 15 copies of a survey, folded plans, and other applicable data must be submitted to the City of Berkley one month prior to the date of the ZBA hearing.

Fee: $300.00 - If an application is withdrawn more than 3 weeks prior to the meeting date, 90% of the fee will be refunded. If the application is withdrawn less than 3 weeks prior to the meeting, no refund will be given.

Account Number: 1019.

The Zoning Board of Appeals meets the second Monday of every month. The meetings are held at 7:30 p.m. in the Council Chambers at the City Hall, 3338 Coolidge Highway, Berkley, Michigan 48072.

APPLICANT:
Name: [Name] Phone: [Phone]
Address: [Address]
Relationship to Property (current tenant, representative, future tenant, future owner, owner) [Role]

PROPERTY OWNER:
Name: [Name] Phone: [Phone]
Property Owner Address: [Address]

PROPERTY DESCRIPTION:
Address: [Address]
Sidwell (Tax I.D. #): [Tax ID] Lot & Subdivision: [Lot & Subdivision]
Current Zoning Classification: [Classification] Current Use of Property: [Property Use]

VARIANCE REQUEST:
Description of Request: [Description]

Has the City refused a permit for the request? [Yes/No] Notice given [Date]

GROUND FOR APPEAL:
There are two types of variances: non-use variances and use variances. A use variance permits the use of land that is otherwise not allowed in a zoning district. A non-use variance is a variance regarding setbacks; height; parking; sign size or placement; fences and walls.

In either case, the applicant must prove to the Zoning Board of Appeals that not receiving this variance will cause undue hardship or practical difficulty. Please complete either the use variance or non-use variance sections (whichever is applicable to your request)—DO NOT COMPLETE BOTH SECTIONS.
NON-USE VARIANCE

A non-use variance is a variance regarding setbacks; height; parking; sign size or placement; fences and walls.
The need for the variance is due to unique circumstances or physical conditions of the property because:
   The side lot on our corner lot is shallower than needed for a sun/mud room.
   Because no work on this project has begun.

Strict compliance with the ordinance will unreasonably prevent the property owner from using the property for a
permitted purpose or will render conformity with those regulations unnecessarily burdensome because
   The sun/mud room will vastly improve the usability of the side door, increasing usable space in an attractive and effective manner.
   The requested variance is the minimum variance necessary to do substantial justice to applicant as well as other
   property owners because Requested variance is 2 feet from the side lot property line. This is the needed amount to install a pre-fab
   sun/mud room per permit application, which will allow for better
   The requested variance will not adversely impact the surrounding properties because:
   Several homes in the area have similar additions, in similar side door style. It will be built to blend w/ ar home+the neighborhood. Also, the door
   will open onto yard, not the sidewalk—keeping the sidewalk clear.

A use variance permits the use of land that is otherwise not allowed in a zoning district.

The building or land cannot be reasonably used for any of the uses permitted by right or by special use permit in
the current zoning district because:

The need for the variance is due to unique circumstances or physical conditions of the property because:

Proposed use will not alter the essential character of the neighborhood because:

I understand that ZBA members may need to access my property to better understand my case. I understand that financial
hardship cannot be considered. I have received the brochure outlining ZBA procedures and requirements.

Signature of Applicant: ___________________________ Date: 11/4/19

Office Use Only
Date Application Received: 11-5-19 Fee: $300- Receipt Number: PBA-05-19
Hearing Date: ___________________________ Case Number: PBA-05-19
Zoning Board of Appeals Decision: ___________________________
Franklin Road

Berkeley Ave

Lot 6279 sq

Porch

Wood Deck 8'

1000 sq ft Ranch

Proposed concrete slab

4" concrete on 4" gravel
For 8' x 12' Solarium

4' Sidewalk

10'

12'

22'

22'

Garage

18.5 x 22'

Driveway

4' Sidewalk

10'
Assembly by more than one person is suggested.

Requires 96" clearance at the wall
Base Dimensions 144"x 94 1/2", Largest Dimensions 144"x96 1/2" (see pg.13)
**TOOLS REQUIRED:**
- Screwdriver (Philips #2) (supplied)
- Knife
- File (smooth)
- Needle-nosed pliers
- Rubber mallet
- Step ladder (minimum 6' in height)
- Spatula
- Power drill
- Tube of silicon
- Drill bit 5/16" cement (according to surface)

**BEFORE STARTING:**
Ensure that you have a solid base, such as concrete or wooden deck, not slanted more than 1" per 8'. Avoid installing unit adjacent to trees or a sloped roof, as snow and ice may slide onto the solarium and cause it to collapse. Please don't destroy boxes until completely assembled.

**STEP #1**
Decide the position of the door frames before assembly according to where you intend to slide the door. At the front of the solarium, use frame D3 for the opening of the door and B3 for the direction of the door when open. Use E3 between frame ends and use two (2) K3 joints for corners.

**NOTE:**
When placing the door frame opening, make sure the inserts on the frame are on the inside and on the upper half of the frame of the solarium because the door will be set on the inside due to clearance.

**NOTE:**
When sliding the connectors, shake the frame so that they will slide easily. Do not use tools to force. If needed, clean the paint with a file and make sure the ends of the frame and joints are not bent or warped. If so, use the needle-nosed pliers to straighten.

**STEP #2**
Slide the vertical guides Vv-3 left and Ww-3 right into the 2 ends of the frames along the grooves, shaking while sliding for easier movement. Next, slide two (2) Yy-3 and one (1) Zz-3 from left side to right on top of the frame. The groove should be towards the interior of the unit. Repeat from right side with two (2) YY-3 and one (1) Zz-3 and space evenly.
STEP #3
Assemble ML-3, N-3, O-3, and MR-3 as shown and position evenly above vertical guides, at 96" from the ground. Secure wall track and vertical tracks to brick or cement wall by drilling through the aluminum and using screws Xs-3. Insert the 2 horizontal guides, I3 & J3 at the top of the frame. Make sure the 2 frames are at the correct level, if not, use shims to compensate. Do not use tools to force.

NOTE:
Once the wall track is in place, apply silicon along the top of the wall track and at the joint of the two tracks. Silicon is not supplied.

STEP #4
Set polycarbonate exposed side on the outside over horizontal left guide I-3, use one (1) Rr-3 panel, one (1) P-3 joint and one (1) Ss-3 panel, then do the right side with one (1) Tt-3 panel, one (1) Q-3 joint and one (1) Uu-3 panel over the J-3 horizontal panel. Secure P-3 and Q-3 to I-3 and J-3 respectively with self-tapping screws (PQ-3).
STEP #5

Set right rafter T-3 over last bracket then secure it with Bb-3 screw and continue screwing through joint K-3 with the Bb-3 screw. Secure to Q-3 bracket with self-tapping screw (PQ-3). Repeat on left side with rafter S-3.

STEP #6

Set U-3 rafters over the middle of each panel with Bb-3 screws at the top and two (2) Z-3 screws over the brackets on frame manually. Set U-3 rafter on each joint and use Z-3 screws manually. Do not use power drill.
**STEP #7**

Remove protective film from two (2) sides of each panel and make sure the top side of the panel faces the sunlight. Insert and slide on the top groove of the rafters all the way to the end. Pp-3 should go first and last with the Qq-3 panels in between.

![Diagram showing panel arrangement](image1)

**STEP #8**

Insert the aluminum middle roof joint between the rafters, making sure the slotted holes are at the bottom. Slide into upper and lower grooves of the rafters then slide all the way into the panels. Make sure the panels are inside the aluminum middle roof joint groove. Insert a V-3 at either end, then insert all W-3 and then the remaining V-3. Tap gently with rubber mallet if needed.

![Diagram showing joint and panels](image2)
**STEP #9**

Insert the second row of panels into the lower groove on the rafter. Slide panels until they reach the aluminum pieces between the panels and gently tap on the panel to guide it into the aluminum groove. Use a spatula if needed to make it fit. Insert two (2) Pp-3 on either end, then insert the Qq-3 panels.

**STEP #10**

Starting at either end, add X-3 edging and one (1) R-3 bracket and screw with Bb-3 manually, do not use power drill. Add Y-3 edging and repeat until you reach the end, then add the X-3 edging.
STEP #11

On the inside of the solarium under each rafter there are two rows of inserts with threads. Start the upper row with a Jj-3 at either end and screw it with Ff-3 and in between the Kk-3 panels. Use Ff-3 screws at the lower row LI-3 at the 2 ends then the others in between the Mm-3 panels. Make sure screws are manually tight.

STEP #12

DOOR UNIT(S) MUST BE ASSEMBLED INSIDE OF SOLARIUM.

Slide upper door track F-3 into wheels of sliding door C-3. Slide lower door track G-3 and make sure inserts are close enough to the frame to attach. Use bolt Bb-3 to affix the plastic stopper H-3 on each end of top door rail F-3. Use Oo-3 screws to affix upper door rail and cap Nn-3, at each end of top rail door.
**STEP #13**

Lift up door and track inside of solarium then set it over the door opening by screwing at the top. First use bolts (Ww) and washers (Gg-3) on the inside and female bolts (Cc-3-2) on the outside for the top assembly. See diagram below. Attach lower track with bolts (Cc-3) and washers (Gg-3). Set up door latch on the side required for your door to lock, adjust latch as required.
STEP #14

Anchor the solarium to the deck or floor securely using screws and shields supplied. See diagram below.

To remove a screen, remove the two (2) screws at the top of the frame then pull sideways to the opposite end of the handles to remove. To remove wind panels, push or pull to one side, making sure that locking pin is not locked then remove panels gently, panels are easy to remove.

NOTE:
This unit is not waterproof. For best protection against rain, close the windows of each frame with the outside window in the center, and the inside window at the top.

CLEANING INSTRUCTIONS:
Use only mild or warm soapy water, no strong or abrasive cleaning products. Be sure to remove heavy snow and/or ice.

WARNING:
1) Do not use a BBQ or any other flammable product inside the solarium.
2) Remove snow from the roof.

SPECIAL NOTES
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<tbody>
<tr>
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<td>10-497 FRAME NEXT TO DOOR</td>
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<td>B-3 (Has more holes)</td>
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<tr>
<td>10-498 SLIDING DOOR C-3</td>
<td>2</td>
<td></td>
<td>10-499 SLIDING DOOR FRAME</td>
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<td>D-3</td>
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<td>11-544 CONNECTING PIECE E-3</td>
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<td>11-545 TOP DOOR RAIL</td>
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<tr>
<td>11-546 BOTTOM DOOR RAIL G-3</td>
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<td>08-138 PLASTIC STOPPER</td>
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<td></td>
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<td>H-3</td>
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<td>10-500 LEFT SIDE RECEIVER I-3</td>
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<td>10-501 RIGHT SIDE RECEIVER J-3</td>
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<td>10-505 TRACK JOINT N-3</td>
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<td>10-506 RAFTER BRACKET O-3</td>
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<td>10-515 EDGING X-3</td>
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<td>10-516 EDGING Y-3</td>
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<td>08-156 SCREW Z-3</td>
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<td>08-158 BOLT Bb-3</td>
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<td>08-161 BOLT Cc-3</td>
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<td>12-037 FEMALE BOLT Cc-3-2</td>
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<td>08-187 WASHER Gg-3</td>
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<td>08-193 PLASTIC PLUG II-3</td>
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<td>13-520 ROOF TOP REINFORCE</td>
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<td>08-134 UPPER DOOR RAIL END CAP</td>
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<td>Mm-3</td>
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<td>Oo-3</td>
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<td>LEFT+RIGHT ROOF PANEL</td>
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<td>10-523 LEFT BACK GABLE PANEL</td>
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<td>12-047 BOLT</td>
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<td>13-045 SELF-TAPPING SCREW</td>
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MAINTENANCE NOTES

1. In case of a defective or damaged part, or for any other questions concerning the product, please contact the manufacturer directly.
2. Please have the parts list and part numbers on hand when ordering or requesting replacement parts.
3. The product should not be installed adjacent to trees or a sloped roof. Snow and ice may slide onto the roof and cause it to collapse.
4. While the product is designed for 4 seasons use, the roof must be kept free of accumulation of snow.

ONE YEAR LIMITED WARRANTY

This product has been designed and manufactured to meet the highest standards of quality and durability. Subject to the Conditions for Exercising the Warranty and the Limitations on the Warranty set forth below, it is warranted to be free of material and manufacturing defects for a period of one year from the date of purchase. Should the product become damaged, or the warranty period has expired, please contact Gazebo Penguin Customer Service Department for a complete schedule of replacement parts and prices.

CONDITIONS FOR EXERCISING THE WARRANTY

The warranty only applies to the original purchaser with the bill.
In order to properly exercise your warranty, please comply with the following:
   Carefully inspect the contents of the carton for missing or damaged components. Should you discover damaged or missing parts, do not return the product to the place of purchase, but contact Gazebo Penguin Customer Service Department at the numbers listed below:
   Montreal: (514) 276-3485
   Elsewhere: 1-800-737-7174

LIMITATIONS ON THE WARRANTY

1. The product is not warranted against damages due to vandalism, abuse, falling or thrown objects or accumulation of snow.
2. The product is not warranted against damages due to extreme weather conditions, such as thunderstorms, hail, strong wind or snow storms, or any other acts of God.
3. The product is only warranted in the event it is installed in accordance with the Gazebo Penguin’s written instructions enclosed with the product.
4. The product is not warranted in the event it has been improperly anchored.
5. We reserve the right to replace or repair any defective product or parts at our discretion.
To: Zoning Board of Appeals
From: Erin Schlutow; Community Development Director
Subject: PBA-05-19; 2287 Franklin – Variance for sideyard setback
Date: December 2, 2019

APPLICANT: Conor & Elizabeth Shaw-Draves
LOCATION: Southeast corner of Franklin Rd & Berkley Ave
PARCEL ID: # 25-17-156-001
Lot 41 of Storm & Fowler’s Tennyson Homes Subdivision, Exc. East 53 ft.
REQUEST: The applicant is seeking a dimensional variance for side yard setback along Berkley Ave. for the purpose of constructing an addition to the existing building.
REQUIRED: Section 138-526 of the Zoning Ordinance requires a side yard setback of 10 ft. for corner lots where rear yard abuts a rear yard in the R-1D, Single Family Residential District.

ZONING AND LAND USE

The subject property is zoned R-1D, Single Family Residential and is located in an entirely residential neighborhood. Properties to the north, east, south, and west are located in the R-1D, Single Family Residential District.

Section 138-527(c) states in the R-1D District, the exterior side yard setback on a corner lot where a rear yard abuts a rear yard shall be not less than 10 ft. The applicant is proposing to construct an 8 ft. x 12 ft. (96 sq. ft) addition to the existing principal structure (1,000 sq. ft.) that will encroach into the required 10 ft. side yard setback along Berkley Ave. The submitted plans shows the proposed addition encroaching eight (8) ft. into the side yard setback with the concrete pad extending an additional two (2) feet, which would connect to the existing sidewalk system along Berkley Ave. Therefore, the applicant is requesting an 8 (eight) ft. side yard setback variance for the principal structure on the west side of the property along Berkley Ave with additional two (2) feet of concrete area connecting to the sidewalk.
The proposed addition will not impact front and rear yard setbacks, height and lot coverage and will be compliant with all other applicable ordinance requirements.

**STANDARDS FOR REVIEW**

Per Section 138-606 of the Zoning Ordinance, the applicant must demonstrate a practical difficulty in order to be granted a dimensional variance. The Zoning Board of Appeals shall not vary the regulations of Section 138-606, unless it shall make findings based upon the evidence presented to it in each specific case that:

A. **The need for the variance is due to unique circumstances or physical conditions of the property.**

   The subject site is located at the southeast corner of Franklin Rd and Berkley Ave. Per Section 138-527(c), for corner lots where a rear yard abuts a rear yard, the exterior side yard setback shall be not less than ten (10) feet. The subject property is Lot 41 in the Storm & Fowler’s Tennyson Homes Subdivision, exc. East 53 ft, measuring 52 ft. frontage on Franklin Rd and 120 ft. deep along Berkley Ave. The property to the west of the subject site occupies an entire lot, measuring 90 ft. by 120 ft. However, properties to the north, south, east have been split and two parcels occupy a single lot.

   On the subject property, the 52 ft. width on Franklin Ave. prohibits construction in the side yard along Berkley Ave. The rear of the principal structure contains an open deck, which extends eight (8) ft. towards the rear yard garage, intended for outdoor leisure and entertaining.

B. **The need for the variance is not the result of actions of the property owner or previous property owners.**

   The subject site is limited by the size of the lot that was created prior to the current owners taking ownership. Upon review of the surrounding neighbors, the applicant is intending to construct a similar attached structure that is located across the street at 2288 Franklin. The side yard addition at 2288 Franklin was constructed sometime between 1963 and 1974, according to aerial maps. The addition was constructed prior to the adoption of the Zoning Ordinance in 1981 or other adopted amendments thereafter, which would mean that the attached accessory structure on the neighbor property would constitute as a nonconforming structure.

C. **Strict compliance with the ordinance will unreasonably prevent the property owner from using the property for a permitted purpose or will render conformity with those regulations unnecessarily burdensome.**
Strict compliance with the side yard setback requirement will prohibit the property owner from constructing an addition to the principal structure for a mudroom and outerwear storage. The limited size of the lot prohibits the property owner from constructing an addition to suit the family needs.

D. **The requested variance is the minimum variance necessary to do substantial justice to applicant as well as other property owners.**

The applicant is requesting an eight (8) ft. variance for the attached structure to encroach into the side yard setback along Berkley Ave. The project would also include a two (2) ft. concrete pad that would extend from the proposed structure to the existing sidewalk along Berkley Ave. Construction of the “mudroom” or other attached structure in the rear yard would not be possible, as an open deck is connected to the rear of the house. Any rear yard construction for an attached structure would require removal of the attached deck.

E. **The requested variance will not adversely impact the surrounding properties.**

The requested variance would permit the addition to encroach into the side yard setback along a residential roadway, with the structure nearly touching the existing sidewalk along Berkley Ave. The proposed addition would mimic the structure located across Franklin Rd., however it would set precedent for other property owners on corner lots to construct additions into the side yard setbacks.

**Recommendation**

For a variance to be approved by the Zoning Board of Appeals, it shall meet the standards of Section 138-606 of the Zoning Ordinance, based on findings of fact. We request the Zoning Board of Appeals to determine if there are unique characteristics of the property and whether a lesser variance would be acceptable.

If you have any questions regarding this case, please do not hesitate to contact us.
Sincerely,

Erin Schlutow  
Community Development Director

Cc: Matthew Baumgarten, City Manager  
Victoria Mitchell, City Clerk  
John Staran, City Attorney  
eshawdraves@yahoo.com
A complete application, a check payable to the 'City of Berkley', and 15 copies of a survey, folded plans, and other applicable data must be submitted to the City of Berkley one month prior to the date of the ZBA hearing. Fee: $300.00 If an application is withdrawn more than 3 weeks prior to the meeting date, 90% of the fee will be refunded. If the application is withdrawn less than 3 weeks prior to the meeting, no refund will be given. Account Number: 1019.

The Zoning Board of Appeals meets the second Monday of every month. The meetings are held at 7:30 p.m. in the Council Chambers at the City Hall, 3338 Coolidge Highway, Berkley, Michigan 48072.

APPLICANT:
Name: Integrated M.R.I. dba Complete Imaging
Address: 4045 W 13 Mile Rd, Ste E, Royal Oak, MI 48073
Phone: 248-291-3355
Relationship to Property (current tenant, representative, future tenant, future owner, owner)
Future tenant with lease already executed.

PROPERTY OWNER:
Name: Family Video Movie Club Inc
Phone: 847-904-9143
Property Owner Address: 122 E Adams, Springfield, IL, 62703

PROPERTY DESCRIPTION:
Address: 2571 Coolidge Hwy, Berkley, MI 48072
Sidwell (Tax I.D. #): 25-18-427-034 Lot & Subdivision: 
Current Zoning Classification: Coolidge District Current Use of Property: Dentist Office & Vacant Unit

VARIANCE REQUEST:
Description of Request: Parking and temporary structure variance to accommodate the proposed M.R.I. office
the variance is only needed to meet the strict parking and temporary structure requirements for the proposed use as the parking needs are very light.

From the City of Berkley Code, Chapter 138 Section 138-219

Has the City refused a permit for the request? No

GROUNDS FOR APPEAL:
There are two types of variances: non-use variances and use variances. A use variance permits the use of land that is otherwise not allowed in a zoning district. A non-use variance is a variance regarding setbacks; height; parking; sign size or placement; fences and walls.

In either case, the applicant must prove to the Zoning Board of Appeals that not receiving this variance will cause undue hardship or practical difficulty. Please complete either the use variance or non-use variance sections (whichever is applicable to your request)—DO NOT COMPLETE BOTH SECTIONS.
NON-USE VARIANCE

A non-use variance is a variance regarding setbacks; height; parking; sign size or placement; fences and walls.
The need for the variance is due to unique circumstances or physical conditions of the property because See attached.
The need for the variance is not the result of actions of the property owner or previous property owners because See attached.

Strict compliance with the ordinance will unreasonably prevent the property owner from using the property for a permitted purpose or will render conformity with those regulations unnecessarily burdensome because See attached.
The requested variance is the minimum variance necessary to do substantial justice to applicant as well as other property owners because See attached.

The requested variance will not adversely impact the surrounding properties because: See attached.

USE VARIANCE

A use variance permits the use of land that is otherwise not allowed in a zoning district.
The building or land cannot be reasonably used for any of the uses permitted by right or by special use permit in the current zoning district because: N/A

The need for the variance is due to unique circumstances or physical conditions of the property because: N/A

Proposed use will not alter the essential character of the neighborhood because: N/A

The need for the variance is not the result of actions of the property owner or previous property owners because: N/A

I understand that ZBA members may need to access my property to better understand my case. I understand that financial hardship cannot be considered. I have received the brochure outlining ZBA procedures and requirements.

Signature of Applicant Date

Office Use Only
Date Application Received: 11-8-19 Fee: $300 Receipt Number:
Hearing Date: 12-9-19 Case Number: PBA-06-19
Zoning Board of Appeals Decision: ____________________________

January 2017
To: Zoning Board of Appeals

From: Erin Schlutow; Community Development Director

Subject: PBA-06-19; 2571 Coolidge Hwy – Variances for accessory structure in parking lot

Date: December 3, 2019

APPLICANT: Integrated M.R.I. dba Complete Imaging

LOCATION: Southwest corner of Coolidge Hwy and Catalpa Dr.

PARCEL ID: # 25-18-427-034

REQUEST: The applicant is seeking three (3) variances on the subject property: 1) to permit a trailer-mounted accessory structure to be parked long-term on site for purpose of conducting MRI scans, 2) to park aforementioned accessory structure within the parking area to occupy minimum six (6) parking spaces, and, 3) to reduce the parking requirement of the subject property for medical office use.

REQUIRED: 1) Section 138-61 of the Zoning Ordinance prohibits storage of trailer-mounted accessory buildings and structures on commercial properties.

2) Section 138-218(b) of the Zoning Ordinance prohibits the reduction of parking for an existing or new use.

3) Section 138-219(4) of the Zoning Ordinance requires one (1) parking space per 100 sq. ft. of usable floor area for medical office uses.

ZONING AND LAND USE

The subject property is zoned Coolidge District and is located in the commercial district. Properties to the north, east, and south are located in the Coolidge District, while the property to the west is located in the RM, Multiple Family District.

The existing building on the subject site is currently occupied by Forte Family Dentistry and Family Video. The applicant is proposing to occupy the unit that is occupied by the Family Video as a medical office. Per Section 138-442, medical offices and accessory uses and structures customarily incidental to the
permitted uses are permitted by right. Additional approvals by Planning Commission or City Council will not be required, as it relates to the proposed occupancy of the subject site.

STANDARDS FOR REVIEW

Per Section 138-606 of the Zoning Ordinance, the applicant must demonstrate a practical difficulty in order to be granted a dimensional variance. The Zoning Board of Appeals shall not vary the regulations of Section 138-606, unless it shall make findings based upon the evidence presented to it in each specific case that:

A. The need for the variance is due to unique circumstances or physical conditions of the property.

1) The applicant is requesting to place a 48-ft. trailer-mounted accessory structure on the property in order to conduct MRI scans as an accessory use to the medical office use at 2571 Coolidge, the existing Family Video store. The structure would be installed on a permanent basis to serve in conjunction with the medical office located entirely within the building. Section 138-61 of the Zoning Ordinance prohibits trailer-mounted accessory buildings or structures with the City. The proposed structure will be affixed with wheels and a front-end trailer-mounting apparatus. There are no unique circumstances or physical conditions of the property that justify the trailer-mounted accessory structure on site.

2) The applicant is requesting to place the trailer-mounted accessory structure within the existing parking area, and will occupy minimum six (6) parking spaces on the subject site. Section 138-218(b) of the Zoning Ordinance prohibits the reduction in existing parking spaces for a new use. The placement of the accessory structure would reduce the number of parking spaces available to visitors of the medical or dental office. The limited area of the site requires the accessory structure to occupy parking spaces, as there is no other area on site, in the required rear yard, where the accessory structure could be located. The physical layout of the property would justify the variance request to occupy existing parking within the subject site.

3) The entire site contains 43 parking spaces, including two (2) barrier-free spaces. The parking area is also used by the dental office in the same building. While the two office uses have a shared parking area, the new medical use must maintain sufficient parking for each use to ensure that neither business is negatively impacted by the re-occupancy.

As noted in Section 138-219(4) of the Zoning Ordinance, the parking requirement for each office use is as follows:
<table>
<thead>
<tr>
<th>Office Use</th>
<th>Parking Requirement</th>
<th>Required Spaces</th>
<th>Existing Spaces Available On-Site</th>
<th>Variance Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dental office</td>
<td>Two spaces per exam room or treatment room, plus 3</td>
<td>7 rooms = 17 spaces</td>
<td>17 spaces</td>
<td>0 spaces</td>
</tr>
<tr>
<td>Medical office</td>
<td>One space per 100 sq. ft. of usable floor area</td>
<td>2.905 sq. ft. of UFA = 29 spaces</td>
<td>26 spaces</td>
<td>3 spaces (without accessory) 9 spaces (with accessory)</td>
</tr>
</tbody>
</table>

The parking variance request is still applicable if the variance for the trailer-mounted accessory structure is not granted by the Zoning Board of Appeals. As detailed above, the medical office on its own without the accessory structure for MRI scans would not have sufficient parking under the regulations within the Zoning Ordinance. Therefore, a parking variance will still be required for the medical office to open as a new business within the City of Berkley.

B. The need for the variance is not the result of actions of the property owner or previous property owners.

1) The request for a variance for the trailer-mounted accessory structure is needed by the applicant in order to serve the residents of Berkley. The applicant has noted in the provided materials that this request is the result of a thriving business in Royal Oak that wants to relocate to Berkley and the business model requires an MRI trailer located on-site. Section 138-61 of the Zoning Ordinance prohibits trailer-mounted accessory buildings and structures and this restriction is applied throughout the City of Berkley.

2) When initially constructed, the parking area was designed to maximize the number of spaces to serve the visitors to the video rental retail business. The property owner did not intentionally design the site so as to cause the current situation, but rather, it is an unintended consequence of a new occupant wanting to place an accessory structure on-site and not having sufficient parking for the proposed use.
3) Per Section 138-219(4), the proposed medical office use, with or without the accessory structure, does not have sufficient off-street parking. In the provided materials, the applicant has noted that the proposed use and business model does not require the number of parking spaces, as required in the Ordinance. The applicant notes the number of staff and the rate of receiving patients as evidence to support the variance for the parking requirement.

C. Strict compliance with the ordinance will unreasonably prevent the property owner from using the property for a permitted purpose or will render conformity with those regulations unnecessarily burdensome.

1) The variance request for the trailer-mounted accessory structure is a key component of the medical office business plan. As described by the applicant, non-emergency patients would be transported to the medical office for MRI scanning without having to go to a hospital. The accessory structure could service multiple patients throughout the day in a comfortable setting rather than a hospital. The applicant has noted that without the variance for the trailer-mounted accessory structure, the re-occupancy of the building may not be possible.

2) The variance request for the parking reduction is also a key component of the medical office business plan. Without the variance for the accessory structure and reduction in parking, the medical office may not be suited for the site.

3) Strict compliance with the parking requirement, as noted above, would prohibit the applicant from being able to open the medical office on the subject site. A shared parking agreement with nearby businesses would not be possible at this time, due to changes in ownership and uses of adjacent properties, as well as shared parking agreements cannot be made with properties across major thoroughfares, such as Catalpa or Coolidge Hwy.

D. The requested variance is the minimum variance necessary to do substantial justice to applicant as well as other property owners.

1) The requested variance for the trailer-mounted accessory structure is the minimum necessary to do substantial justice to the applicant. The applicant is requesting one structure to be placed on site, and based on online research, the size of the proposed structure is typical for the intended use. The applicant is not requesting additional structures or increase of size of structure than what is typical for the intended use.

2) The requested variance to reduce the number of on-site parking spaces is the minimum variance necessary to do substantial justice to the applicant. The applicant is unable to place the accessory structure in any other yard than the rear yard, as proposed.
3) The requested parking variance is contingent upon the approval of the variances for the trailer-mounted accessory structure and the reduction in parking spaces on-site. If the variances for the trailer-mounted accessory structure in the parking area are approved, a parking requirement variance of nine (9) spaces would be needed. However, if the trailer-mounted accessory structure variance is not granted, the applicant would require a variance of three (3) parking spaces.

The applicant has not requested a greater variance than would serve the business for the intended use; however, approving the trailer-mounted accessory structure to be located within the parking area will increase the total numerical parking variance, as noted in the table above.

E. The requested variance will not adversely impact the surrounding properties.

1) The requested variance for the trailer-mounted accessory structure will not have an impact upon traffic to the surrounding properties. The aesthetic appearance of the structure itself may not be pleasing to many; however, the applicant has noted that the structure will be state of the art.

2) The requested variance to reduce the number of on-site parking spaces may cause a lack in on-site parking for the medical office during high traffic days and times. In such cases, overflow parking may spill onto the residential side streets. This would inconvenience residential property owners and could prove to be dangerous for patrons to cross Catalpa to get to the medical office.

3) The requested parking variance has the same implications and concerns as Item #2, above. Reducing the number of parking spaces could cause parking shortage, and would then require patrons to park elsewhere, where it may not be safe to cross Catalpa or where they may not have permission on private property.

Recommendation

For any of the above variances to be approved by the Zoning Board of Appeals, it shall meet the standards of Section 138-606 of the Zoning Ordinance, based on findings of fact. We request the Zoning Board of Appeals to determine if there are unique characteristics of the property and whether a lesser variance would be acceptable.
If you have any questions regarding this case, please do not hesitate to contact us.

Sincerely,

Erin Schlutow
Community Development Director

Cc: Matthew Baumgarten, City Manager
    Victoria Mitchell, City Clerk
    John Staran, City Attorney
    Justin Dunaskiss, justin@dunaskiss.biz
December 2, 2019
Zoning Board of Appeals
City of Berkley, Michigan

RE: Application # PBA-06-19, Integrated MRI dba Complete Imaging

We do not agree and object to all three requests for variances for the following reasons: we vote NO.

• As an example, the physicians at Integrated Health Care, at the corner of Coolidge and Catalpa, have told their staff to park in the residential neighborhood. As a result, my family, guests and myself cannot park in front of my house.

• Another example, when I complained at Integrated Health Care about parking in front of our house, their response is “its a public street, we can park where we want.” In October 2019 the doctor’s office called the Berkley Police in response to our complaints.

• The City of Berkley does not protect me and the residents, the bread and butter of the City — who pay the taxes, mow the grass, care for the easements, and shovel the sidewalks. I, the homeowner and taxpayer, am inconvenienced.

• Granting variances and not following the zoning code leads to unnecessary confrontation and police intervention.

• Lastly - because homeowners have to remove from their vehicles from the street (NO OVERNIGHT PARKING IN BERKLEY) - it makes it easy for businesses to scoop in at 8 AM and grab the parking for the day.

Respectfully submitted,

Eugene and Georgia Dixon
2615 Kenmore
Berkley, MI 48072
Non-Use Variance Request Responses for TEMPORARY STRUCTURE VARIANCE at 2571 Coolidge Hwy, Integrated M.R.I. dba Complete Imaging

The need for the variance is due to unique circumstances or physical conditions of the property because:

The property, parking lot and proposed MRI unit actually serve the current tenants and proposed Magnetic Resonance Imaging (MRI) center’s needs very well. The proposed temporary MRI unit fits nicely on the site, does not affect traffic flow and or impact the applicant’s and current tenant’s true parking needs. The applicant currently operates at 4045 West 13 Mile Road in Royal Oak. This current location has seven (7) parking spaces total and they have never had a parking issue when the MRI unit is on site and or off site.

The need for the variance is not the result of actions of the property owner or previous property owners because:

This request for a temporary structure variance is not the result of actions of the current property owner or previous owners as it was originally developed for retail video rental and as such has ample parking for the proposed use, MRI trailer and existing tenant. This request is the result of a thriving business in Royal Oak that want to relocate to the city and who’s business model requires an MRI trailer to be onsite one day a week. The unit itself is state of the art and will be strategically placed on the site. It is also important to note the maximum staff members on schedule at any given time never exceeds four (4), and with this maximum staffing the client would see one (1) to two (2) patients an hour. An MRI scan takes between 15 to 25 minutes to complete on each body part, and most patients have multiple scans performed. It is also important to note that a 3rd party non-emergency medical transportation company drives 80% of patients to their MRI appointment.

Strict compliance with the ordinance will unreasonably prevent the property owner from using the property for a permitted purpose or will render conformity with those regulations unnecessarily burdensome because:

The site was originally designed, approved, developed and functioned as a busy video rental store whose use required much more parking. Preventing an MRI use, which requires an MRI trailer one day a week would unreasonably prevent the property owner from using his property as they already have a medical use and the proposed use and MRI trailer are very benign and will not have any negative impacts.

The requested variance is the minimum variance necessary to do substantial justice to applicant as well as other property owners because:

We are requesting the very minimum variance to simply allow for the necessary medical equipment needed to run an MRI center. This minimum request will allow the clinic to have their MRI trailer on site only when it will be in use which will be one day a week. By granting this request the current property owner and neighboring properties owners receive substantial justice as the MRI trailer will only be on site one day a week and have a very limited number of patients and staff compared to what any number of permitted businesses for the site that would generate in terms of traffic and impact.

The requested variance will not adversely impact the surrounding properties because:

The surrounding property owners not be adversely impacted as this use will actually result is less traffic, parking issues and impact then what other permitted uses would bring to the site and area.
Non-Use Variance Request Responses for PARKING VARIANCE at
2571 Coolidge Hwy, Integrated M.R.I. dba Complete Imaging

The need for the variance is due to unique circumstances or physical conditions of the property because:

The property and the existing parking actually serve the current tenants and proposed Magnetic Resonance Imaging (MRI) center's needs very well. The MRI unit fits nicely on the site, does not affect traffic flow and or impact the applicant's and current tenant's true parking needs. The applicant currently operates at 4045 West 13 Mile Road in Royal Oak. This current location has seven (7) parking spaces total and they have never had a parking issue. At the proposed site, they would have three (3) times as much parking as they currently have. The request for a parking variance is the result of a strict interpretation of the parking requirements for the MRI use; it does not accurately reflect the true parking needs for this type of business and is not consistent with parking requirements in neighboring municipalities.

The need for the variance is not the result of actions of the property owner or previous property owners because:

This request for a parking variance is not due to a lack of parking for the proposed use and or the originally planned and developed site for video rental use. The request is a result of a strict interpretation of the parking requirements for MRI use that does not accurately reflect the true parking needs for this type of business and is not consistent with parking requirements in neighboring municipalities. The maximum staff members on schedule at any given time never exceeds four (4), and with this maximum staffing the client would see one (1) to two (2) patients an hour. An MRI scan takes between 15 to 25 minutes to complete on each body part, and most patients have multiple scans performed. It is also important to note that a 3rd party non-emergency medical transportation company drives 80% of patients to their MRI appointment.

Strict compliance with the ordinance will unreasonably prevent the property owner from using the property for a permitted purpose or will render conformity with those regulations unnecessarily burdensome because:

The site was originally designed, approved, developed and functioned as a busy video rental store whose use required much more parking. Preventing an MRI use, which has significantly less parking requirement, would unreasonably prevent the property owner from using his property.

The requested variance is the minimum variance necessary to do substantial justice to applicant as well as other property owners because:

We are requesting the very minimum variance to simply meet the city's parking requirement for the MRI use, as the true parking needs are met by the current on-site parking. By granting this request the current property owner and neighboring properties owners will get a use whose parking true needs are much less than what other permitted uses would be which is beneficial to all.

The requested variance will not adversely impact the surrounding properties because:

The surrounding property owners not be adversely impacted as the proposed use will actually result is less traffic and parking then what other uses would bring to the site and area.
13'-6" H x 8'-6" W x 48'-0" L USA Unit

Overall Weight of Trailer
58,000 Pounds