



AGENDA
KENTWOOD ZONING BOARD OF APPEALS
KENTWOOD CITY HALL
CITY COMMISSION CHAMBERS
DECEMBER 20, 2021, 7:00 P.M.

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Approval of Minutes of November 15, 2021
5. Public Hearing

Appeal#V-21-14 (Tabled from October 18, 2021)

Applicant: J and C Tires
Location: 5170 Division Avenue

Request: The applicant wishes to display tires along the edge of their parking lot. The Zoning Administrator has made the determination that tires cannot be displayed along the edge of the parking lot. The applicant is appealing the Zoning Administrator's determination prohibiting the display of tires along the edge of the parking lot.

Appeal #V-21-16

Applicant: Martha Elliot
Location: 1815 Pembroke Drive

Request: The applicant wishes to operate a group child daycare home which would be located within 1,010 feet of an existing group child daycare home. Section 3.20.A.3 of the Kentwood Zoning Ordinance requires a minimum separation of 1,200 feet between group child daycare homes. The requested variance is to allow a group child daycare home to locate closer than 1,200 feet to an existing group daycare home..

6. Adjournment

**PROPOSED MINUTES OF THE REGULAR MEETING
OF THE KENTWOOD ZONING BOARD OF APPEALS
CITY COMMISSION CHAMBERS
NOVEMBER 15, 2021, 7:00 P.M.**

1. Chair Derusha called the meeting to order.
2. Pledge of Allegiance (Derusha)
3. Roll Call
MEMBERS PRESENT: Lisha Berry-Ridge, Les Derusha, Robert Houtman, Alan Lipner, Ricardo Rogers, Mary VanNoord and Susan West
MEMBERS ABSENT: None
OTHERS PRESENT: Planner Joe Pung, Planning Assistant Monique Collier, the applicants, and 2 citizens.

4. Approval of the Minutes and Findings of Fact

Motion by Lipner, supported by Houtman, to approve the minutes of October 18, 2021.

- Motion Carried (7-0) –

5. Acknowledge visitors and those wishing to speak to non-agenda items.

There was no public comment

6. Public Hearing

Appeal#V-21-14 (Tabled from October 18, 2021)

Applicant:	J and C Tires
Location:	5170 Division Avenue

Request:	The applicant wishes to display tires along the edge of their parking lot. The Zoning Administrator has made the determination that tires cannot be displayed along the edge of the parking lot. The applicant is appealing the Zoning Administrator's determination prohibiting the display of tires along the edge of the parking lot.
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The applicant wasn't present, therefore the commissioners decided to table the request.

Schweitzer stated he spoke to the applicant and they were not clear when the rescheduled date was going to be therefore he told them we will provide them with a written notification of the

date and time of the adjourned hearing. Collier stated she sent the notice to the applicant however it was returned to the City indicating there was not enough postage.

Motion by Houtman, supported by West, to table Case#V-21-14 -J and C Tires to the December 20, 2021 meeting.

- Motion Carried (7-0) -

Appeal #V-21-15

Applicant: Andrew & Barbara Terrien
Location: 1435 Bowdoin Street

Request: The applicant wishes to install a six (6) foot high privacy fence in the required front yard. Section 3.19.B.1 of the Kentwood Zoning Ordinance limits the height of the fence to three (3) feet. The requested variance is for a three (3) foot increase in height over the maximum allowed by ordinance.

Andrew and Barbara Terrien, 1435 Bowdoin, were present. Barbara Terrien stated they would like to install a privacy fence. Andrew Terrien stated the properties are offset the front yard corresponds to their neighbor's backyard. He stated the fence would extend down their property line (the north/south property line) total of about 300 feet.

Lipner stated he was at the property and questioned if the markers that they have out there are for the fence. Terrien stated the markers that are currently in the ground are the current survey markers of the property lines.

Houtman questioned if the survey stakes are on the side of their house. Terrien stated if you are facing the property, to the east is Brookwood School and their playground. Barbara Terrien stated it would appear that it is their side yard but because of the ordinance and where their house sits it is indicated to be their front yard because of their house being so far setback.

West stated she drove to the property and questioned if the neighbors house where the property line is, would that be their backyard. Barbara Terrien stated correct that is their neighbors backyard and their frontyard. West questioned if the drive is a shared drive. Barbara Terrien stated that is correct it is kind of divided up into thirds.

Houtman questioned if the fence would stop just to the left of their driveway. Pung stated it would start about 20 feet back from the edge of pavement.

VanNoord questioned if the neighbor can have a 6 foot high privacy fence without a variance. Pung stated that is correct because in the rear and side yard you can go up to 6 feet in height.

Derusha opened the public hearing.

Houtman read an anonymous letter sent in by a resident. They were concerned about the fence blocking the visual view to the street. They also said it will be an eyesore to look out their window and see a 6 foot fence in their frontyard.

Martha and Carmen Vargas, 1411 Bowdoin was present. She stated she was the one that submitted the letter. She stated that she has safety concerns for her children.

Motion by Houtman, supported by Lipner to close the public hearing.

- Motion Carried (7-0) -

VanNoord stated point 1 is met it I at the end of a private drive and their frontyard abuts their neighbor's rear yard. There are other properties with the rear yard abutting to adjacent property. VanNoord stated point 2 is not met. VanNoord stated point 3 is not met without the variance they can put up a 3 foot high privacy fence.

Houtman stated points 1,2 and 3 have been met. Lipner, West, Berry-Ridge, Rogers and Derusha concurred that points 1,2 and 3 have been met.

VanNoord stated point 4 is met. The adjacent property owner could install a 6 foot fence if they would want to. VanNoord stated point 5 is met. VanNoord stated point 6 has been met.

Houtman, Lipner, West, Berry-Ridge, Rogers, and Derusha concurred that points 4, 5 and 6 have been met.

Motion by Houtman, supported by Berry-Ridge to approve V-21-15

- 1. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning The front yard of the property abuts the rear yard of an adjacent property. Property is located at the end of a private drive**
- 2. The condition or situation on which the requested variance is based does not occur often enough to make more practical adoption of a new zoning provision.**
- 3. The literal application of the provisions of the Zoning Ordinance would deprive the applicant of property rights commonly enjoyed by other properties in the same zone district. The adjacent property could install a 6 foot same location**
- 4. The variance will not be detrimental to adjacent property and the surrounding neighborhood.**

5. Taken as a whole, the variance will not impair the intent and purpose of the Zoning Ordinance.

6. The exceptional conditions or circumstances do not result from the actions of the applicant. Thus, by way of example, the exceptional circumstances result from uses or development on an adjacent property or the exceptional shape of the property is the result of an unrelated predecessor's split of the parcel.

- Motion Carried (6-1) –
- VanNoord -

7. Commissioners Comments.

Ricardo Rogers joined the Zoning Board. He stated he has been a part of the community almost 30 years. He attended all Kentwood Public Schools. He stated he currently is in real estate has a love for people and loves to serve.

Motion by Houtman supported by Lipner, to adjourn the meeting.

- Motion Carried (7-0) –

Meeting adjourned at 7:23p.m.

Respectfully submitted,

Robert Houtman, Secretary

STAFF REPORT: October 13, 2021
PREPARED FOR: Kentwood Zoning Board of Appeals
PREPARED BY: Joe Pung
CASE NO.: V-21-14

GENERAL INFORMATION

APPLICANT: J and C Tires
Attn: Juan Buitron
5170 Division Avenue, SE
Kentwood, MI 49548

STATUS OF
APPLICANT: Property Owner

REQUESTED ACTION: The applicant wishes to display tires along the edge of their parking lot. The Zoning Administrator has made the determination that tires cannot be displayed along the edge of the parking lot. The applicant is appealing the Zoning Administrator's determination prohibiting the display of tires along the edge of the parking lot.

EXISTING ZONING OF
SUBJECT PARCEL: FBC Form Based Code

GENERAL LOCATION: 5170 Division Avenue, SE

PARCEL SIZE: .38 acres (16,510 square feet)

EXISTING LAND USE
ON THE PARCEL: Commercial Business

ADJACENT AREA
LAND USES: N - Apartment Complex (under construction)
S - 52nd Street ROW
E - Commercial Building
W - Division Avenue ROW

ZONING ON ADJOINING
PARCELS: N - FBC Form Based Code
S - FBC Form Based Code
W - Form Based Code (City of Wyoming)
E - FBC Form Based Code

Staff Comments:

1. The applicant wishes to display tires along the edge of their parking lot. The Zoning Administrator has made the determination that tires cannot be displayed along the edge of the parking lot. The applicant is appealing the Zoning Administrator's determination prohibiting the display of tires along the edge of the parking lot.
2. As indicated in the attached memo from the Community Development Director dated September 13, 2021; Section 8.03.B.1 of the Kentwood Zoning Ordinance requires principal activities of commercial businesses to be conducted within an enclosed building (except for specific special land uses such as open-air businesses). In the past, the Zoning Administrator had made an interpretation that allowed for limited outdoor display in a commercial district; the display was restricted to the sidewalk area under a canopy or awning along the front of a building, no display was permitted within the required front, side, or rear yards or in parking areas or traffic lanes. The Zoning Administrator has made the interpretation that the open-air display of merchandise by commercial businesses operated in the Form Based Code district also be restricted to the sidewalk under the canopy or awning along the front of the building.

The applicant wishes to display tires along the outer edge of their parking lot and is appealing the Zoning Administrator's determination that such display is not allowed.

3. Section 8.03.B.1 of the Kentwood Zoning Ordinance prohibits storage in the required front yard of a commercial or office property.
4. Since 1985, the Zoning Board of Appeals has heard approximately thirty-four (34) appeals to Zoning Administrator determinations and interpretations. Some of the more recent appeals are as follows:

Case #	Address	Sign Issue
V-21-09	5945 Christie Avenue	Denied (utility cabinet height)
V-21-08	426 Pine Vista Drive	Denied (utility cabinet height)
V-21-07	1539 Pickett Street	Denied (utility cabinet height)
V-17-20	3333 – 28 th Street	Withdrawn (interpretation that a mural on an exterior wall is an art display venue and not permitted)
V-16-07	241 – 44 th Street	Denied (residential parking addition exceeding what is allowed)
V-16-02	12 Daniel Street	Denied (appeal requirement to modify existing front yard fence to provide clear vision)
V-13-04	3017 – 52 nd Street	Withdrawn (number of permitted accessory buildings)
V-10-18	3110 – 28 th Street	Denied (upheld determination that the statue was considered a sign)
V-06-22	1950 – 44 th Street	Withdrawn (related to signage and

		determination of street frontage)
V-00-16		Denied (upheld determination that a cell tower be located on its own parcel)
V-00-07	4860 Broadmoor Avenue	Granted (reversed decision that drive-thru lanes are not permitted in industrial districts)
V-00-02	2757 Ridgemoor Drive	Denied (upheld the determination that a proposed business was a regulated use)
V-00-01	3160 – 28 th Street	Denied (upheld determination that wall graphics were considered signage)
V-99-24	2757 Ridgemoor Drive	Granted (reversed determination of minimum number of signatories required to permit a regulated use)
V-99-22		Dismissed (related to graphics as signage/the applicant failed to appear for two meetings)

5. The Zoning Board has the obligation to review alleged misinterpretations made by administrative officers. Rational review of the Zoning Ordinance provisions guides the Board's decision.
6. A majority vote by at least four members of the Zoning Board is necessary to reverse a determination by the Zoning Administrator.

Exhibit 1: Location of Appeal



Exhibit 2: September 2019 Google Street View Image of Site





Memorandum

MEMO TO FILE

FROM: Terry Schweitzer, Community Development Director

DATE: September 3, 2021

RE: Outside Display/Storage on Commercial Properties

Zoning Interpretation

Section 8.03.B.1 of the Kentwood Zoning Ordinance requires the principal activities of commercial businesses to be conducted within an enclosed building except for specified Special Land Uses including Open air businesses which are operated substantially in the open air. As Zoning Administrator for the city, I have previously interpreted an exception to this provision allowing for limited display of merchandise for commercial businesses to be restricted to a sidewalk area under the canopy or awning along the front of the building. It is likewise my interpretation that open air display of merchandise by commercial businesses operated in the Form Based Code zoning district to be restricted to the sidewalk under the canopy or awning along the front of the building.

Collier, Monique

From: Tim Densham <timdensham@gmail.com>
Sent: Thursday, October 07, 2021 4:31 PM
To: ePlanning
Subject: [EXTERNAL]J&C Tires

⚠ Stop. Think. Read. This is an external email. Please use caution when clicking on any links or opening attachments.

To the planning commission:

I fully support J&C Tires' request to display tires on their parking lot.

Since Kentwood won't allow proper signage, this is likely the only way the business would be able to get attention of passing cars.

I would hope this appeal gets approved, and demonstrates that the planning commission truly supports the businesses within the city, and not bureaucrats.

Tim Densham

Tim Densham, PMP, MEP
Operations Manager
HV LLC
616 706 9081

CITY OF KENTWOOD
ZONING BOARD OF APPEALS
APPEALS OF ADMINISTRATIVE RULINGS APPLICATION

APPELLANT: J and C Tires APPEAL # V-21-14
ADDRESS: 5170 Division Ave S HEARING DATE 10-18-21
PROPERTY OWNER: Juan Buitron PHONE # 616 534-7182
ADDRESS: _____ PHONE # 616 901-7353

LOCATION OF APPEAL (If applicable) _____

ZONING DISTRICT OF PROPERTY: _____

ZONING ORDINANCE SECTION (S) APPEALED: _____

NATURE OF APPEAL: The Zoning Ordinance (requires/allows/does not permit)

The City does not allow our business to display tires on the edge of our parking lot, even though parking for customers is not affected.

JUSTIFICATION OF APPEAL: Briefly describe how you are affected or aggrieved by the administrative ruling.


Tires are displayed only during our work hours (9-6) not being able to display the tires outside creates the issue of not having enough space to work properly and comfortably

I hereby certify that all of the above statements and any attachments are correct and true to the best of my knowledge.

Authorization for city staff and board members to enter the property for evaluation (if applicable).

Yes ☒ No ☐

NAME OF APPLICANT: Juan Buitron
(Please print)

SIGNATURE OF APPLICANT:  DATE: 9/17/21

NAME OF PROPERTY OWNER: Juan Buitron
(Please print)

SIGNATURE OF PROPERTY OWNER:  DATE: 9/17/21

Return to Planning Department
PHONE: 554-0707, FAX NO. 656-5292

JandCTiresLLC@gmail.com

Updated Zoning Interpretation

FROM: Terry Schweitzer, Zoning Administrator

DATE: August 19, 2020 **October 20, 2020 Update**

RE: 5170 Division Avenue

The City building permit records relating to the property at 5170 Division Avenue reflect that there was a service station operated on the site as far back as the mid-1950's. In 1975 a rear yard dimensional variance was granted by the Zoning Board of Appeals to allow for an addition to the building to accommodate 3 service bays. It is unclear at what point the service station discontinued the retail sale of fuel, but it appears that automobile repair was the prominent use of the property from 1975 to at least 2014 by Bryce's Auto Repair and its successor, Affordable Auto Repair. On or about October 13, 2014 Hardcore Tire began operation at this site. According to their website they specialized in Tire Shops Services, Oil Changes Services and Brake Service.

On February 5, 2019 I interpreted that Hardcore Tire, then the most recent occupant of the building, was a minor vehicle repair operation, a use allowed by Special Land Use and site plan review under the Corridor Edge Form Based Code zoning of the site. Given the apparent ongoing use of the building for minor vehicle repair, it was to be considered an existing non-conforming use provided that the minor vehicle repair was re-established by August 5, 2019. Documentation has since been submitted to verify that minor vehicle repair services were re-established and continued on-site through at least September 25, 2019.

After further deliberation I find it reasonable to conditionally redefine the allowable extent of existing nonconforming vehicle repair as follows: any activity involving minor repair and maintenance of passenger vehicles and light trucks and vans, including, but not limited to vehicle detailing, oil change establishments, audio or cellular installation, auto glass installation and repair. Given the most recent use of the property involving tire installation and repair, as well as muffler and brake services, these uses will also be permissible as legal non-conforming use.

On July 20, 2020 a business license application was filed by J and C Tires, LLC in quest of opening a new and used tire shop that also offered muffler and brake service. I have met with Juan Buitron and his partner several times at the site to discuss the required landscape and paving improvements. I have highlighted the agreed upon conditions:

The conditions associated with this interpretation are as follows:

1. All repair work shall be done within the building.
2. The hours of operation are limited to 8:00am-6:00pm, Monday through Saturday and closed on Sunday.
3. 6-foot-high stockade fence required along north lot line from the front face of the building east to the rear lot line. ***This fence can connect back to the building and be equipped with a gate.***
4. No operator shall permit the outdoor storage/parking of automobiles, trucks or trailers within the parking lot. It is presumed that vehicles on the site for a period in excess of 72 hours would

represent a violation of this requirement. No other outside storage of vehicle parts, equipment or merchandise is allowed.

5. Accessory buildings shall not be permitted.
6. A dumpster enclosure is allowed, provided it is of a cinder block construction comparable to the existing main use building, six-foot in height and equipped with a wooden gate. Such enclosure shall not exceed 200 square feet in area, and it is to be located at the northeast corner of the site. *The operator elects not to install an outside dumpster, opting instead to remove all trash and debris daily.*
7. The entire Division Avenue frontage shall be landscaped to a **ten-foot** setback except for **up to a 30-foot-wide driveway**. The entire 52nd Street frontage shall be landscaped to a 10-foot setback except **for up to a 30-foot-wide driveway**. *The plans for the reconstruction of 52nd Street from Division to Kellogg Woods Drive will accommodate the relocation of the existing twenty-five-foot-wide 52nd Street driveway approximately 30 feet to the east. The landscaping of the 52nd Street frontage east of the new driveway will be deferred until the property to the east is redeveloped with a landscaped setback along 52nd Street.*
8. *At a minimum*, the area east of the building shall be paved **to accommodate the parking of one semi-trailer to store either new, used and/or discarded tires**. Pavement will also be required if parallel parking and a one way counterclockwise maneuvering lane is established along the east side of the building. There should be sufficient room to establish 4 parallel parking spaces just east of the **10-foot** landscaped setback along Division Avenue. Another three parking spaces can be established along the south side of the building. **The landscaped islands along the south side of the building can be reduced to 5'x5'.**
9. The plans for any new paving along the east side of the building must be submitted to the Kentwood Engineering and Planning Departments for approval.
10. No **overnight** parking north of the building.
11. *No more than one storage container can store your new and/or discarded tires. The storage container must not exceed 40 feet in length, 8 feet in width and 7 feet in height and shall be placed on a paved surface on the east side of the building. This paving shall be deferred to April 30, 2021.*
12. *The prospective vehicle repair operator, J and C Tires LLC, filed a business license application with City Clerk Dan Kasunic on July 20, 2020 indicating their desire to operate a new and used tire shop offering muffler and brake services. By signing this document, they are agreeing to limit their vehicle repair services accordingly as well as comply with the associated conditions of this interpretation.*
13. *Once the vehicle repair as defined and conditioned above is re-established, the installation of the landscape improvements along the Division Avenue and 52nd Street frontages and paving of at least the area east of the building, on which to park a semi-trailer, must be completed within sixty (60) days thereafter. See attached revised site plan dated 8-19-2020.*

Signatures



September 3, 2021

J and C Tires
5170 Division Avenue, SE
Kentwood, MI 49548

RE: Outside Display/Storage at 5170 Division Avenue, SE

J and C Tires:

I recently visited your business to discuss the daytime storage/display of tires along your landscaped frontage on Division Avenue as well as the inoperable vehicles parked on your property. You indicated the inoperable vehicles would be removed from the site by the end of the week but you indicated your desire to continue displaying the tires along your landscaped frontage. I indicated you are not allowed to display tires along your frontage and you expressed a desire to seek permission from the Zoning Board of Appeals.

I have enclosed a copy of my interpretation. I have also enclosed the information necessary to file an appeal of an administrative ruling to the Kentwood Zoning Board of Appeals.

Given the nature of your request, it is important that you file your Zoning Board application by the September 25 deadline. Once you file the application, we will defer enforcement of the outside display of tires along the frontage pending the Zoning Board's decision.

Sincerely,

Terry Schweitzer
Community Development Director
Phone: (616) 554-0710
schweitzert@kentwood.us

cc Juan Carlos Buitron, 1930 Havana Ave, SW, Wyoming, MI 49509

Lewis Konor, 7660 East Paris Avenue, SE Caledonia, MI 49316

STAFF REPORT: December 13, 2021
PREPARED FOR: Kentwood Zoning Board of Appeals
PREPARED BY: Joe Pung
CASE NO.: V-21-16

GENERAL INFORMATION

APPLICANT: Martha Chairez-Elliot
1815 Pembroke Drive, SE
Kentwood, MI 49508

STATUS OF
APPLICANT: Property Owner

REQUESTED ACTION: The applicant wishes to operate a group child daycare home which would be located within 1,010 feet of an existing group child daycare home. Section 3.20.A.3 of the Kentwood Zoning Ordinance requires a minimum separation of 1,200 feet between group child daycare homes. The requested variance is to allow a group child daycare home to locate closer than 1,200 feet to an existing group daycare home.

EXISTING ZONING OF
SUBJECT PARCEL: R1-C Single Family Residential

GENERAL LOCATION: 1815 Pembroke Drive, SE

PARCEL SIZE: 11,979 square feet (.27 acres)

EXISTING LAND USE
ON THE PARCEL: Single Family Home

ADJACENT AREA
LAND USES: N - Single Family Home
S - Single Family Home
E - Single Family Homes
W - Pembroke Drive ROW

ZONING ON ADJOINING
PARCELS: N - R1-C Single Family Residential
S - R1-C Single Family Residential
E - R1-C Single Family Residential
W - R1-C Single Family Residential

Staff Comments:

1. The applicant wishes to operate a group child daycare home which would be located within 1,010 feet of an existing group child daycare home. Section 3.20.A.3 of the Kentwood Zoning Ordinance requires a minimum separation of 1,200 feet between group child daycare homes. The requested variance is to allow a group child daycare home to locate closer than 1,200 feet to an existing group daycare home.
2. The requirement for a minimum separation of 1,200 feet between group child daycare homes is the result of amendments in April of 2003 to the Kentwood Zoning Ordinance making group child daycare homes permitted uses in residential districts. Prior to the amendments, group child daycare homes were not permitted in R-1 zone districts and were a special land use in R-2, R-3, R-4, and R-5 zone districts.

The amendments relating to group child daycare homes were the result of the City becoming aware of twelve (12) group child daycare homes that were operating in the City and subsequently, over several months, reassessing the zoning regulations relating to group child daycare homes.

3. The proposed group child daycare home would be located within 1,010 feet of an existing group child daycare home at 5380 Londonderry Drive (see Exhibit 2). The existing group child daycare home has been in operation since 1998.
4. One of the purposes for requiring a minimum separation between group child daycare homes was to ensure that a concentration of such facilities would not occur within a neighborhood which could result in the generation of traffic more than what would normally be expected in a single-family residential neighborhood.

In this circumstance, layout of the streets offers a variety of ways to access the existing and proposed group daycare facilities in the area which would reduce the likelihood of the generation of traffic more than what would be expected along a residential street.

Staff has not received any traffic related complaints relating to the three (3) variances granted to permit group child daycare facilities to be within 1,200 feet of each other.

5. There have been only six (6) similar requests. The requests were as follows:

Appeal	Address	Action
V-19-11	5539 Brichview Drive	Granted (located within 1,075 feet)
V-03-19	4737 Circle Shore Drive	Dismissed (located within 1,060 feet). Applicant failed to attend the meeting.
V-03-29	1640 Bridle Creek Drive	Granted (located within 878 feet).
V-10-08	649 Silverbrook Drive	Granted (located within 334 feet).
V-14-09	1666 Waterbury Drive	Withdrawn
V-16-06	1943 Andrew Street	Denied (located within 268 feet)

Whether or not the requests were approved or denied depended on the ability to meet the nonuse variance standards of the Kentwood Zoning Ordinance.

6. A non-use variance may be allowed by the Zoning Board of Appeals only in cases where the applicant demonstrates through competent material and substantial evidence on the record that ALL of the following exist:

- 1) That there are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district. Exceptional or extraordinary circumstances or conditions include by way of example:

- a) Exceptional narrowness, shallowness or shape of the property on the effective date of this ordinance; or
- b) Exceptional topographic or environmental conditions or other extraordinary situation on the land, building or structure.

The dimensions and topography of the lot are typical for an R1-C Single Family Residential property. The layout of the streets offers a variety of ways to access the existing and proposed group daycare facilities in the area which would reduce the likelihood of the generation of traffic more than what would be expected along a residential street..

Planning staff is in the process of reviewing the 1,200-foot separation requirement between group daycare facilities to determine if such a separation is necessary or if it could be reduced or eliminated.

- 2) That the condition or situation on which the requested variance is based does not occur often enough to make more practical adoption of a new zoning provision.

As indicated in comment No. 5, there have been only six (6) similar requests since the ordinance was amended in 2003.

- 3) The literal application of the provisions of the Zoning Ordinance would deprive the applicant of property rights commonly enjoyed by other properties in the same zone district.

Without a variance the applicant could not operate a group child daycare facility at this location.

- 4) The variance will not be detrimental to adjacent property and the surrounding neighborhood.

Based on the separation of over 1,000 feet from the nearest group child daycare facility, the layout of the streets, and no apparent issues with the three (3) prior variances which were granted, the variance would not appear to be detrimental to adjacent property or the surrounding neighborhood.

- 5) Taken as a whole, the variance will not impair the intent and purpose of the Zoning Ordinance.

Based on the separation of over 1,000 feet from the nearest group child daycare home and the street layout between the facilities, it is not anticipated that the variance would impair the intent and purpose of the Zoning Ordinance to require separation between group child daycare homes to prevent excessive concentration of traffic.

- 6) The exceptional conditions or circumstances do not result from the actions of the applicant. Thus, by way of example, the exceptional circumstances result from uses or development on an adjacent property or the exceptional shape of the property is the result of an unrelated predecessor's split of the parcel.

The location of the existing group child daycare home was not a result of actions of the applicant.

7. In authorizing a variance, the Board may, in addition to the specific conditions of approval called for in the Zoning Ordinance, attach other conditions regarding the location, character, landscaping or treatment reasonably necessary to the furtherance of the intent and spirit of the Ordinance and the protection of the public interest or as otherwise permitted by law.
8. A majority vote by at least four members of the Zoning Board is necessary to approve the requested variance.

Exhibit 1: Location of Variance Request



Exhibit 2: Existing Nearby Group Daycares



Exhibit 3: April 2020 Pictometry Photo (view from the south)

