

**CITY OF FARMINGTON HILLS
ZONING BOARD OF APPEALS' MEETING
FARMINGTON HILLS CITY ALL
31555 W. ELEVEN MILE ROAD
FEBRUARY 10, 2026**

1. CALL MEETING TO ORDER

Chair Irvin called the meeting to order at 7:29 pm and made standard introductory remarks to explain the role of the ZBA and the formal procedures of the meeting.

2. ROLL CALL

Members Present: Banks, Irvin, Jamil, Khan, O'Connell, Rich, Vergun

Members Absent: None

Others Present: Director of Planning and Community Development Kettler-Schmult, City Attorney Morita, Recording Secretary McGuire

3. APPROVAL OF AGENDA

**Motion by Jamil, supported by Banks, to approve the agenda as submitted.
Motion passed unanimously by voice vote.**

4. NEW BUSINESS:

A. ZBA CASE: 2-26-5772

LOCATION: 33631 Kirby St.

PARCEL I.D.: 23-33-476-013

ZONE: RA-3, One Family Residential District

REQUEST: A 5-foot variance from 34-5.1.2.A of the Zoning Ordinance to permit a detached accessory building to have a 3-foot side yard setback where a minimum 8-foot setback is required for the property zoned RA-3.

CODE SECTION: 34-5.1.2.A

APPLICANT/OWNER: Ryan Haefner

Background

Director of Planning and Community Development Kettler-Schmult gave the background for this variance request.

- The applicant applied for a building permit to construct a new 660 square foot detached accessory garage in the rear yard of the existing residence. The proposed garage would be located more than 6 feet from the rear property line but only 3 feet from the side lot line. The proposed structure is intended to replace an existing approximately 308 square foot detached garage currently located at or near a zero-side yard setback. The City recommends that, if the variance is approved, the existing detached garage be removed prior to finalization of the new building permit.

- In response to questions, Director Kettler-Schmult said that no prior variance request was found for the existing structure and no building permit had been issued for its construction; it was not clear when it had been constructed.

Applicant presentation

Ryan Haefner, 33631 Kirby Street, stated that the existing garage is leaning and is structurally compromised. The replacement garage would allow parking for two vehicles. Due to the location of septic tanks on the west side of the property, buildable area in the rear yard is limited, creating a “hard stop” that prevents further westward placement of the garage. The requested 3-foot side yard setback aligns with the existing garage location and improves the visual alignment with the driveway. He submitted a letter of support from Rucchi Gorham, 33625 Kirby Street, who was the next-door neighbor most affected by the proposed location of the garage.

In response to questions from the Board, Mr. Haefner gave the following additional information:

- He purchased the property two years ago.
- Regarding the nearby utility pole, Mr. Haefner said he has not yet verified with DTE whether there are any utility conflicts, but he has contacted DTE regarding potential underground service.

Public comment

Tom Haefner, 35611 Heritage Lane, Farmington, spoke in support of this variation request. He noted the applicant’s past property improvements and pointed out that the existing garage was already located approximately 3’ from the same fence line.

Member Rich said that there was an affidavit of mailing with no undeliverables, and no correspondence other than the neighbor support letter submitted during the meeting.

Board deliberation and/or motion

MOTION by O’Connell, supported by Jamil, that in the matter of ZBA Case No. 2-26-5772, the petitioner’s request for a 5-foot variance from 34-5.1.2.A of the Zoning Ordinance to permit a detached accessory building to have a 3-foot side yard setback where a minimum 8-foot setback is required for the property zoned RA-3 be granted, because the petitioner did demonstrate practical difficulties exist in the case, and they set forth facts which show that:

- 1. Compliance with the strict letter of the ordinance would unreasonably prevent the petitioner from using the property for a permitted purpose or would render conformity with the ordinance unnecessarily burdensome.**
- 2. That granting the requested variance will do substantial justice to the petitioner as well as to other property owners in the vicinity, as the existing garage is in a deteriorated condition, and the proposed improvement will provide substantial relief**

to the property owner while remaining consistent with justice to surrounding property owners.

- 3. That the petitioner's plight is due to the unique circumstances of the property.**
- 4. That the problem is not self-created.**

With the following conditions:

- a. That the existing detached garage shall be removed prior to finalization of the building permit for the new garage.**
- b. That the new garage shall be constructed in conformance with the plans, materials, and design as presented in the application packet and reviewed by the Board.**

Motion passed unanimously by voice vote.

B. ZBA CASE: 2-26-5773

LOCATION: 25437 Witherspoon

PARCEL I.D.: 23-21-153-028

ZONE: RA-1, One Family Residential District

REQUEST:

- a. A 5-foot, 6-inch variance from 34-3.26.6.A portion of the Zoning Ordinance to permit an uncovered, unenclosed paved patio to be constructed in the exterior side yard, 15-feet, 6-inches beyond the front (exterior side yard) of the house abutting Carrollton Dr., where a minimum of 10-feet is required.
- b. A 1-foot variance from 34-5.12.1.C.ii of the Zoning Ordinance to permit fencing over 3-feet in height and less than 6-feet in height to be installed in the exterior side yard, 15-feet, 6-inches beyond the front of the house, where fencing, a maximum of 3-feet in height is allowed.

CODE SECTION: 34-3.26-6.A, 34-5.12.1.C.ii

APPLICANT/OWNER: Jeffrey Jones

Background

Director of Planning and Community Development Kettler-Schmult gave the background for this variance request. The subject property is a corner lot located at Witherspoon and Carrollton Drive. The pool in the rear yard was permitted and constructed in 1995 and was secured with code-compliant fencing at that time, with a certificate of occupancy issued.

After April 2025, the existing fencing along the west property line was removed. An uncovered, unenclosed patio was installed extending approximately 15 feet, 6 inches beyond the front line of the house into the exterior side yard along Carrollton Drive.

Because there is a pool on the property, fencing at least 4 feet in height is required for safety. The applicant applied for a permit to install a 4-foot-high fence along the perimeter of the new patio. Upon review, the Planning Office determined that both the patio and the

proposed fence did not meet current zoning ordinance requirements, resulting in the variance requests before the Board.

Applicant Presentation

Jeffrey and Raquel Jones, 25437 Witherspoon, were present on behalf of this variance request. Mr.

Jones provided the following information:

- He initially contacted the City in July or August to inquire about extending the patio from the pool area and was told he could do so. At the time, he was unaware that being on a corner lot created two front yards and additional setback requirements.
- He installed the patio as an extension of the existing pool deck and later applied for a fence permit. The fence permit was denied because the patio did not meet setback requirements.
- A four-foot fence previously existed along the west property line and was removed during construction. He intends to reinstall a four-foot aluminum fence consistent with existing fencing on the property.
- The patio extension cost approximately \$8,500.
- A survey was completed as required and submitted to the city.

Mr. Jones further explained that the backyard is almost entirely occupied by the pool, leaving no seating area. The patio was installed to create a safe seating area adjacent to the pool.

In response to questions, Mr. Jones provided additional information:

- The proposed fence would be aluminum fencing consistent with what is currently on the property and would be installed on the brick paver/cement patio surface, not in the grass, and would not extend beyond the cement area.
- The original fence had enclosed the entire backyard and pool. One section was removed during patio construction. A temporary barrier has been in place for several months while awaiting approval.
- He was told he could extend the patio and had not been aware of additional corner lot restrictions.

Public Comment

Ryan Sharpe, 34801 Old Homestead, and President of the Independence Hills Homeowners Association, spoke in support of the application, saying he was representing the HOA board and multiple neighbors who support the request. Granting the variance would increase usability and safety around the pool area. Also, as a homeowner in the same neighborhood on a corner lot with a pool, he had experienced similar zoning challenges, and the BZA granted him a similar fence variance two years ago. He recommended approval of the variances as requested.

Member Rich reported that the file contained an affidavit of mailing with no undeliverables and no correspondence.

Board deliberation and/or a motion

MOTION by O’Connell, supported by Banks, that in the matter of ZBA Case No. 2-26-5773, for the property located at 25437 Witherspoon, Parcel I.D. No. 23-21-153-028, zoned RA-1, One Family Residential District, the petitioner’s request for the following variances to be granted:

- 1. A 5-foot, 6-inch variance from Section 34-3.26.6.A section of the Zoning Ordinance to permit an uncovered, unenclosed paved patio to be constructed in the exterior side yard, 15 feet, 6 inches beyond the front (exterior side yard) of the house abutting Carrollton Drive, where a minimum setback of 10 feet is required; and**
- 2. A 1-foot variance from Section 34-5.12.1.C.ii of the Zoning Ordinance to permit fencing over 3 feet in height and less than 6 feet in height to be installed in the exterior side yard, 15 feet, 6 inches beyond the front of the house, where a maximum fence height of 3 feet is permitted,**

Because the petitioner did demonstrate that practical difficulties exist in this case and set forth facts which establish that:

- 1. Compliance with the strict letter of the ordinance would unreasonably prevent the petitioner from using the property for a permitted purpose or would render conformity with the ordinance unnecessarily burdensome.**
- 2. Granting the variances requested will do substantial justice to the petitioner as well as to other property owners in the district, and a lesser relaxation than that requested would not provide substantial relief to the owner nor be more consistent with justice to other property owners.**
- 3. The petitioner’s plight is due to the unique circumstances of the property.**
- 4. The problem is not self-created.**

With the condition that the proposed fencing shall be consistent in materials and appearance with the existing fencing on the property.

Motion passed unanimously by voice vote.

C. ZBA CASE: 2-26-5774

LOCATION: 27900 Orchard Lake Rd.

PARCEL I.D.: 23-11-351-013

ZONE: B-3, General Business District

REQUEST: A use variance from Section 34-4.35.1.B to permit a zoning lot in a B-3 General Business Zoning District, to be occupied by a drive-through restaurant where the proposed restaurant does not have a minimum 1,100-square-foot area with indoor seating for at least twenty (20) people, as required by the zoning ordinances.

CODE SECTION: 34-4.35.1.B

APPLICANT: Carly Detar, OLIO Development Group

OWNER: Margaret Sale, Farmington Hills Beef Company

Background

Planning and Community Development Director Kettler-Schmult explained that the property has received prior variances related to the former Arby's restaurant, including approval of a drive-through restaurant adjacent to residential and approval of a freestanding sign. The Planning Commission considered the current proposal at its December 18, 2025, meeting and denied a special approval site plan for a new fast-food restaurant with a drive-through in the B-3 District. The denial was based on the applicant's need to first obtain a use variance from the Zoning Board of Appeals.

The applicant proposed to install a new 510-square-foot coffee drive-through kiosk-type building, along with an additional 335-square-foot structure for a cooler. Director Kettler-Schmult noted that this variance request results from changes to the zoning ordinance implemented at the end of last year. The amendments were adopted following the 2024 Master Plan for Future Land Use update to encourage gathering spaces and reduce auto-oriented development along the Orchard Lake Road corridor between 12 and 14 Mile Roads.

City Attorney Comments

City Attorney Morita advised that this is a use variance, which is subject to the unnecessary hardship standard rather than the practical difficulty standard applicable to non-use variances. She noted that the criteria are different from those for a non-use variance, and she emphasized that the Board must state specific facts supporting each of the four required criteria in any motion. She also pointed out that approval of a use variance requires a supermajority of five affirmative votes.

Applicant Presentation

Erin McMachen, Stonefield Engineering and Design, 555 South Old Woodward, Birmingham, appeared on behalf of OLIO Development Group regarding this variance request to allow a 7 Brew coffee drive-through at the former Arby's site.

Ms. McMachen highlighted the following points:

- 7 Brew is a drive-through-only beverage service with no indoor seating, no public access to the building, and no interior waiting area. There are two prefabricated buildings. The main building is approximately 550 square feet and is used solely by employees for beverage preparation. Two sliding doors are located on the drive-through side for order taking and delivery, with one door on the opposite side for walk-up pedestrian service. There are no speaker boxes or menu boards; employees walk up to vehicles to take orders, accept payment, and deliver beverages. No food service is provided.

- The ordinance requires a minimum of 1,100 square feet of indoor seating for at least 20 patrons for drive-through restaurants, which in turn triggers parking requirements of one space per 30 square feet of usable floor area. An 1,100-square-foot indoor area would require approximately 37 parking spaces. The proposed 7 Brew use has no indoor customer floor area and therefore provides six employee parking spaces and 21 stacking spaces to ensure on-site circulation.
- The site is approximately 0.72 acres. The former Arby's building is approximately 2,800 square feet with 24 parking spaces and seven stack spaces for the drive-through. Under current ordinance standards, the Arby's use would require 74 parking spaces and a minimum of 10 stack spaces, which the site cannot accommodate.

Ms. McMachen addressed the following variance elements:

- Exceptional or extraordinary circumstances: The 1,100-square-foot indoor seating requirement creates a hardship due to the limited lot size and inability to accommodate required parking and stacking.
- Preservation of substantial property rights: Without the variance, the property could not reasonably support a drive-through use consistent with its historic operation.
- No material detriment: The site has historically operated as a drive-through restaurant. The proposal maintains drive-through use while improving stacking to 21 spaces and restricting left turns onto Orchard Lake Road. The variance pertains only to indoor seating requirements.
- Consistency with planning objectives: While this use does not provide a gathering space, the proposal reduces impervious surface by approximately 5,000 square feet, increases landscaping, and supports corridor redevelopment objectives, on a site that is heavily trafficked, close to the freeway, close to 12 Mile Road, and where the adjacent uses are auto-oriented gas stations.

Ms. McMachen concluded that, due to the small parcel size and operational constraints, the proposed 7 Brew use is well-suited for the site and represents a reasonable redevelopment option.

Board questions and discussion

In response to questions, Ms. McMachen provided the following further information:

- Customers using the walk-up service would not enter the building. There is no public access to the interior. A sliding glass door is located opposite the drive-through lanes, and employees come outside to take walk-up orders.
- No outdoor dining is proposed, and a waiver has been requested from the Planning Commission. There are no public restrooms, which limits the ability to provide outdoor dining. Benches along the sidewalk connection and bike racks may be considered as pedestrian amenities.
- The concept is similar to Scooter's and Dutch Bros Coffee.

- Regarding traffic circulation and access from 12 Mile Road, the site has a cross-access easement with the adjacent gas station, allowing access from 12 Mile Road through the rear drive aisle. A traffic study was submitted. The proposal includes restricting left turns out of the site on Orchard Lake Road. Westbound drivers on 12 Mile Road could enter before the gas station and access the site through the existing rear connection, similar to the former Arby's configuration.

Public Comment

There was no public comment.

Member Rich reported that there was an affidavit of mailing, two undeliverable notices, and written communication from a neighboring property owner/operator in opposition to granting the variance.

Board Discussion

Member Rich asked staff what permitted uses could reasonably occupy the site, given the stated parking and site constraints.

City Attorney Morita stated that this question relates directly to the first required element for a use variance, namely that the petitioner must demonstrate that the property cannot be used for any of the permitted uses in the B-3 District. She noted that the ordinance lists 35 principal permitted uses and that the applicant must demonstrate that none of those uses are feasible, not merely that a drive-through use is infeasible.

Director Kettler-Schmult added that recent zoning text amendments modified parking requirements for commercial properties. Under the updated ordinance, the Planning Commission has the flexibility to adjust parking standards based on real-world parking studies.

Member O'Connell questioned whether, even with relaxed parking standards, the 0.72-acre parcel could accommodate a compliant building and parking. Director Kettler-Schmult responded that specific calculations would be required for any use that was brought forward.

City Attorney Morita clarified that the applicant must demonstrate that none of the permitted uses are feasible on the parcel.

Member O'Connell stated that after reviewing the list of permitted uses, the only use he believed would fit the parcel was a cellular tower, noting that most other uses require buildings and parking.

City Attorney Morita advised that different uses have different parking requirements and reiterated that the applicant bears the burden of demonstrating the infeasibility of all permitted uses.

Member Vergun asked whether the recent zoning changes apply to this property. Director Kettler-Schmult confirmed that the new regulations apply, as no construction has commenced and no vested rights have been established.

Member O'Connell asked whether any additional changes are currently pending. Director Kettler-Schmult stated that there are no additional zoning amendments presently in progress.

Member Jamil commented that while the parcel is a developable 0.72 acres, the triangular configuration makes development challenging. Member O'Connell pointed out that, based on the applicant's presentation, Arby's could not exist on the property today under current zoning standards without relief.

City Attorney Morita clarified that Arby's could potentially redevelop, similar to any of the other permitted uses, depending on the flexibility granted to the Planning Commission to determine parking needs.

It came out in conversation that there was no shared parking between this site and Baron's Wholesale Clothiers, who opposed this variance. There was a common connection on 12 Mile Road. Ms. McMachen clarified that vehicles exiting the drive-through would travel west toward Orchard Lake Road, with the option to turn right (north) or circulate through the site and return to 12 Mile Road.

It also came out in conversation that Arby's had only recently closed. 7 Brew is not purchasing the property but will enter a lease with the landowner.

The Board discussed tabling the matter in order to give the applicant time to provide additional analysis addressing the feasibility of other permitted uses on the property. Some Board members felt that it was unfair to require the applicant to evaluate all 35 permitted uses, stating that the applicant is seeking approval for a specific business and not to analyze alternative uses for the property. However, under the ordinance, the burden rests with the applicant to demonstrate that no permitted use is feasible under the use variance standard.

City Attorney Morita explained that using variances is more difficult to obtain than non-use variances because they require proof of unnecessary hardship. In a B-3 District, there are 35 permitted principal uses and five special approval uses, including drive-through restaurants. An applicant seeking a use variance must demonstrate that the property cannot be reasonably used for any of the permitted or special approval uses under the ordinance.

Member O'Connell supported approving the project under appropriate circumstances, and he expressed his general concern about the negative impacts of vacant commercial properties. He questioned whether the proponent or the landowner should demonstrate hardship.

City Attorney Morita explained that the application process requires both applicant and owner authorization. The owner's signature is included in the application materials. The landowner is not required to present, as the applicant may present on behalf of the project.

Member Rich stated that the central issue is whether the landowner could sell or lease the property to any of the 35 permitted uses, not solely whether the coffee shop business itself is feasible. The Board must ensure the standards are properly addressed before acting.

Chair Irvin emphasized the importance of determining whether the four required elements for a use variance had been sufficiently addressed and whether Board members were comfortable with the record as presented.

Noting that the landowner, Margaret Sale, was present, Chair Irvin invited her to the podium to respond to a question.

Margaret Sale, 3171 Park Forest Drive, West Bloomfield, said that she was the President of Farmington Hills Beef Company. She stated that the site is currently vacant and had been marketed for nearly a year prior to the Arby's closure.

Chair Irvin asked Ms. Sale if she felt prepared to justify, that evening, why none of the 35 principal permitted uses or five special approval uses would work on the property, or whether tabling the matter would give her more time to address this question.

Ms. Sale responded that although she had not reviewed all 35 uses individually, she marketed the property for almost a year prior to closing Arby's and is confident that other permitted uses would not be feasible for the site.

Member Jamil stated that due to the triangular configuration of the property and the placement of the current building toward the rear of the site, the parcel would be difficult for many businesses to successfully occupy. The limited exposure and layout make it challenging for other commercial uses to thrive. The proposed 7 Brew concept, with a smaller building footprint and reduced parking demand, may be better suited to the property.

Director Kettler-Schmult clarified that the proposal does not involve the reuse of the existing Arby's building in its current location, but rather demolition and construction of a new building on the site.

Chair Irvin indicated he was ready to entertain a motion.

MOTION by Rich, supported by O’Connell, that in the matter of ZBA Case No. 2-26-5774, for the property located at 27900 Orchard Lake Road, Parcel I.D. No. 23-11-351-013, zoned B-3, General Business District, the petitioner’s request for a use variance from Section 34-4.35.1.B of the Zoning Ordinance be granted to permit a zoning lot in a B-3 General Business Zoning District to be occupied by a drive-through restaurant where the proposed restaurant does not have a minimum 1,100-square-foot area with indoor seating for at least twenty (20) people, as otherwise required by the Zoning Ordinance, because the petitioner did demonstrate that unnecessary hardship exists in this case in that they set forth facts which show that:

- 1. The petitioner’s property cannot be used for the purposes permitted in this zoning district. Specifically, Member Rich considered the thirty-five (35) permitted principal uses within the B-3 District as well as the five (5) special approval uses. With respect to the special approval uses, new ordinances would prohibit the property from being used as an auto repair facility, gasoline service station, or vehicle wash. The remaining possible special approval uses would be a drive-in restaurant, for which the Board determined that the size and layout of the property itself would not be usable under current standards without some form of exception granted by the Planning Commission, or a veterinary hospital or commercial kennel, which would not be appropriate in this particular location. With respect to the other 35 permitted principal uses, Member Rich reviewed the options and did not see other permitted uses that would be appropriate for this particular location, especially given that the owner indicated the property had been marketed for one (1) year prior to the existing restaurant closing and no interest was expressed by any of the other permitted uses during that time.**
- 2. The petitioner’s plight is due to unique circumstances particular to this property and not to general neighborhood conditions. The Board finds that, due to the size of the property, its specific location near the busy intersection of Orchard Lake Road and 12 Mile Road, the existing access easements allowing for access from 12 Mile Road, and the applicant’s indication that a traffic flow study was submitted to the City, there are unique circumstances with respect to the size, location, and orientation of this property.**
- 3. The petitioner’s suggested use would not alter the essential character of the area. Notwithstanding objections raised by a neighboring property owner, it has been determined that having a drive-through restaurant or a place where there would be a congregation of people does not seem like it would be permitted even under the potentially relaxed parking standards, and Member Rich does not believe that having this type of drive-through restaurant changes the essential character of the area as much as potentially some other permitted use such as an indoor recreation facility, a**

health club, or outdoor recreational uses. Those sorts of things would be much more likely to alter the essential character of the area.

- 4. The petitioner's problem is not self-created. The building is going to be torn down but again, similar to the comments made with respect to the first criteria, this property currently exists in its present form and whether there would be a use for the existing building, or building a new structure, does not result in a problem created by the petitioner, but is a problem related to the specific property itself.**

For these reasons, Member Rich moved to grant the variance request, conditioned upon the following:

- a. That the use variance is granted solely to permit occupancy of the property by a drive-through restaurant as described in the application materials and is not a general authorization for any other drive-through use.**
- b. That the variance is subject to approval by the Planning Commission and all other applicable City departments with respect to site plan approval and compliance with all other applicable ordinances and requirements.**
- c. That the structure shall be placed in the location indicated in the plans and constructed consistent with the size and configuration set forth in those plans.**

Roll call vote:

Jamil	yes
Khan	yes
Vergun	yes
O'Connell	yes
Rich	yes
Banks	yes
Irvin	yes

Motion passed 7-0.

6. PUBLIC QUESTIONS AND COMMENTS

None

7. APPROVAL OF MINUTES: December 9, 2025

MOTION by Vergun, supported by Khan, to approve the December 9, 2025 meeting minutes as submitted.

Motion passed unanimously by voice vote.

8. ADJOURNMENT

MOTION by Jamil, supported by Khan, to adjourn the meeting.

Motion passed unanimously by voice vote.

The meeting adjourned at 9:08 pm.