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Department of Planning and Economic Development
Staff Report to the Zoning Board of Appeals

September 25, 2026

PVAI2026-0010

**730 South Blvd. W. - Fence & arborvitae height and materials
variances**

REQUEST	The applicant is requesting variances from Sec. 138-10-107 Fences, of the City of Rochester Hills Zoning Ordinance, which requires fences to not exceed 3 feet in height within a required front yard setback and must meet applicable corner clearance regulations. Further, that fences shall consist of materials such as wood, metal, bricks, masonry or other solid natural or synthetic material that is all-weather resistant and designed for permanent and stational fencing or screening and that fabric-type materials are not permitted. The applicant is requesting variances to keep the existing five (5) and six (6) foot high fencing (simulated wrought iron and privacy type fencing) and arborvitae hedge row, located in the required front yard setback, along the front and side lot lines, and fencing that also includes fabric type material.
APPLICANT	Daniel Bennett 730 South Blvd. W. Rochester Hills, MI 48307
LOCATION	730 South Blvd. W., located on the north side of South Blvd W., west of Rochester Rd., east of Livernois Rd.
FILE NO.	PVAI2026-0010
PARCEL NO.	15-34-376-043
ZONING	R-4 One Family Residential
STAFF	Chris McLeod, Planning Manager

Requested Variance

The applicant is requesting variances from Sec. 138-10-107 Fences, of the City of Rochester Hills Zoning Ordinance, which requires fences to not exceed 3 feet in height within a required front yard setback and must meet applicable corner clearance regulations. Further, that fences shall consist of materials such as wood, metal, bricks, masonry or other solid natural or synthetic material that is all-weather resistant and designed for permanent and stational fencing or screening and that fabric-type materials are not permitted. The applicant is requesting variances to keep the existing five (5) and six (6) foot high fencing (simulated wrought iron and privacy type fencing) and arborvitae hedge row, located primarily in the required front yard setback, along the front and side lot lines, and fencing that also includes fabric type material.

The subject site is located on the north side of South Blvd. W., between Livernois and Rochester Rd. Below is a table for the zoning and existing and future land use designations for the site and surrounding parcels.

	Zoning	Existing Land Use	Future Land Use
Subject Site	R-4 One Family Residential	Residential Home	Suburban Residential
North	R-4 One Family Residential	Single Family Home	Suburban Residential
South	City of Troy	Single Family Home	City of Troy
East	R-4 One Family Residential	Single Family Home	Suburban Residential
West (across South Blvd. W.)	R-4 One Family Residential	Single Family Home	Suburban Residential

Site Photograph



Application

As noted, the applicant is requesting variances to keep the existing five (5) and six (6) foot high fencing (simulated wrought iron with a fabric type material along the driveway, which makes the fence an obscuring type fence and a true privacy type fence along with an arborvitae hedge row), all of which are located largely or completely within the required front yard setback and along the front and side lot lines.

The noncompliant fencing and plantings were noted during a routine Ordinance patrol in June 2026. It appears from a review of aerial photographs and Google street views that these items were installed sometime between 2017 and 2020. It should be noted that although the City does not require a permit to install residential fencing, any fence must still comply with the ordinance requirements. The same would apply to any landscaping installed in the front yard that would have the same effect as fencing.

The site plan shown below shows the specific fence type and height in each location of the front yard. As noted above, the eastern portion of the fencing, the simulated wrought iron fencing, along the driveway, contains a synthetic material which is not permissible by Ordinance. This portion of the fence is in excess of the permissible fence height by two (2) feet. Along the front lot line, near the City's pathway, is also a five (5) foot tall metal fence and the property line is aligned with arborvitae, both of which exceed the permissible fence height of three (3) feet. As discussed later in the ordinance section of this report, hedges and shrubs that serve as a fence are considered to be a fence and must also meet the fence requirements (for location, height, etc.) The fence along the west property line is a privacy fence and is six (6) feet in height, or three (3) feet in excess of that permitted by Ordinance.

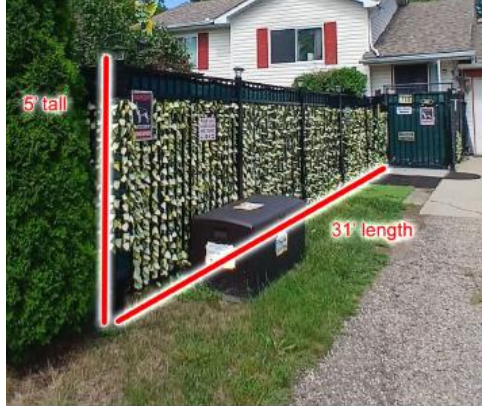
No portion of the existing fence/hedge is in compliance with the ordinance. The ordinance permits the applicant to have a fence in the front yard with a maximum height of 3 ft., in an ordinance-compliant, non-obscuring fence material which would not include a fabric/material for screening purposes within the fence.

Site plan



Photos

Below are photos provided by the applicant:



Fence along driveway



View of vinyl fence from neighbor's side



View from sidewalk from other neighbor's side

Applicable Ordinance(s)

The Zoning Ordinance provisions that regulate fences read as follows:

SECTION 138-10.107 – Fences

Residential Fences. Fences in a residential district shall be subject to the following:

1. Residential fences may be located along a property line if the other provisions of this section are met.
2. Fences that are located along the side and rear lot lines shall be a maximum of six feet in height and may not extend closer to the front lot line than the front of the dwelling of the minimum front setback, whichever is less, unless otherwise provided for in this ordinance. In no instance shall an obscuring fence over three feet high be

placed between the front of a residence and minimum front setback line, unless otherwise provided for in this ordinance. Fences on corner lots shall meet the standards for corner lots as provided in [Section 138-10.103](#).

3. Fences not to exceed three feet in height shall be permitted within a required front yard setback or a side street yard setback; provided, however, that corner clearance as provided in [Section 138-5.204](#) has been met.
4. Materials used shall be wood, metal, bricks, masonry or other solid natural or synthetic material that is all-weather resistant and designed for permanent and stationary fencing or screening. Fabric-type materials are not permitted. Wire fences, barbed or razor wire, spikes, nails or any other sharp pointed instruments of any kind are prohibited...

SECTION 138-13.101 - Definitions

FENCE. Structures or partitions of definite height and location intended to serve as: a physical barrier to property ingress or egress; a screen from objectionable vista or noise; a marker; an enclosure in carrying out the requirements of this ordinance; or for decorative use. Hedges, ornamental shrubs, trees and bushes shall be considered fences for the purpose of this ordinance when placed in a manner or position to serve as such.

Attention should be given to the entire definition of a fence. The definition indicates that not only traditional types of fencing constitute a fence, but that landscaping, if planted in such a manner as to constitute a fence, shall also be considered a fence. The hedgerow along the front property line of the subject site has been determined to be a fence in this case.

Analysis

In the case of a dimensional variance, the Zoning Ordinance requires the ZBA to make a finding that a practical difficulty exists that precludes the property owner from meeting the requirements of the Ordinance. *Section 138-2.407.B.* provides criteria for determining if a practical difficulty exists. Please refer to the ZBA application for the applicant's full responses to the following criteria.

1. *Compliance with the strict letter of the restrictions governing area, setback, frontage, bulk, height, lot coverage, density or other dimensional or construction standards will unreasonably prevent the owner from using the property for a permitted purpose or will render conformity with such restrictions unnecessarily burdensome.* The applicant has indicated that the parameter changes in their front yard are obstructive, and that they are too close to the road and sidewalk to be able to keep private use and public use separate without the fence and arborvitaes in their front yard for the health and exercise of their family and dog. Staff notes that the applicant has not addressed why a fence that meets ordinance requirements (3 feet in height) cannot be installed or maintained in the front yard or why a 6-foot-tall fence could not be installed in the rear yard, also meeting ordinance requirements. Based on city mapping, it appears that the applicant

has approximately 200 feet from the back of their residence to the rear property line, providing significant private use space and space for the applicant's pets.

2. *A granting of the variance will do substantial justice to the applicant as well as to other property owners in the district, and a lesser variance will not give substantial relief to the applicant as well as be more consistent with justice to other property owners in the zoning district.* The applicant indicated that their trees and fence provide an improvement to the community as they give a more visually appealing look to the street and for people walking by, and also it contains their large dog, provides dust protection, noise reduction, and increases their home's value. Staff notes that although a lesser variance (with a fence in the front yard) may not provide sufficient containment for their dog, a rear yard fence could potentially be installed to accomplish this. Additionally, the existing fence with the arborvitae may cause a safety issue for pedestrians utilizing the City pathway, as they may not see cars exiting the driveway, and the driver's view of pedestrians may be obscured by the height and screening nature of the fencing and hedges.
3. *The plight of the applicant is due to the unique circumstances of the property.* The applicant indicates that to remove their fence or arborvitae would cause them great concern as their property sits on a main road with many cars that kick up dust and reduce air quality. Staff notes that there are many residential properties that are similarly situated along South Blvd. and throughout the City and the granting of a variance may establish a precedent for those properties to install or maintain similar fences and hedgerows.
4. *The problem is not self-created.* The applicant did not provide a response to this question. Staff notes that the applicant has not demonstrated that a 6 ft. high fence could not be constructed in the rear yard in compliance with the ordinance and accomplish the same objective. The installation of the fence and planting of the arborvitae were the result of the actions of the applicant. It appears the property was purchased by the applicant in 2008 and as noted earlier, it appears the fencing and arborvitae were installed some time between 2017 and 2020.
5. *The spirit of this ordinance will be observed, public safety and welfare secured, and substantial justice done.* The applicant has indicated that the request would not be detrimental to the public as their property does not block any sidewalks or create any distracting obstruction and the fence and arborvitae provide a benefit to the community. Again, as noted, staff has concern with clear vision distances being maintained due to both the height and screening nature of the fencing and plantings. The fencing and plantings being extended along the front property line and along both side property lines essentially to the front property line limit clear vision from the driveway to the pathway and vice versa. In addition, the subject site is no different than numerous other properties in the City that front main roadways and if the variance is granted, it may result in a precedent for those other properties to install or maintain other similar fences and hedgerows.

Sample Motions – Variance Request

Motion to Approve

MOTION by _____, seconded by _____, in the matter of File No. PVAI2026-0010, that the request for a variance from *Section 138-10.107 Fences* of up to 3 feet in total height for the existing fencing and arborvitae hedge row located in the front yard, in the R-4 One Family Residential zoning district, at 730 South Blvd., W. and Parcel 15-34-376-043, be **APPROVED**, because a practical difficulty does exist on the property as demonstrated in the record of proceedings and based on the following findings. With this variance, the property shall be considered by the City to be in conformity with the Zoning Ordinance for all future uses with respect to the setbacks for which this variance is granted.

1. Compliance with the strict letter of the Zoning Ordinance would prohibit the reasonable use of the property and will be unnecessarily burdensome.
2. Granting the variance will preserve a substantial property right for the applicant and thus substantial justice shall be done.
3. A lesser variance will not provide substantial relief, and would not be more consistent with justice to other property owners in the area.
4. There are unique circumstances of the property that necessitate granting the variance as described in the above criterion, specifically the issues relative to the fact that the property sits on a main road and the excessive number of cars create dust, thereby reducing air quality, and the arborvitae help to increase air quality, provide additional safety from excessive traffic and vehicle crashes and ultimately provide a better quality of life. These factors distinguish the subject property from other properties elsewhere in the City with respect to compliance with the ordinance regulations.
5. The granting of this variance would not be materially detrimental to the public welfare or existing or future neighboring uses along South Blvd.
6. Approval of the requested variance will not impair the supply of light and air to adjacent properties, increase congestion, increase the danger of fire, or impair established property values in the surrounding area.

Motion to Deny

MOTION by _____, seconded by _____, in the matter of File No. PVAI2026-0010, that the request for a variance from *Section 138-10.107 Fences* of up to 3 feet in total height for the existing fencing and arborvitae hedge row located in the front yard, in the R-4 One Family Residential zoning district, at 730 South Blvd., W., Parcel 15-34-376-043, be **DENIED** because a practical difficulty does not exist on the property as demonstrated in the record of proceedings and based on the following findings:

1. Compliance with the strict letter of the restrictions of the Zoning Ordinance will not prevent the owner from having a fence in the front yard or a hedge within the front yard

that otherwise conforms with City regulations, and therefore no practical difficulty has been demonstrated by the applicant for this property other than the fencing has been installed and the arborvitae have been planted, not in compliance with City approvals.

2. Granting the variance will not do substantial justice to nearby property owners as it would confer special benefits to the applicant that are not enjoyed by other property owners in the vicinity.
3. There are no unique circumstances of the property that have been identified by the applicant that necessitate granting the variance. There are many residential properties throughout the City that are located on main roads and have similar property configurations as the subject property.
4. The granting of the variance would be materially detrimental to the public welfare by establishing a precedent that could be cited to support similarly unwarranted variances in the future. The granting of this variance could encourage further incursions upon the Zoning Ordinance which would result in further variances being considered by the Zoning Board of Appeals and could be construed as removing the responsibility of meeting the requirements of the Zoning Ordinance from applicants. Additionally, the City does not encourage installing such fencing and plantings which may limit clear vision distances by both drivers exiting the subject driveway and for pedestrians to be able to see such vehicles as they traverse the site on the pathway.
5. The fence and arborvitae must be removed or brought into compliance with the requirements of the City's Zoning Ordinance and be reinspected by the City's Building Department and Code Enforcement Officer within sixty (60) days.