

To: **Committee of Adjustments**
 From: **Ben Boike, Assistant Community Development Dir.**
 Date: **December 17, 2019**

Variance Request – 1140 Robert St. (Wakota Life)

REQUEST:

Dan Saad, Executive Director at Wakota Life, is applying for an 8-stall parking variance to reduce required off-street parking in conjunction with the construction of a new building at 1140 Robert St. The applicant also submitted applications for Site Plan, Conditional Use Permit, and Preliminary Plat review; all of which are included on the Planning Commission meeting agenda tonight.

Attachments:

- Draft Findings of Fact*
- Application/Parking & Access Agreements/Public Notice*
- Aerial/Street Views*
- Submitted Plans*

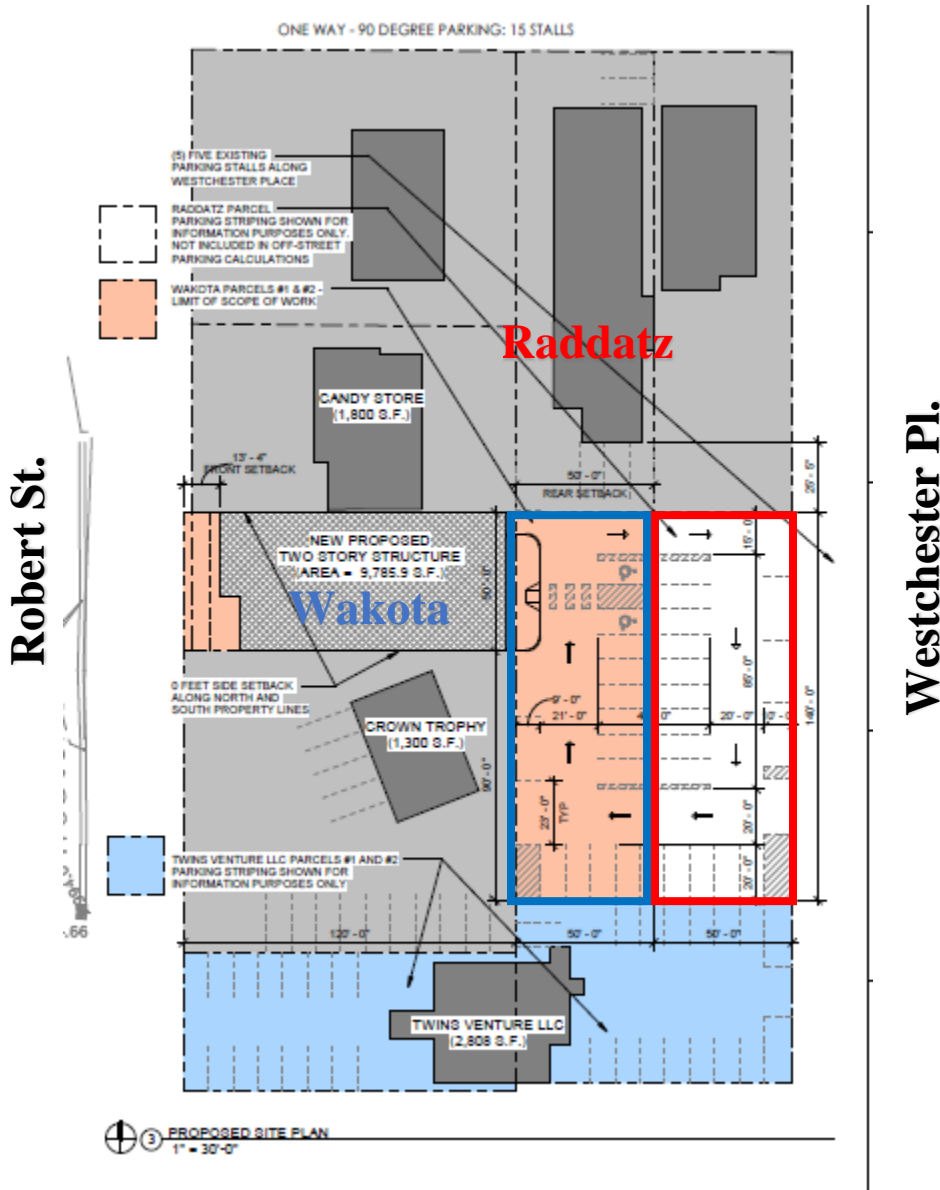


CURRENT USES AND ZONING:

	Use	Zoning
Subject Property	Medical Office	B3, General Business
Properties to North	Commercial	B3, General Business
Properties to East	Single-family homes	R1, Single-family
Properties to South	Commercial	B3, General Business
Properties to West	Commercial	B3, General Business

BACKGROUND:

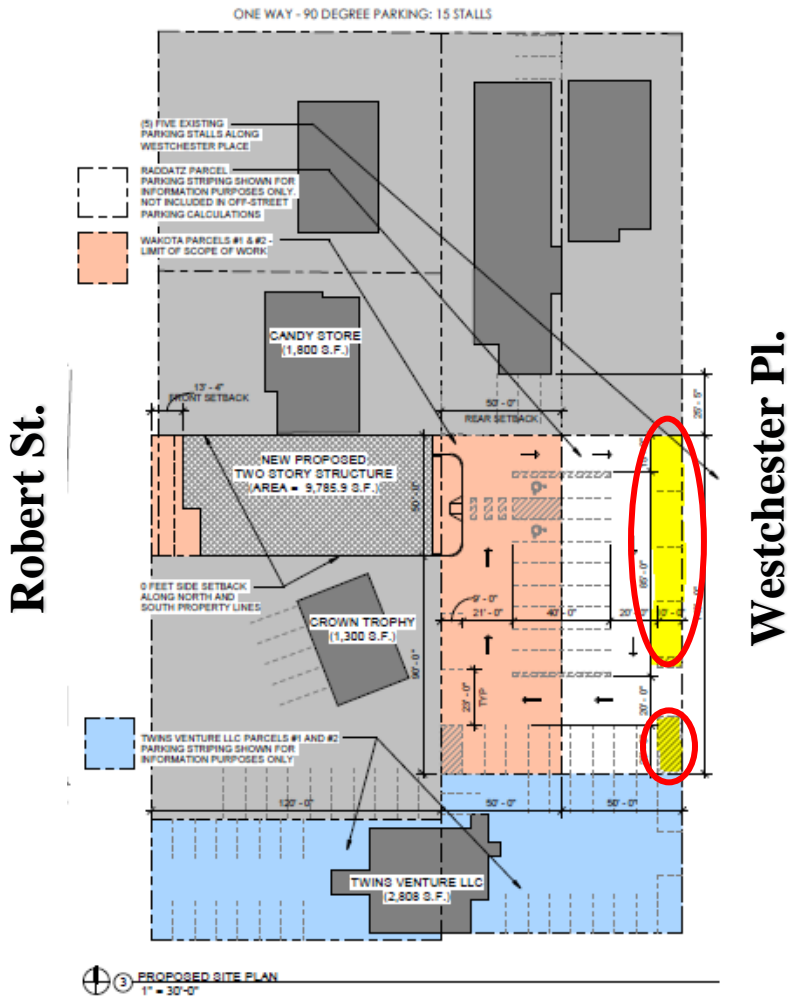
Wakota is proposing to tear down its existing 2,000 sq. ft. building at 1140 Robert St and build a new two-story 9,785 sq. ft. building (see attached plans). The proposed building will be located on the same lot as the existing building (fronting Robert St.) with parking remaining at the rear of the property. The parking lot located behind Wakota is divided into two parcels, one of which is owned by Wakota (outlined in blue below) and the other by Raddatz Dance Studio (outlined in red below). There is a driveway and access agreement that allows Wakota access rights through the Raddatz lot to its lot.



Initial discussions with the applicant regarding the expansion of the building included the shared use of the Raddatz lot for parking due to fact that the Raddatz parking lot provides access/vehicle circulation for the Wakota parking lot. However, there is disagreement amongst the two owners as to whether or not the agreement allows shared parking rights (see attached agreement). Wakota is under the impression that the agreement allows shared parking between the two lots while Raddatz’s attorney is of the opinion that shared parking is not allowed. Unless the owners come to a mutual understanding for allowing shared parking, the Raddatz stalls cannot count toward required parking for Wakota.

Due to the required improvements for the access and driveway, Staff informed the applicant that the site plan approval process will trigger the need to bring the entire parking lot into compliance, which means

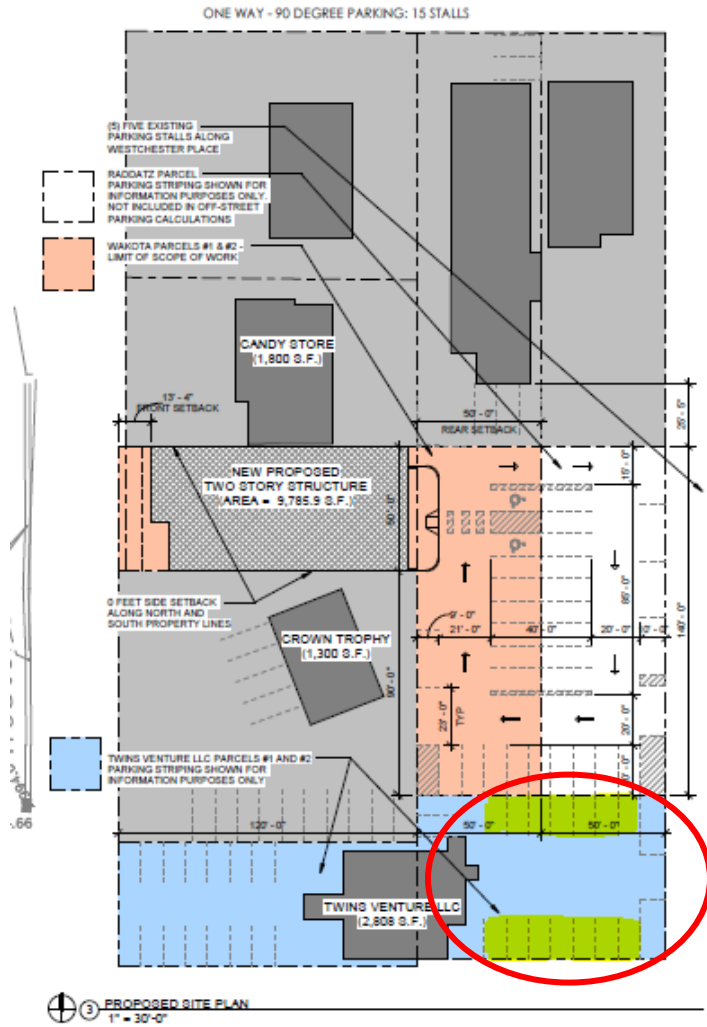
that the parking lot will be required to meet the 10-foot rear yard parking setback by providing a 10-foot landscaped before between the parking lot and Westchester Place (see below). The neighboring properties already have a 10-foot landscaped buffer (see attached google maps) so providing the 10-foot landscaped buffer brings this property into conformance with surrounding properties.



Based on the discussion with Staff, the applicant approached the owner of Raddatz Dance Studio about bringing their side of the parking lot into compliance with the setback requirement. However, the owner of Raddatz Dance Studio informed the applicant that she is not in favor of modifying her parking lot. It must be noted that it is a reasonable condition of approval to require that the Raddatz lot be brought into compliance based on the fact the only access and circulation is provided through the Raddatz lot and the expected increase in traffic volume. In addition, surrounding properties already comply with the 10-foot landscaped setback.

In order to attempt to meet some of the required parking, Wakota has since entered into a parking agreement with the property owner to the south (Twin Ventures – 1152 Robert) who has agreed to provide Wakota 14 additional parking stalls (see below). Section 153.346 of the zoning ordinance allows shared parking as long as the parking stalls are located within 100 feet of the property requiring the parking and provided the total number of spaces provided equal the sum of the separate requirements for each use.

Robert St.



Westchester Pl.

Unfortunately, even with the Twin Ventures shared parking agreement, there is still an 8-stall deficit.

VARIANCE REQUEST:

Variance to reduce required off-street parking:

§ 153.348 NUMBER OF REQUIRED OFF-STREET PARKING SPACES.

Unless modified and approved as part of a site and building plan approval process, the number of required off-street parking spaces shall be as follows.

(S) Office buildings and professional offices having 6,000 square feet or more of floor area, banks, savings institutions: at least one parking space for every 250 square feet of floor area.

The proposed 9,785 sq. ft. building requires a total of 37 parking stalls. The submitted site plan for Wakota's lot includes a total of 15 stalls. Per the attached parking agreement with Twin Ventures, Wakota will obtain an additional 14 stalls that can count toward their required parking. Therefore, the total sum for parking is 29 stalls. This results in a shortage of 8 parking stalls which is the Variance request under consideration.

ANALYSIS:

In reviewing Variance requests, the following section of the Zoning Code, Section 153.027 A(2) (a-c), is utilized:

(2) Criteria for Granting a Variance: A Variance may only be granted by the Committee of Adjustments when:

- a) The Variance is in harmony with the general purpose and intent of the Ordinance;
- b) The terms of the Variance are consistent with the Comprehensive Plan; and
- c) The applicant for the Variance establishes that there are practical difficulties in complying with the Zoning Ordinance.

(3) Definition of Practical Difficulties: “Practical Difficulties” as used in connection with the granting of a Variance mean

- a) The property owner proposes to utilize the Property in a reasonable manner;
- b) The plight of the property owner is due to circumstances unique to the Property that were not created by the property owner; and
- c) The Variance will not alter the essential character of the neighborhood.

(4) Restrictions on Granting Variances: The following restrictions shall be applied when considering granting a Variance:

- a) Economic considerations alone do not constitute practical difficulties;
- b) The Committee of Adjustments may not permit as a Variance any Use that is not allowed in the Zoning Ordinance for Property in the district where the affected person’s land is located (i.e. a Use Variance).

(5) Imposing Conditions: The Committee of Adjustments may impose conditions when granting a variance, however, conditions imposed must be directly related to and must bear a rough proportionality to the impact created by the variance.

REVIEW:

Staff has been very transparent throughout this process that Staff cannot recommend approval of a parking variance when the variance is created by the property owner’s desire to have a larger building than its site can support. In order to grant a variance, all of the elements of the practical difficulties test must be met. In this case, the applicant is proposing to quadruple the size of their existing building on property that simply cannot support the parking requirements needed. Staff has tried to assist in finding other locations in town that can support a larger building and parking, however the applicant prefers to stay in the same location. Staff feels that the request is too excessive and cannot recommend approval. Approval of the Variance would place an unreasonable burden and undue stress on the adjacent properties as Wakota Life’s clients and patrons would simply spill over into adjacent lots. It is also important to note that even if Wakota believes the City’s parking requirements are excessive for its intended use, once a variance is granted, it runs with the property and cannot be terminated unless either the property owner consents or there is a violation of a condition of approval. The City cannot impose a

condition that terminates a Variance with a specific use or owner. In other words, it is permanent and would allow any future use to take advantage of the deficient parking approval. Therefore, Staff is recommending denial.

STAFF RECOMMENDATION:

Based on the above comments, Staff recommends the Committee of Adjustments hold a public hearing and DENY the Variance request for an 8-stall Variance based on the attached findings of fact.

FINDINGS OF FACT:

A proposed resolution adopting findings of fact to deny the variance is attached for your consideration.