

Zoning Board of Appeals  
Madison Heights, Michigan  
October 05, 2023

A Regular Meeting of the Zoning Board of Appeals was called to order by Chairman Kimble on Thursday, October 05, 2023 at 7:30 PM at Council Chambers – City Hall, 300 W. 13 Mile Road, Madison Heights, Michigan.

Present: Chair Kimble, Vice-Chair Thompson, and members: Corbett, Holder, Marentette, and Oglesby

Absent: Aaron, Barragan, and Loranger

**23-41. Minutes**

Motion by Ms. Holder, seconded by Ms. Marentette, to approve the Zoning Board of Appeals Regular Meeting Minutes of September 7, 2023.

Yeas: Corbett, Holder, Marentette, Oglesby, Thompson, and Kimble

Nays: None

Absent: Aaron, Barragan, and Loranger

Motion Carried.

**23-42. Case # PZBA 23-13: 29448 John R Road**

Mr. J. Reid Cooksey, Stonefield Engineering and Design, LLC representing Moschouris Management and Development, stated that hours of operation variance is a standard hours operation for the car wash; no other use within the M-1 District is held to hours of operation standards such as this; many other uses start much earlier than 7 a.m.; and by not allowing the additional hour will go against the reciprocal hours and have a negative impact on the business itself. Regarding the chain link fence around the building, no other car wash in Madison Heights is held to this standard; in an M-1 District a coin operating car wash would not be held to these same standards; and if held to the chain link fence standard it would deter business and create a negative aesthetic for the site. Outdoor vacuuming and drying for the coin operated car washes are not held to the same standards within the same district; this is a hazard for the customer because of the noise an enclosed vacuum could produce; and having the singular vacuum hub helps muffle the noise and creates a better customer and pedestrian site.

Community and Economic Development Director Tucker reviewed the staff report provided in the meeting packet, incorporated herein:

**REQUEST**

The petitioner, William Gershenson on behalf of Moschouris Management and Development, requests three (3) variances from Section 10.326(8) of the Zoning Ordinance, *use-specific standards for auto wash uses*, pertaining to hours of operation, fencing, and outdoor vacuuming

stations. The subject property is located at 29448 John R Road (tax parcels # 44-25-12-304-010), zoned M-1, Light Industrial.

### **SITE PLAN REVIEW COMMITTEE (SPRC) ACTION**

The SPRC discussed the variance request at their September 20th, 2023 meeting. The SPRC had no objections to the variance requests.

### **ZBA ACTION**

Any ZBA motion, including approval and denial, should include findings of fact relating to the variance criteria listed in Sections 10.804(2) and 10.805. Template approval and denial motions are attached for the ZBA's consideration. The ZBA should act on each variance request separately. In granting a variance, the ZBA may attach conditions regarding the location, character and other features of the proposed use(s) as it may deem reasonable in furthering the purpose of the Zoning Ordinance. If the ZBA moves to approve the requested variances, staff suggests the following conditions of approval: 1. Vacuums shall be turned off no later than 10 p.m., consistent with the closure of the auto wash tunnel. 2. The Landscape Plan submitted with the site plan package shall be substantially consistent with, or exceed, the preliminary plans submitted with the Special Approval and ZBA Variance applications, except for any required modifications placed as conditions of approval. 3. Motors and mechanical equipment for the outdoor vacuums shall be enclosed within the car wash building or an external masonry enclosure. Details of such enclosure shall be provided on the formal site plan, when submitted.

Assistant City Attorney Burns recommends each variance is voted on separately and include the following criteria and conditions for approval. The vacuum should be turned off before 10 p.m. consistent with the closure of the auto wash tunnel. The landscape plan submitted with the site plan will be substantially consistent with or exceed the preliminary plans submitted with the special approval and ZBA applications. Except for any required modifications placed as conditions of approval. Motors and mechanical equipment from the outdoor vacuum shall be enclosed within the car wash building or an external masonry enclosure. Details of such enclosure shall be provided in a formal site plan when submitted to the city. The approval of the variances is contingent on the city's approval of a site plan and issuance of building permits.

Chair Kimble opened the public hearing at 7:37 p.m. to hear comments on application #23-13.

There being no further comments on application #23-13, Chair Kimble closed the public hearing at 7:38 p.m.

### **VARIANCE #1 – HOURS OF OPERATION**

Motion by Vice-Chair Thompson, seconded by Ms. Corbett, to APPROVE the variance application for auto wash hours of operation between 7 a.m. and 10 p.m. at the subject property, 29448 John R Road, after the required public hearing, based upon the following findings:

1) The variance request meets the criteria for approving a variance contained in Section 10.804 of the Ordinance. In particular:

a. The strict application of the regulations would result in an exceptional practical difficulty for the business owner; and

b. The literal interpretation of the provisions of this ordinance deprives the applicant of rights commonly enjoyed by others in the same zoning district; and

c. Such relief may be provided without substantial detriment to the public good and without substantially impairing the intent and purposes of the Zoning Ordinance.

The approval of the variances is contingent on the city's approval of a site plan and issuance of building permits, including the following:

- 1) The vacuum shall be turned off before 10 p.m. consistent with the closure of the auto wash tunnel.
- 2) The landscape plan submitted with the site plan will be substantially consistent with or exceed the preliminary plans submitted with the special approval and ZBA applications. Except for any required modifications placed as conditions of approval.
- 3) Motors and mechanical equipment from the outdoor vacuum shall be enclosed within the car wash building or an external masonry enclosure. Details of such enclosure shall be provided in a formal site plan when submitted to the city.

Yeas: Corbett, Holder, Thompson, and Kimble

Nays: Marentette and Oglesby

Absent: Aaron, Barragan, and Loranger

Motion Carried.

## **VARIANCE #2 – CHAIN LINK FENCE**

Motion by Ms. Holder, seconded by Ms. Corbett, to APPROVE the variance application for landscaping in lieu of the required chain link fence at the subject property, 29448 John R Road after the required public hearing, based upon the following findings:

1) The variance request meets the criteria for approving a variance contained in Section 10.804 of the Zoning Ordinance. In particular:

a. The literal interpretation of the provisions of this ordinance deprives the applicant of rights commonly enjoyed by others in the same zoning district; and

b. Such relief may be provided without substantial detriment to the public good and without substantially impairing the intent and purposes of the Zoning Ordinance; and

c. The special conditions are not the result of the applicant.

The variance is granted with the following conditions:

- 1) The Landscape Plan submitted with the site plan package shall be substantially consistent with, or exceed, the preliminary plans submitted with the Special Approval and ZBA Variance applications, except for any required modifications placed as conditions of approval.

The approval of the variances is contingent on the city's approval of a site plan and issuance of building permits, including the following:

- 1) The vacuum should be turned off before 10 p.m. consistent with the closure of the auto wash tunnel.
- 2) The landscape plan submitted with the site plan will be substantially consistent with or exceed the preliminary plans submitted with the special approval and ZBA applications. Except for any required modifications placed as conditions of approval.
- 3) Motors and mechanical equipment from the outdoor vacuum shall be enclosed within the car wash building or an external masonry enclosure. Details of such enclosure shall be provided in a formal site plan when submitted to the city.

Yeas: Corbett, Holder, Marentette, Oglesby, Thompson, and Kimble

Nays: None

Absent: Aaron, Barragan, and Loranger

Motion Carried.

### **VARIANCE #3 – OUTDOOR VACUUMING AND DRYING**

Motion by Ms. Holder, seconded by Ms. Corbett, to APPROVE the variance application for outdoor vacuuming at the subject property, 29448 John R Road after the required public hearing, based upon the following findings:

- 1) The variance request meets the criteria for approving a variance contained in Section 10.804 of the Zoning Ordinance. In particular:
  - a. The strict application of the regulations would result in an exceptional practical difficulty for the business owner; and
  - b. The literal interpretation of the provisions of this ordinance deprives the applicant of rights commonly enjoyed by others in the same zoning district; and
  - c. Such relief may be provided without substantial detriment to the public good and without substantially impairing the intent and purposes of the Zoning Ordinance.

This variance is granted with the following conditions:

- 1) Vacuums shall be turned off no later than 10 p.m., consistent with the closure of the auto wash tunnel.
- 2) Motors and mechanical equipment for the outdoor vacuums shall be enclosed within the car wash building or an external masonry enclosure. Details of such enclosure shall be provided on the formal site plan, when submitted.

The approval of the variances is contingent on the city's approval of a site plan and issuance of building permits, including the following:

- 1) The vacuum should be turned off before 10 p.m. consistent with the closure of the auto wash tunnel.
- 2) The landscape plan submitted with the site plan will be substantially consistent with or exceed the preliminary plans submitted with the special approval and ZBA applications. Except for any required modifications placed as conditions of approval.
- 3) Motors and mechanical equipment from the outdoor vacuum shall be enclosed within the car wash building or an external masonry enclosure. Details of such enclosure shall be provided in a formal site plan when submitted to the city.

Yeas: Corbett, Holder, Marentette, Oglesby, Thompson, and Kimble

Nays: None

Absent: Aaron, Barragan, and Loranger

Motion Carried.

**23-43. Excuse Member(s)**

Motion by Mr. Oglesby, seconded by Mr. Holder, to excuse Councilwoman Aaron from tonight's meeting.

Yeas: Corbett, Holder, Marentette, Oglesby, Thompson, and Kimble

Nays: None

Absent: Aaron, Barragan, and Loranger

Motion Carried.

**23-44. Public Comment: For items not listed on the agenda.**

Seeing no one wished to comment, Chair Kimble opened public comment at 7:46 p.m. and closed the public comment at 7:47 p.m.

Chair Kimble read that the November Regular Zoning Board of Appeals Meeting has been rescheduled to Thursday, November 16<sup>th</sup> at 7:30 p.m. due to the Election Early Voting.

**23-45. Adjournment.**

Motion by Vice-Chair Thompson, seconded by Ms. Corbett, to adjourn the meeting.

Yeas: Corbett, Holder, Marentette, Oglesby, Thompson, and Kimble

Nays: None

Absent: Aaron, Barragan, and Loranger

Motion Carried.

There being no further business, Chair Kimble, adjourned the meeting at 7:48 p.m.