

Zoning Board of Appeals
Regular Meeting
Madison Heights, Michigan
June 1, 2023

A Regular Meeting of the Madison Heights Zoning Board of Appeals was called to order by Chairman Kimble on Thursday, June 1, 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: Aaron, Corbett, Holder, and Marentette

Absent: Kehoe, Loranger, and Oglesby

Also Present: Assistant City Attorney Burns, City Planner Lonnerstater, and Clerk of the Board Boucher.

23-21. Excuse Member(s)

Motion by Ms. Holder, seconded by Mr. Corbett, to excuse Ms. Kehoe and Mr. Oglesby from tonight's meeting.

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

Nays: None

Absent: Kehoe, Loranger, and Oglesby

Motion Carried.

23-22. Minutes

Motion by Ms. Holder, seconded by Ms. Marentette, to approve the Zoning Board of Appeals Meeting Minutes of April 6, 2023.

Yeas: Aaron, Holder, Marentette, Thompson, and Kimble

Abstain: Corbett

Nays: None

Absent: Kehoe, Loranger, and Oglesby

Motion Carried.

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

Seeing no one wished to comment, Chair Kimble opened public comment at 7:34 p.m. and closed the public comment at 7:35 p.m.

23-24. PZBA # 23-06: 29235 Stephenson Highway

Applicant Kirk Neal, 343 Cove View Drive, Waterford, is requesting a setback variance of twenty (20) feet to meet the minimum set back of fifty (50) feet. 2SP Sports Performance opened their business in their former building beginning in 2008 and moved to their current building in 2016.

Chair Kimble opened the public hearing at 7:37 p.m. to hear comments on application #23-06.

There being no comments on application #23-06, Chair Kimble closed the public hearing at 7:38 p.m.

City Planner Lonnerstater reviewed the staff report provided in the meeting packet, incorporated herein:

REQUEST

The applicant, Kirk Neal on behalf of 2SP Sports Performance, requests a dimensional variance from Section 10.401(j) of the Zoning Ordinance pertaining to industrial building setback requirements adjacent to residential districts. The subject property is located at 29235 Stephenson Highway and is zoned M-1, Light Industrial district.

The subject site is improved with a 25,596 square foot industrial building currently occupied by 2SP Sports Performance, an indoor sports training facility. 2SP Sports proposes a 9,100 square foot addition to the rear of the existing building. Per the applicant, the expanded building will house indoor turf area for sports training and practices, such as baseball, soccer, and lacrosse. Per Section 10.401(j) of the Zoning Ordinance, new buildings and additions within the M-1 zoning district shall be set back a minimum of fifty (50) feet from the property line of any adjacent residential zoning district. The subject property is located directly to the east of residentially zoned (R-3) and used property. The proposed building addition is set back thirty (30) feet from the adjacent residential property line; **therefore, the applicant requests a setback variance of twenty (20) feet.**

VARIANCE FINDINGS

Section 10.804(2) outlines criteria for reviewing variance requests, summarized below with staff comments:

- **Exceptional narrowness, shallowness, shape or area of a specific piece of property at the time of enactment of the Zoning Ordinance or by reason of exceptional topographic conditions or other extraordinary or exceptional conditions of such property.**

Staff Finding: Staff finds that the subject property's shape, size, width and topographic characteristics are fairly consistent with adjacent industrial properties and other properties located along the Stephenson Highway industrial corridor. The property is approximately 125 feet in width along Stephenson Highway and 510 feet in depth (63,750 square feet in area). The site has parking along the front (east) and north sides of the building and shares an access drive with the property to the north. The existing building is set back approximately 130 feet from the rear (residential) property line; this residential property line is improved with a masonry screen wall.

- **The strict application of the regulations enacted would result in peculiar or exceptional practical difficulties to, or exceptional undue hardship upon, the owner of such property, provided such relief may be granted without substantial detriment**

to the public good and without substantially impairing the intent and purposes of this ordinance.

Staff Finding: Using aerial photographs, staff analyzed existing building setbacks along the west side of Stephenson Highway. Between 12 Mile Road and Girard Avenue, staff did not locate any existing industrial buildings that encroach into the required 50-foot setback. Between Girard Avenue and 13 Mile Road, staff located two (2) industrial buildings that encroach into the 50-foot setback: 30545 and 30549 Stephenson. There are approximately twenty-eight (28) total properties along the west side of Stephenson Highway between 12 and 13 Mile Roads.

If the ZBA moves to approve the building setback variance, staff recommends the following conditions to mitigate potential detrimental impacts to the residential neighbors and to meet the intent and purpose of the Zoning Ordinance's residential setback requirements:

- 1) A minimum five (5) foot wide greenbelt shall be installed along the rear (western) property line adjacent to the existing masonry wall, planted with a continuous row of evergreen trees. Tree type, spacing, and height may be determined at the time of site plan review.
- 2) The rear (western) building façade shall not feature any overhead doors or windows.
- 3) Industrial soundproofing paneling shall be installed within the building addition, to be approved at the time of site plan and building permit review.
- 4) Any exterior lighting on the rear (western) façade shall be shielded downward.

Additional standards for reviewing variance cases are contained in Section 10.805, listed at the end of this report.

SITE PLAN REVIEW COMMITTEE (SPRC) ACTION

Staff summarized the variance request to the Site Plan Review Committee (SPRC) at their May 3 rd, 2023 meeting. The SPRC recommends the following conditions to mitigate the impacts of a reduced building setback:

- 1) A minimum five (5) foot wide greenbelt shall be installed along the rear (western) property line adjacent to the existing masonry wall, planted with a continuous row of evergreen trees. Tree type, spacing, and height may be determined at the time of site plan review.
- 2) The rear (western) building façade shall not feature any overhead doors or windows.

3) Industrial soundproofing paneling shall be installed within the building addition, to be approved at the time of site plan and building permit review. 4) Any exterior lighting on the rear (western) façade shall be shielded downward.

Ms. Holder wanted to confirm that the applicant agreed to the conditions in the motion.

Motion by Ms. Corbett, seconded by Vice Chair Thompson, to approve the Applicant's request for a setback variance of twenty (20) feet is granted contingent upon the conditions recommended to the Board in the Staff Report presented to it on this matter which are:

- 1) A minimum five (5) foot wide greenbelt shall be installed along the rear (western) property line adjacent to the existing masonry wall, planted with a continuous row of evergreen trees. Tree type, spacing, and height must be approved by the City and may be determined at the time of site plan review.
- 2) The rear (western) building façade shall not feature any overhead doors or window.
- 3) Industrial soundproofing paneling shall be installed within the building addition, to be approved by the City at the time of site plan and building permit review.
- 4) Any exterior lighting on the rear (western) façade shall be shielded downward.

Approval is based upon pre-existing condition and topography of the parcel creates a practical difficulty of which such hardship has not been self-created by the Applicant in accordance with Section 10.804(2). The Board finds that strict application of the ordinance would provide an undue hardship upon the Applicant and granting the requested variance would not be a substantial detriment to the public good or substantially impair the intent and purpose of the ordinance. Additionally, in accordance with Section 10.805 the Board finds that granting of the variance does not harm the harmony of the district in which the parcel is located or detrimental to the orderly development of adjacent districts.

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

Nays: None

Absent: Kehoe, Loranger, and Oglesby

Motion Carried.

23-25. PZBA # 23-07: 1100 E. Mandoline Avenue

Applicant Tom Paglia, 18301 Eight Mile, Ste 100, Eastpointe, has owned the 1100 E. Mandoline Avenue property for six (6) years and has lost business due to the Covid pandemic. The proposed tenant, a school bus fleet company will require the outdoor storage of school buses. The applicant proposes to store the bus fleet in the southwest corner of the existing parking lot. Mr. Paglia is requesting to waive the fleet vehicle screening requirements and deem the existing chain-link fence as an adequate form of screening. And to permit the installation of a new screening fence within the required five (5) foot right-of-way setback along Milton Avenue. Mr. Paglia stated the ordinance is not applicable to the school bus because it is not considered a fleet vehicle. The current chain-link fence is adequate screening for the storage of school buses. Plastic or cloth mesh is sufficient screening because the ordinance prohibits mesh screening only in residential districts not industrial districts.

Chair Kimble opened the public hearing at 8:13 p.m. to hear comments on application #23-07.

There being no comments on application #23-07, Chair Kimble closed the public hearing at 8:14 p.m.

City Planner Lonnerstater reviewed the staff report provided in the meeting packet, incorporated herein:

REQUEST

The applicant, Tom Paglia on behalf of the Ford Building, Inc., requests two variances from the Zoning Ordinance: (1) a variance from Section 10.505(C)(3) pertaining to fleet vehicle storage screening; and (2) a variance from Section 10.516(j)(2) pertaining to fence setback requirements. The subject property is located at 1100 E. Mandoline Avenue and is zoned M-1, Light Industrial district.

The subject site is approximately eight (8) acres in area and is improved with a large industrial building split into multiple suites. The site has frontage on three (3) streets: Milton Avenue to the west, Mandoline Avenue to the north, and Avis Drive to the east. Per the ZBA application, the applicant intends to enter into a lease agreement with a school bus fleet company which will require the outdoor storage of school buses. The applicant proposes to store the bus fleet in the southwest corner of the existing parking lot, outlined in the image below.

Section 10.516(j)(2) of the Zoning Ordinance – Parking Requirements – states that fleet and company vehicles, including rental passenger vehicles, shall be screened from adjoining properties by an enclosure consisting of a wall not less than the height of the vehicles; fence or alternative screening options such as landscaping may be permitted by the approving body. The southwest corner of the site features an existing chain link fence, as shown in the images below. The fence is legally non-conforming in that it is installed directly on the Milton Avenue right-of-way property line, whereas the Ordinance requires a five (5) foot setback. The fence also straddles the southern property line.

Staff informed the applicant that the existing transparent chain link fence did not meet the intent of the ordinance to visually screen the proposed storage area from the right-of-way and adjacent properties, but that a new opaque fence (e.g. vinyl or wood), landscaping, or both, could be installed to achieve the intent.

However, new fencing, if installed, would need to be set back a minimum of five (5) feet from the Milton Avenue right-of-way line to meet Section 10.516(j)(2).

Therefore, the applicant requests the following variances:

(1) A blanket variance from Section 10.505(C)(3) to waive the fleet vehicle screening requirements and deem the existing chain-link fence as an adequate form of screening; and

(2) In the case that the screening variance is denied, a variance from Section 10.516(j)(2) to permit the installation of a new screening fence within the required five (5) foot right-of-way setback along Milton Avenue.

Note that Section 10.516(f) of the fence regulations prohibits materials such as metal, plastic, wood or fabric from being inserted into, attached to, or hung over chain link fences.

VARIANCE FINDINGS

Section 10.804(2) outlines criteria for reviewing variance requests, summarized below with staff findings and comments:

- **Exceptional narrowness, shallowness, shape or area of a specific piece of property at the time of enactment of the Zoning Ordinance or by reason of exceptional topographic conditions or other extraordinary or exceptional conditions of such property.**

Staff Finding: Staff finds that the subject property is unique in that it has frontage along three (3) public roads: Milton Avenue, E. Mandoline Avenue, and N. Avis Drive. For all intents and purposes, the property has three (3) front yards; this precludes the property owner from placing parking and fleet storage in the rear or interior side yard, as encouraged by the Zoning Ordinance. The Zoning Ordinance accounts for this in Section 10.505(C)(3)(b) by stating,

In case of a corner lot or lots with no available space to park in rear or interior side yard, the approving body may permit parking in alternate locations. The approving body shall have the right to impose other restrictions such as, but not limited to landscape buffer or screen wall as it may deem advisable for welfare of the surrounding area.

Staff believes that the southwest corner of the parking lot is an appropriate alternate location for bus fleet storage given the unique triple-frontage condition. However, per the Ordinance, staff finds that adequate screening methods shall still be provided to offset visual impacts from Milton Avenue and the adjacent property to the south.

Staff does not find a valid relationship between the triple frontage and the ability to install an appropriate screening system. Staff does find a unique condition on the property in that

the existing non-conforming chain link fence is installed at the Milton Avenue right-of-way/property line; the existing parking lot is also built directly to the property line, potentially precluding the installation of a fence with a greater setback.

- **The strict application of the regulations enacted would result in peculiar or exceptional practical difficulties to, or exceptional undue hardship upon, the owner of such property, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purposes of this ordinance.**

Staff Finding: Staff finds that the strict application of the fleet vehicle screening requirements would not result in a practical difficulty for the property owner, and that relief from the screening requirements, in this case, could substantially impair the intent and purpose of the Zoning Ordinance. Staff finds that the primary intent of Section 10.505(C)(3) is to reduce the visual impact of fleet vehicle storage from public roads and adjacent properties. Where a new use is proposed for a site with non-conforming conditions, the Zoning Ordinance encourages the elimination of non-conformities to the greatest extent possible.

However, staff finds that relief from the fence setback requirement could be provided in a manner that maintains the spirit, intent, and purpose of the Ordinance.

Additional standards for reviewing variance cases are contained in Section 10.805, listed at the end of this report.

SITE PLAN REVIEW COMMITTEE (SPRC) ACTION

Staff summarized the variance request to the Site Plan Review Committee (SPRC) at their May 10th, 2023 meeting. The SPRC did not oppose the proposed fleet vehicle storage location or the requested fencing setback variance but was not supportive of a blanket screening variance.

Ms. Corbett wanted to know what the plastic and cloth mesh looks like.

Applicant Tom Paglia answered Ms. Corbett's inquiry that the cloth mesh looks clean and is not see through. He answered Councilwoman Aaron's inquiry that his business is property management, and his building can accommodate up to 40,000 square feet depending on the need of the occupant(s). Mr. Paglia answered Vice Chair Thompson's inquiry that the school buses do morning pick-ups, the buses will be parked overnight and on weekends, and the bus routes starts from 14 Mile Road and Dequindre. He answered Ms. Marentette's inquiry that the fence is not as high as the school bus. Mr. Paglia answered Councilwoman Aaron's inquiry that the fence is six (6) feet high, and the school bus is ten (10) feet high. He answered Ms. Holder's inquiry that the cost of the screening material for the existing fence will cost substantially less than a new opaque fence. Mr. Paglia stated fleet vehicles are commonly used by utility companies and rental cars. He

mentioned that the existing fence is sufficient for screening and noted that he came to the board for approval first.

Councilwoman Aaron asked what the purpose of the applicant's business and how many tenants can occupy the building. She inquired about the height of the chain-link fence and the height of the school bus. Councilwoman Aaron question if the fence isn't as high as the school bus than the property owner can make the fence higher.

Vice Chair Thompson questioned if the school buses are expected to leave in and out of the parking lot throughout the day, if the buses are parking overnight, and if their route is in the residential areas.

Ms. Holder inquired about the fencing options available. She asked about the cost of the screening material for the chain-link fence. Ms. Holder responded to Mr. Paglia's comment that every business without a screening on their fence for fleet vehicles will need one because of the ordinance. The boards' goal is to reinvest and rebuild in the community by being helpful and preserve the ordinance. She commented that a barrier of some sort for the chain-link fence is acceptable to suffice the ordinance.

City Planner Lonnerstater answered Ms. Holder's inquiry that a new opaque fence (e.g. vinyl or wood), landscaping, or both, could be installed. He clarified that in accordance with our ordinance fleet vehicles must be enclosed by walls. Fleet vehicles can be either housed in a building or outside on a rear lot. City Planner Lonnerstater answered Chair Kimble's inquiry that he would need to investigate the Allstate building case.

Chair Kimble asked if the former Allstate building at Gardenia and John R was granted a variance.

Ms. Marentette questioned if the height of the fence is as high as the school bus. She asked if school buses were considered commercial vehicles.

Assistant City Attorney Burns informed that fleet vehicles are rental passenger vehicles including school buses. He answered Ms. Marentette's inquiry confirming school buses are commercial vehicles that transport passengers. Assistant City Attorney Burns added that the screening requirement is not just for security.

Motion by Ms. Holder, seconded by Vice Chair Thompson, to approve the Applicant's request for variances (1) a waiver of fleet vehicle storage screening requirements [Section 10.5-5(C)(3)] and (2) waiver of fence setback requirements [Section 10.516(j)(2)] are granted.

The variances are granted based upon the unique topography of the parcel having triple frontage and the pre-existing infrastructure on the property created prior to the Applicant's ownership creates a practical difficulty of which such hardship has not been self-created by the Applicant in accordance with Section 10.804(2). The Board finds that strict application of the ordinance would provide an undue hardship upon the Applicant and granting the requested variance would not be a substantial detriment to the public good or substantially impair the intent and purpose of the ordinance. Additionally, in accordance with Section 10.805 the Board finds that granting of the variance does not harm the harmony of the district which the parcel is located or detrimental to the orderly development of adjacent districts.

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

Nays: None

Absent: Kehoe, Loranger, and Oglesby

Motion Carried.

23-26. Adjournment

Motion by Ms. Holder, seconded by Mr. Oglesby, to adjourn the meeting.

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

Nays: None

Absent: Kehoe, Loranger, and Oglesby

Motion Carried.

There being no further business, Chair Kimble, adjourned the meeting at 8:28 p.m.

Phommady A. Boucher
Clerk of the Board