

Zoning Board of Appeals  
Madison Heights, Michigan  
September 07, 2023

A Special Meeting of the Madison Heights Zoning Board of Appeals was called to order by Chairman Kimble on Thursday, September 07, 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: Loranger, and Oglesby

**23-35. Excuse Member(s)**

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

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

Nays: None

Absent: Loranger and Oglesby

Motion Carried.

**23-36. Minutes**

Motion by Ms. Holder, seconded by Ms. Marentette, to approve the Zoning Board of Appeals Regular Meeting Minutes of August 3, 2023 and Special Meeting Minutes of August 17, 2023.

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

Nays: None

Absent: Loranger and Oglesby

Motion Carried.

**23-37. PZBA 23-11: 876 Horace Brown Drive.**

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

**REQUEST**

The petitioner, 876 Horace Brown LLC, requests approval under Section 10.503(6)(c) of the Zoning Ordinance to modify an existing non-conforming use. The petitioner intends to repurpose an existing nonconforming event space into a banquet facility. The subject property is located at 876 Horace Brown Drive (tax parcel # 44-25-11-201-032) and is zoned O-1, Office.

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

The SPRC discussed the nonconforming use request at their August 23rd, 2023 meeting. The SPRC did not state any comments or concerns relating to the request.

## **ACTION FINDINGS**

Section 10.503(6)(c) and Section 10.805 include criteria and standards for reviewing a proposed modification of an existing non-conforming use. Pertinent criteria/standards are summarized below:

- The proposed use is a legal nonconforming use, reduces the level of nonconformity on the site, and is more appropriate to the district than the existing nonconforming use.
- The assembly of persons in connection with the use will not be hazardous to the neighborhood or be incongruous therewith or conflict with normal traffic of the neighborhood.
- The nature, location, size and site layout of the uses shall be such that its operations will not be objectionable to nearby dwellings, by reason of noise, fumes or flash of lights to a greater degree than is normal with respect to the proximity of commercial to residential uses, not interfere with an adequate supply of light and air, not increase the danger of fire or otherwise endanger the public safety.

Additional review criteria are contained in Section 10.805.

Larry Campbell, Century 21 Real Estate Agent representing 876 Horace Brown, LLC, provided the board a map and list of banquet facilities in the immediate area with their hours of operation for beer, wine, and liquor. The subject property was built in 1978 and has a floor area of over 40,000 square feet. The applicant inadvertently requested a 11 p.m. closing time but meant to request for a 1 a.m. closing time similar to other facilities. They have partnered with a St. Claire Shores catering company that has a catering permit and Class C liquor license to do private catering events. On behalf of his client, he is requesting the hours of operation at 876 Horace Brown Drive facility to stay open until 1 a.m. and to stop serving liquor at 12:30 p.m. The requested hours of operation will allow them to stay competitive and it makes economic sense. Mr. Campbell answered the question from Councilwoman Aaron that the facility capacity holds up to 800 people.

Chair Kimble opened the public hearing at 7:45 p.m. to hear comments on application #23-11.

Assistant City Attorney Burns advised if approved the motion must include a provision that reduces the level of nonconformity and establish a condition on the request of reduction in operation on the nonconforming of the current business.

There being no further comments on application #23-11, Chair Kimble closed the public hearing at 7:46 p.m.

Ms. Corbett commented that according to the staff report the Police Department has no complaints for this facility and it has been in operation for many years. The Venetian Club bar closes at 12:30 p.m. and drinking stops at 1 a.m. like most facilities in the area. She is in favor for the applicant to stop serving liquor at 12:30 p.m. and stay open until 1 a.m.

City Planner Lonnerstater answered the question from Ms. Marentette that the packet submitted by the applicant did state, “we pledge to adhere to reasonable time restriction with events concluding by 11 p.m.” The applicants representative would like to rescind that and go to a 1 a.m. cut off or event close.

Larry Campbell, Century 21 Real Estate Agent representing 876 Horace Brown, LLC, answered the question from Ms. Marentette that the Venetian Club abuts residential to the rear and so does the subject property. All the servicing comes through the front of the house on the north side of the building and the parking faces the express way.

Motion by Ms. Holder, seconded by Ms. Corbett, to approve the modification of an existing non-conforming banquet hall at 876 Horace Brown Drive to allow for private events, after the required public hearing, based upon the following findings: 1) The request meets the criteria for changing the operations of a non-conforming use contained in Section 10.503(5)(c) of the Zoning Ordinance in that the proposed use reduces the level of nonconformity on site; and 2) The request meets the Zoning Board of Appeals standards of Section 10.805 of the Zoning Ordinance. In particular. a. The assembly of persons in connection with the use will not be hazardous to the neighborhood or be incongruous therewith or conflict with normal traffic of the neighborhood; and b. The nature, location, size and site layout of the use will be such that its operations will not be objectionable to nearby dwellings, by reason of noise, fumes or flash of lights to a greater degree than is normal with respect to the proximity of commercial to residential uses, will not interfere with an adequate supply of light and air, and will not increase the danger of fire or otherwise endanger the public safety. Approval is granted with the condition that events at the banquet hall shall end no later than 1 a.m. with serving liquor cut off of 12:30 p.m. to coincide with other similar facilities in our city and expansions to the footprint of the existing banquet hall including outdoor expansion shall not be permitted with this approval. The banquet hall use shall at all times comply with Chapter 17 of the Code of Ordinances, miscellaneous offenses and provisions including noise and use provisions.

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

Nays: Marentette

Absent: Loranger and Oglesby

Motion Carried.

### **23-38. PZBA 23-12: 1044 E. 11 Mile Road**

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

### **REQUEST**

The petitioner, John Joannidis, requests two (2) dimensional variances from the Zoning Ordinance: (1) A variance from Section 10.504(1)(c) pertaining to required detached accessory building

location; and (2) a variance from Section 10.504(1)(h) pertaining to required detached accessory building setbacks. The subject property is located at 1044 E. 11 Mile Road (tax parcel # 44-25-24-129-036) and is zoned M-1, Light Industrial.

The applicant proposes to construct a detached accessory storage structure on the property to store yard equipment, extra parts, and tools that are not used on a daily basis.

The accessory structure is proposed in the interior side yard of the property and is set back approximately three (3) feet from the principal building and three (3) feet from the side property line. A concrete pad was recently poured in the side lawn area. The proposed structure measures 18 feet by 35 feet (630 square feet), with a side leg height of 16 feet.

As proposed, the accessory structure fails to meet the following Zoning Ordinance standards:

1. Section 10.504(1)(c) – Location: All detached accessory buildings are only permitted in the rear yard subject to the setbacks listed in this section.
2. Section 10.504(1)(d) – Height: All detached accessory buildings in all districts with a pitched roof shall not exceed one story or fifteen (15) feet with a maximum ceiling height of ten (10) feet.
3. Section 10.504(1)(h)2 – Setbacks: No detached accessory building shall be located closer than ten (10) feet to any building nor shall it be located closer than six (6) feet to any side or rear lot line with eaves no closer than four feet to any lot line.

The applicant has formally applied for the location and setback variances, but an additional height variance will be required based upon the proposed building height. While the building leg height is proposed at 16 ft, the Zoning Ordinance definition of building height is measured from grade to the average height between the eaves and ridge for sloped roofs.

## **VARIANCE FINDINGS**

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

- 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.
- 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.

Additional standards for reviewing variance cases, as required per the ZBA application, are outlined below:

- The literal interpretation of the provisions of this ordinance deprives the applicant of rights commonly enjoyed by others in the same zoning district.
- The special conditions and/or circumstances are not a result of the applicant.
- The variance is the minimum variance necessary to provide relief to the applicant.
- In the absence of a variance, the property could not be used in a manner permitted by the Ordinance.

Additional variance review criteria are contained in Section 10.805.

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

The SPRC discussed the variance requests at their August 23rd, 2023 meeting. The SPRC stated concerns regarding the proximity of the proposed storage structure to the adjacent residence on 11 Mile Road, the visibility of the structure from the 11 Mile Road right-of-way, and the excessive height of the structure. Additionally, the SPRC stated a concern that the side yard location variance, if approved, could impair the intent and purpose of the accessory structure standards.

Erica Ferguson from Rolling Cars Auto Repair, plans to replace the trees on the property in the spring. They need storage space to house equipment that may be potential hazardous to the walk-in customers. She answered a question from Ms. Corbett confirming the new structure will be used for storage of engines, engine hoist, landscape equipment, parts, etc. Their exterior is kept clean and maintain a positive appearance. Ms. Ferguson answered a question from Councilwoman Aaron that they have gotten approval from the adjacent neighbors to build the new structure.

Assistant City Attorney Burns advised if approved the motion should include, “the applicant shall coordinate and receive final approved by the City Planner.”

Chair Kimble opened the public hearing at 8:06 p.m. to hear comments on application #23-12. City Planner Lonnerstater read a letter from Ms. Cherrie Mudloff at 27062 Couzens Avenue into record.

Erica Ferguson from Rolling Cars Auto Repair, will contact the property owner at 27062 Couzens Avenue to resolve any concerns.

There being no further comments on application #23-12, Chair Kimble closed the public hearing at 8:07 p.m.

### **Variance #1 – Accessory structure location**

Motion by Vice-Chair Thompson, seconded by Councilwoman Aaron to APPROVE the variance application for a detached accessory structure within an interior side yard at the subject property, 1044 E. 11 Mile 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. The variance is granted with the following conditions: 1) Additional landscaping in the form of deciduous trees shall be planted within the front yard adjacent to 11 Mile Road to further screen the accessory structure from the road. Details of such plantings may be coordinated with the City Planner. 2) The building setback variances do not relieve the applicant from minimum building and fire code requirements. The applicant shall coordinate and receive final approval by the City Planner.

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

Nays: None

Absent: Loranger and Oglesby

Motion Carried.

### **Variance #2 – Setbacks**

Motion by Ms. Holder, seconded by Vice-Chair Thompson, to APPROVE the amendment to the variance application for a 7-foot principal building setback and a 3-foot side yard building setback for a detached accessory structure at the subject property, 1044 E. 11 Mile 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.

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

Nays: None

Absent: Loranger and Oglesby

Motion Carried.

### **Variance #3 – Height**

Motion by Ms. Corbett, seconded by Ms. Marentette, to APPROVE the variance application for a detached accessory structure exceeding 15 feet in height, not to exceed a 16-foot leg height, at the subject property, 1044 E. 11 Mile 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.

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

Nays: None

Absent: Loranger and Oglesby

Motion Carried.

**23-39. Public Comment: For items not listed on the agenda.**

Seeing no one wished to comment, Chair Kimble opened public comment at 8:13 p.m. and closed the public comment at 8:14 p.m.

**23-40. Adjournment.**

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

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

Nays: None

Absent: Loranger and Oglesby

Motion Carried.

There being no further business, Chair Kimble, adjourned the meeting at 8:15 p.m.