

Zoning Board of Appeals Meeting - Special Meeting
Madison Heights, Michigan
August 17, 2023

A Special Meeting of the Madison Heights Zoning Board of Appeals was called to order by Chairman Kimble on Thursday, August 17, 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, and Marentette

Absent: Aaron, Kehoe, Loranger, and Oglesby

23-33 PZBA 23-10: 29022 Stephenson Hwy.

John Gaber, Applicant's attorney, introduced John Zimmerman from Jax Kar Wash and reviewed the requested variances. Jax Kar Wash requests to begin operating at 7:00 a.m. and the proposed hours of operation would be from 7:00 a.m. to 10:00 p.m., daily. His client requests to allow approximately nineteen (19) outdoor vacuum stations adjacent to the auto wash and allow for outdoor hand towel drying. The vacuuming stations will be screened from Stephenson Highway by the auto wash building and screened from Stephenson Highway by a landscape buffer. The motors and mechanical equipment powering the vacuums are proposed to be enclosed within the building. Jax Kar Wash proposes a 10-foot building setback from the southern property line facing W. 12 Mile Road and landscaping between the southern property line and the building. His client intends to install landscape buffers around the edge of the property. All the variances proposed are done so due to practical difficulty and have no adverse impact or detriment to the community or surrounding areas.

Mr. Zimmerman answered the questions from Ms. Marentette that employees will be in the building during hours of operation and when exiting onto Stephenson Hwy. it will be a right turn only.

Chair Kimble opened the public hearing at 7:50 p.m. to hear comments on application #23-10.

There being no comments on application #23-10, Chair Kimble closed the public hearing at 7:51 p.m.

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

REQUEST

The applicant, Todd Gesund on behalf of BMW Kar Wash/Jax Kar Wash, requests four (4) variances from the City's Zoning Ordinance relating to a proposed car wash use. The subject property is located at 29022 Stephenson Highway (tax parcels # 44-25-11-377-015; -016; and -

017) and is zoned B-3, General Business. An existing restaurant building is proposed to be demolished to accommodate the new car wash.

The applicant requests variances from the following sections of the Zoning Ordinance:

- *Section 10.326(8)(c) [Auto Washes]: The time of operation shall be limited between the hours of 8:00 a.m. and 10:00 p.m.; and*
- *Section 10.326(8)(d) [Auto Washes]: All buildings to be used in connection with the auto wash shall be located at least 20 feet away from any right-of-way line; and*
- *Section 10.326(8)(i) [Auto Washes]: A chainlink-type fence must be constructed so as to enclose the entire property except drives and areas where screen walls are required, two feet along any street, four feet side and back; and*
- *Section 10.326(8)(q) [Auto Washes]: All operations must be carried on within the building area, including but not limited to vacuuming, washing and drying; and*

City Council approved the special land use request for the car wash at their July 10th, 2023 meeting, with the following condition relating to the ZBA:

- *Resolve site plan deficiencies relating to building setback, hours of operation, chain link fence, and outdoor self-service vacuum bays or seek the appropriate variances from the Zoning Board of Appeals.*

The applicant is not the current property owner. However, the current property owner has signed the ZBA application, as required.

Hours of Operation Variance

Per Section 10.326(8)(c) of the Zoning Ordinance, auto wash uses shall only operate between 8:00 a.m. and 10:00 p.m. The applicant requests a variance of one hour to begin operating at 7:00 a.m. Proposed hours of operation would be from 7:00 a.m. to 10:00 p.m., daily.

Outdoor Vacuuming and Towel-Drying Variance

Per Section 10.326(8)(q) of the Zoning Ordinance, vacuuming areas related to auto wash uses are required to be placed within a building. The applicant requests a variance from this standard to allow approximately nineteen (19) outdoor vacuum stations adjacent to the auto wash and allow for outdoor hand towel drying. Per the site plan and renderings, the vacuuming stations will be screened from Stephenson Highway by the auto wash building and screened from Stephenson Highway by a landscape buffer. The motors and mechanical equipment powering the vacuums are proposed to be enclosed within the building.

Setback Variance

Per Section 10.326(8)(d) of the Zoning Ordinance, all buildings to be used in connection with the auto wash shall be located at least 20 feet away from any right-of-way line. Due to the triangular shape of the property and the width of the I-75/MDOT right-of-way adjacent to the site, the applicant proposes a 10-foot building setback from the southern property line facing W. 12 Mile Road. The large grass lawn adjacent to the property is MDOT right-of-way and is not included within the boundaries of the subject property. The image depicts an existing aerial image of the site and shows the large right-of-way lawn area adjacent to the site. At its shallowest measurement, the property line of the subject site is approximately 32 feet from the edge of the sidewalk adjacent

to W. 12 Mile Road. The applicant proposes landscaping between the southern property line and the building.

Chain Link Fence Variance

Per Section 10.326(8)(i) of the Zoning Ordinance, a chainlink-type fence must be constructed to enclose the entire auto wash property, except drives and areas where screen walls are required, two feet along any street, four feet side and back. In lieu of the chain link fence, the applicant intends to install landscape buffers around the edge of the property.

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.*

The complete list of variance review criteria is contained in Section 10.805.

SITE PLAN REVIEW COMMITTEE (SPRC) ACTION

The SPRC discussed the variance request at their July 26th, 2023 meeting. The SPRC had no objections to the variance requests.

Variance #1 – Hours of Operation

Motion by Ms. Holder, 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, 29022 Stephenson Highway, 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: Corbett, Holder, Marentette, Thompson, and Kimble

Nays: None

Absent: Aaron, Kehoe, Loranger, and Oglesby

Motion Carried.

Variance #2 – Property Setback

Motion by Ms. Holder, seconded by Vice-Chair Thompson, to approve the variance application for a 10-foot setback from the property line adjacent to W. 12 Mile Road as shown on the conceptual site plan at the subject property, 29022 Stephenson Highway, 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 variance request arises from the presence of a unique shape and condition of the subject property; and
 - b. The strict application of the regulations would result in an exceptional practical difficulty for the business owner; 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: Corbett, Holder, Marentette, Thompson, and Kimble

Nays: None

Absent: Aaron, Kehoe, Loranger, and Oglesby

Motion Carried.

Variance #3 – Chain Link Fence

Motion by Vice-Chair Thompson, seconded by Ms. Marentette, to approve the variance application for landscaping in lieu of the required chain link fence at the subject property, 29022 Stephenson Highway, 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 shall be substantially consistent with the preliminary plans submitted with the Special Approval and ZBA Variance applications, except for any required modifications placed as conditions of approval.

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

Nays: None

Absent: Aaron, Kehoe, Loranger, and Oglesby

Motion Carried.

Variance #4 – Outdoor Vacuuming and Drying

Motion by Ms. Holder, seconded by Ms. Corbett, to approve the variance application for outdoor vacuuming and hand dowl drying at the subject property, 29022 Stephenson Highway, 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: Vacuums shall be turned off no later than 10 p.m., consistent with the closure of the auto wash tunnel.

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

Nays: None

Absent: Aaron, Kehoe, Loranger, and Oglesby

Motion Carried.

23-34 Adjournment.

Ms. Holder is saddened to hear that Ms. Kehoe has submitted her resignation for the ZBA. She wishes her well and Ms. Kehoe will be missed.

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

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

Nays: None

Absent: Aaron, Kehoe, Loranger, and Oglesby

Motion Carried.

There being no further business, Chair Kimble, adjourned the meeting at 7:58 p.m.

Phommady A. Boucher
Clerk of the Board