



**CITY OF MADISON HEIGHTS**

**MADISON HEIGHTS PUBLIC LIBRARY - BRECKENRIDGE ROOM -  
240 W. THIRTEEN MILE ROAD**

**ZONING BOARD OF APPEALS AGENDA**

**JUNE 02, 2022 AT 7:30 PM**

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**CALL TO ORDER**

**ROLL CALL**

**ADDITIONS/DELETIONS TO AGENDA**

**APPROVAL OF MINUTES**

1. May 05, 2022 Zoning Board of Appeals - Minutes

**PUBLIC HEARING**

2. **PZBA #22-06: 30031 DEQUINDRE ROAD**

The applicant, Hudson Madison, LLC d/b/a The Reserve at Red Run, requests a variance from the minimum ground sign setback requirement of Section 10.511(IV)(C)(3) of the Zoning Ordinance. The subject property is located at 30031 Dequindre Road and is zoned O-1, Office district.

**UNFINISHED BUSINESS**

3. Consideration and Adoption of ZBA Bylaws

**NEW BUSINESS**

**MEETING OPEN TO THE PUBLIC: Items not listed on agenda**

**ADJOURNMENT**

NOTICE: Persons with disabilities needing accommodations for effective participation through electronic means in this meeting should contact the City Clerk at (248) 583-0826 or by email: [clerks@madison-heights.org](mailto:clerks@madison-heights.org) at least two working days in advance of the meeting. An attempt will be made to make reasonable accommodations.

**Zoning Board of Appeals  
Regular Meeting  
Madison Heights, Michigan  
May 5, 2022**

A Regular Meeting of the Madison Heights Zoning Board of Appeals was called to order by Chairman Kimble on May 5, 2022 at 7:33 p.m. in the Municipal Building at 300 West Thirteen Mile Road, Madison Heights, Michigan.

Present: Chair Kimble, Vice-Chair Thompson and members: L. Corbett, Holder, Kehoe, Marentette, Oglesby, Barragan and Rodgers

Absent: Aaron and Ott

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

All votes taken at today's meeting are roll call votes.

**22-10. Excuse Member(s).**

Motion by Mr. Oglesby, seconded by Ms. Holder, to excuse Ms. Debra Ott from tonight's meeting.

Yeas: L. Corbett, Holder, Kehoe, Marentette, Oglesby, Thompson, Barragan, Rodgers and Kimble

Nays: None

Absent: Aaron and Ott

Motion Carried.

**22-11. Excuse Member(s).**

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

Yeas: L. Corbett, Holder, Kehoe, Marentette, Oglesby, Thompson, Barragan, Rodgers and Kimble

Nays: None

Absent: Aaron and Ott

Motion Carried.

**22-12. Minutes**

Motion by Ms. Holder, seconded by Mr. Oglesby, to adopt the minutes of the Regular Meeting held on March 3, 2022 as printed.

Yeas: Holder, Kehoe, Marentette, Oglesby, Thompson, Barragan, Rodgers and Kimble

Abstain: L. Corbett

Nays: None

Absent: Aaron and Ott

Motion Carried.

**22-13. Case # PZBA 22-04: 45 & 47 E. 10 Mile Road**

REQUEST: The applicant, Walid Abbod, requests a variance from Section 10.350(c) of the Zoning Ordinance which states, *"not more than one registered primary caregiver shall be permitted to operate at any one parcel located within the Caregiver Marihuana Grow Overlay District."* The subject property is located at 45 & 47 E. Ten Mile Road (tax parcel # 44-25-24-355-018) and is zoned M-1, Light Industrial.

City Planner Lonnerstater overviewed the staff report and explained that petitioner Walid Abbod, at property address 45 & 47 E. 10 Mile Road, requests a use variance from Section 10.350(c), *Caregiver Marihuana Grow Overlay District requirements*, of the Zoning Ordinance. One (1) existing marihuana caregiver currently operates on the property and the petitioner's request does not constitute an appeal of an administrative decision.

Attorney Jan Rubinstein from the Rubinstein Law Firm at 30665 Northwestern Hwy, Ste. 165, Farmington Hills, MI 48334, was present on behalf of applicants Stuart Weinstock and Walid Abbod at 45 & 47 E. 10 Mile Road. Per Attorney Rubinstein, Mr. Weinstock purchased the property with the sole intent to create a cannabis business. Mr. Abbod is a caregiver, a renter and has invested in the build out of the property. Per Mr. Rubinstien, this is a unique situation because Mr. Weinstock purchased the property prior to the ordinance change and there are no other properties in a similar location with one parcel West of the Green Zone. Mr. Rubinstein stated that Mr. Abbod has had a business and paid building expenses for the past 3 years; there are no other requests in the same circumstances. Per Mr. Rubinstein, the use would not alter the essential character of the area on 10 Mile Road since there are multiple businesses operating in the same capacity and some are grandfathered in from the new ordinance. Mr. Abbod cannot operate in a 4,200 square feet with 72 plants or even with 42 plants if a State Law passes.

Chair Kimble opened the public hearing at 7:50 p.m. to hear comments on application #22-04.

There being no comments on application #22-04, Chair Kimble closed the public hearing at 7:51 p.m.

Assistant City Attorney Tim Burns reported that the City Attorney recommends a strong denial of the variance. The specific concern is that there would be a significant impairment on intent and purpose of all zoning ordinances related to the marijuana industry. There is no dispute that the property is outside of the Marihuana Green Zone and the variance will put the City in a bad position for enforcing the Green Zone if it is granted. The City has established a position of trying to reduce the density of these types of situations by restricting one marihuana caregiver per parcel via the passage of an ordinance addressing the subject matter. The applicant's approved site plan does reference 2 caregivers being situated within one building on one parcel; but only one marihuana caregiver was in place prior to the ordinance passage that placed the restriction of one caregiver per parcel and restricted placement of these operations to within the City's designated Marihuana Green Zone. Applicant has only ever had one caregiver in place on the property since the site plan was approved and did not attempt to place a second caregiver on the property until the time limit for preserving a non-conforming property use exemption had expired per State

law and City ordinance. Because applicant never placed the second caregiver on the property it can be argued that applicant never had a pre-existing property right for the second caregiver, but even if he did that non-conforming use has been vacated by lack of use to preserve it. There were no legally binding agreements between the applicant and the City. The applicant does have a legal non-conforming right to have one marihuana caregiver grow operation on the parcel and the City has the right to try to get all properties in the City within conformity of current ordinance as long as preexisting property rights aren't violated. The applicant wasn't using the property legally before or within 6 months after the ordinance change thus waived his rights to that second caregiver on the parcel. The applicant isn't legally permitted to have two marihuana caregivers on one parcel now. The marijuana license grant went through a fair selection process almost 2 years ago and wasn't contested. A new round of a third license is awaiting approval by City Council. Assistant City Attorney Burns mentioned that any new business that legally moved into the city with a caregiver designation will not be able to have more than one caregiver license per parcel and this would be granting an exception no other business can take advantage of.

Attorney Jan Rubinstein stressed that this is a unique situation because the one parcel is located just west of the Green Zone. His client has invested money in building out the property to include security, sprinklers, water devices and lighting. It is not likely there will be a slew of new applicants because there are no additional legal nonconforming uses in this area and none with the proximity of the overlay district.

Applicant Walid Abbod added that when the property was bought in 2019, he was advised to apply for one caregiver license first and due to Covid the City Offices were closed for months at a time. After the approval of the first caregiver license he returned to apply for a second caregiver license but was advised of an ordinance change in January 2020. Mr. Abbod had plans to expand his business from caregiver to a grow operation and obtain a license through the State of Michigan. He responded to Ms. Marentette's inquiry that he originally inquired about applying for multiple caregiver licenses and was advised to complete one at a time. Mr. Abbod applied for a site plan review for only 47 E. 10 Mile Road and for a single caregiver license.

City Planner Lonnerstater recommends modifying the motion to state "this is not a recommendation, it is the final action."

Mr. Oglesby commented that financials are not considered in the motions, however, setting a precedent and the effect of properties in the area are.

The City Planner's Staff Report is incorporated into the minutes:

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### **REQUEST**

The petitioner, *Walid Abbod*, requests a use variance from Section 10.350(c), *Caregiver Marihuana Grow Overlay District requirements*, of the Zoning Ordinance. The petitioner requests a variance to allow for the operation of (1) additional registered primary marihuana caregiver at 45/47 E. 10 Mile Road (tax map # 44-25-24-355-018), zoned M-1, Light Industrial. One (1) existing marihuana caregiver currently operates on the property. If

granted, the use variance would permit two (2) caregiver operations on site. **NOTE:** The petitioner's request does not constitute an appeal of an administrative decision.

### **BACKGROUND INFORMATION**

Per the Caregiver Marihuana Grow Overlay District, Section 10.350 of the Zoning Ordinance, a registered primary caregiver shall not cultivate medical marihuana at a parcel located outside of the Caregiver Marihuana Grow Overlay District. Further, not more than one registered primary caregiver shall be permitted to operate at any one parcel located within the Caregiver Marihuana Grow Overlay District.

The Caregiver Marihuana Grow Overlay District ordinance went into effect on July 13th, 2020. Prior to the effective date of the ordinance, the petitioner applied for and received site plan approval for a marihuana caregiver location and subsequently received an approved Certificate of Occupancy for one (1) caregiver on the property.

Based on the Caregiver ordinance and the associated overlay district map (overlay district boundaries depicted in green on the map below), the subject property is not located within the boundaries of the Caregiver Marihuana Grow Overlay District. Therefore, the existing single caregiver is a legal non-conforming use on the property.



The petitioner's variance request to allow for one (1) additional caregiver operation on the subject property is considered a use variance as new caregivers are not permitted on the property given its location outside of the boundaries of the Caregiver Marihuana Grow Overlay District.

### **VARIANCE FINDINGS**

The petitioner's variance request is to allow for a use not permitted within the underlying zoning district of the property (medical marihuana caregiver). Note that the petitioner has not appealed any administrative decision made by staff.

Based on the *Rules of Procedure for Use Variance Applications* adopted at the ZBA meeting of July 2nd, 1998, the Zoning Board of Appeals may grant use variances upon the petitioner's demonstration that all four of the following criteria are satisfied:

**1) Applicant's property cannot be used for the purposes permitted in the zoning district.**

*Staff Finding:* While the property is not located within the boundaries of the Primary Caregiver Marihuana Grow Overlay District, staff finds that the property's underlying zoning of M-1, Light Industrial, permits a range of by-right uses such as, but not limited to, professional offices, medical offices, incubator workspaces, warehousing establishments, and light manufacturing establishments. Staff finds that the petitioner and property owner could reasonably utilize the subject property for one or more of the by-right or special approval uses permitted in the M-1 zoning district.

**2) Applicant's plight is due to unique circumstances peculiar to his property and not to general neighborhood conditions.**

*Staff Finding:* The property is not located within the boundaries of the Primary Caregiver Marihuana Grow Overlay District. Therefore, primary caregivers are not a permitted use on the property. The existing single caregiver on site was approved prior to the adoption of the caregiver overlay district ordinance, and is therefore a legal non-conforming use. Property owners with parcels located within the boundaries of the caregiver overlay district are permitted a maximum of one (1) caregiver operation per parcel. Staff finds that the petitioner's request for an additional caregiver goes above and beyond the rights granted to adjacent properties within the overlay district and is not due to unique circumstances peculiar to the property.

**3) Applicant's suggested use would not alter the essential character of the area.**

*Staff Finding:* The petitioner's request for an additional caregiver would afford the property owner a privilege (two caregivers on one parcel) not granted to properties located legally within the Caregiver Marihuana Grow Overlay District. Staff finds that the increased intensity of grow operations on site, as proposed, could have the effect of altering the character of this stretch of Ten Mile Road.

**4) Applicant's problem has not been self-created**

*Staff Finding:* The petitioner's use variance request is the result of a desire to operate two caregivers on the property as opposed to a use permitted in the M-1 district. Therefore, staff finds that the variance request is the result of a self-created problem. In addition to the findings listed above, staff finds that the strict application of the Zoning Ordinance would not place an undue hardship upon the owner of the subject property and that a variance, if granted, would have the effect of impairing the intent and purpose of the Zoning Ordinance.

Additional procedures for reviewing use variance cases are contained in Sections 10.804 and 10.805 of the Zoning Ordinance and the *Rules of Procedure for Use Variance Applications*, all listed at the end of this report.

The SPRC considered the use variance request at their April 20th, 2022. The SPRC recommends denial of the variance as the petitioner's request does not satisfy the rules of procedures of use variance applications, nor the variance criteria of Section 10.804(2) and Section 10.805 of the Zoning Ordinance.

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Motion by Ms. Holder, seconded by Vice-Chair Thompson, to **deny** the applicant's request for a use variance to allow two (2) marihuana caregivers to operate on one parcel contrary to current ordinance requirements based upon the Applicant's failure to satisfactorily demonstrate all four of the criteria for the Rules of Procedure for Use Variance Applications, which are: 1) Applicant's property cannot be used for the purposes permitted in the zoning district; 2) Applicant's plight is due to unique circumstances peculiar to his property and not to general neighborhood conditions; 3) Applicant's suggested use would not alter the essential character of the area; and 4) Applicant's problem has not been self-created. Additionally, the ZBA finds that the applicant has not complied with Section 10.804(2) of the City's Zoning Ordinance to prove that there is an exceptional topographic condition or other extraordinary or exceptional condition that provided an undue hardship on the property owner, nor Section 10.805 of the Zoning Ordinance which requires the variance not to be a detriment to the public good or impair the intent and purpose of the City's ordinances.

Yeas: L. Corbett, Holder, Kehoe, Marentette, Olgesby, Thompson, Barragan, Rodgers and Kimble

Nays: None

Absent: Aaron and Ott

**Motion Carried.**

#### **22-14. Case # PZBA 22-05: 1900 E. 14 Mile Road**

REQUEST: The applicant, Joe Ricci, requests a variance from city sign regulations, section 10.511(IV)(C)(4)(c) of the Zoning Ordinance, which limits business signs displayed through glass to a maximum of 25% of the total glass area. The subject property is located at 1900 E. Fourteen Mile Road (tax parcel # 44-25-01-226-038) and is zoned M-1, Light Industrial.

City Planner Lonnerstater overviewed the staff report and explained that petitioner Joe Ricci, at property address 1900 E. 14 Mile Road requests a dimensional variance to cover 100% of the existing window area on the north façade of the building and is zoned M-1, Light Industrial.

Applicant Joe Ricci, owner of Joe Ricci Automotive at 1900 E. 14 Mile Road, presented his application: Mr. Ricci owns six dealerships in six different communities but this is a unique situation in a Light Industrial district and we are discussing retail. He would like to spruce up the industrial building and captivate the attention of potential customers with an artwork of vehicles in different settings. Mr. Ricci shared photos of business with storefronts that make it obvious of their products and services. He shared photos of business that had sign displays that exceed the 25% maximum coverage of the glass area. Mr. Ricci stated that his variance request is a hardship because of the building, it will not be detrimental to public welfare, the public health safety will not be impaired, it will not

decrease the property value, there is no nuisance, and they will not increase any public expenditure.

Chair Kimble opened the public hearing at 8:22 p.m. to hear comments on application #22-05.

There being no comments on application #22-05, Chair Kimble closed the public hearing at 8:23 p.m.

Ms. L. Corbett commented that the artwork has beautiful details, is esthetically pleasing, cuts down on the glare and reduces the applicant's heat and air condition expenses.

Assistant City Attorney Burns recommends an allowance for pasting of items on the exterior windows. He advised a modification to the motion; based upon a preexisting condition of the windows, the commercial property surrounded by an industrial corridor, it doesn't create a public nuisance to the surrounding neighborhood and it is in compliance with Section 10.804(2) of the City's Zoning Code.

City Planner Lonnerstater clarified with Mr. Ricci that the vinyl will be applied on the exterior window glass. Mr. Ricci confirmed. Lonnerstater responded to Chair Kimble's inquiry that existing window coverings exceeding the ordinance would be a code enforcement issue.

Mr. Ricci explained the safety glass has an air film in it that may have condensation and reflectiveness will be reduced with the artwork on the outside of the window. He responded to Ms. Marentette that the windows are completely transparent.

Ms. Holder asked if the coverage could be less than 75% because the board has always been very cautious about the maximum coverage of the total glass area for sign variances and not setting a precedent.

The City Planner's Staff Report is incorporated into the minutes:

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### **REQUEST**

The applicant, *Joe Ricci*, requests a variance from the maximum sign area requirement for signs displayed through or on glass, Section 10.511(IV)(C)(4)(c). The subject property is located at 1900 E. 14 Mile Road and is zoned M-1, Light Industrial.

### **STAFF ANALYSIS**

Per Section 10.511(IV)(C)(4)(c), total signage placed on the interior window glass of a building shall not cover more than 25% of the total glass area, excluding doors, for that side of the building. The applicant, Joe Ricci, owns an automobile dealership at the subject site and requests a variance to cover 100% of the existing window area on the north façade of the building. The proposed window signage consists of vinyl overlays featuring the images of vehicles for sale.

Based on the renderings provided within the application, the north building façade features seven (7) windows measuring approximately 17.5 square feet each, or a total window area



of approximately 122.5 square feet. Per the 25% requirement, the applicant may display a maximum window sign area of approximately 30.5 square feet by right. The applicant requests 100% window coverage for signage, equating to a variance request of approximately 92 square 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 does not find exceptional conditions pertaining to the subject property. The property contains an area of approximately 4 acres, which is generally consistent with industrially-zoned properties along 14 Mile Road. The building is set back approximately 50 feet from the 14 Mile Road right-of-way, which is generally consistent with adjacent buildings along this stretch 14 Mile Road. Staff notes that the 25% maximum window coverage standard applies to all commercially-zoned properties within Madison Heights, including the B-1, B-2, B-3, O-1, M-1 and M-2 districts.

***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 signage regulations would not result in practical difficulties for the owner of this property. The applicant is afforded opportunities for ground signs, wall signs, and window signs per the Zoning Ordinance consistent with other businesses within commercially-zoned properties in the City.

**In addition to the findings listed above, staff finds that the requested variance is not the minimum variance necessary and is a direct result of the actions of the applicant.**

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

The SPRC considered the variance request at their April 20th, 2022 meeting. The SPRC recommends denial of the variance due to a lack of a practical difficulty and a finding that the variance request is due to an action made by the applicant.

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Motion by Ms. L. Corbett, seconded by Ms. Kehoe, to **APPROVE** the applicant's request for a variance of 92 square feet to install 100% coverage of the building's frontage windows with an exterior placed window decorative coating based upon the preexisting placement of the windows within the building prior to the Applicant's ownership, the uniqueness of the

parcel's use and location as a commercial property within an industrial corridor of the City, that the variance would not negatively impact surrounding parcels, and the variance resolves a practical difficulty that had created a hardship for the landowner in compliance with Section 10.804(2) of the City's Zoning Code. Further, the variance request does not create a substantial detriment to the public good or substantially impair the purpose of the ordinance in compliance with Section 10.805.

Yeas: L. Corbett, Holder, Kehoe, Marentette, Olgesby, Thompson, Barragan, Rodgers and Kimble

Nays: None

Absent: Aaron and Ott

**Motion Carried.**

## **22-15. Adoption of ZBA Bylaws.**

City Planner Lonnerstater clarified that the Zoning Ordinance requires all boards to adopt rules of procedure. As such, staff presented draft ZBA bylaws for consideration. Planner Lonnerstater reviewed the delinquencies policy. The departments make quarterly reports to the City Council who appoints or accepts resignations for members on the various boards.

Assistant City Attorney Burns explained the City is going through an accreditation process through the Redevelopment Ready Communities program and that one of the criteria's is to be in compliance with our third party review of operating procedures.

Mr. Oglesby confirmed that the rules and procedures are being put in legal form.

Ms. Holder understands the importance having the rules and procedures in place because this board is self-governed and grants variances to applicants. However, additional time to review the draft bylaws is requested.

Motion by Ms. L. Corbett, seconded by Mr. Oglesby, to **postpone** the adoption of the ZBA Bylaws to the next meeting.

Yeas: L. Corbett, Holder, Kehoe, Marentette, Olgesby, Thompson, Barragan, Rodgers and Kimble

Nays: None

Absent: Aaron and Ott

**Motion Carried.**

## **22-16. Public Comment: For items not listed on the agenda**

Seeing no one wished to comment, Chair Kimble opened and closed the public comment at 8:40 p.m.

## **22-17. Adjournment.**

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

Yeas: L. Corbett, Holder, Kehoe, Marentette, Olgesby, Thompson, Barragan, Rodgers and Kimble

Nays: None

Absent: Aaron and Ott

**Motion Carried.**

***There being no further business, Chair Kimble, adjourned the meeting at 8:41 p.m.***

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Phommady A. Boucher  
Clerk of the Board

DRAFT



# MEMORANDUM

Date: May 26<sup>th</sup>, 2022  
 To: City of Madison Heights Zoning Board of Appeals  
 From: Matt Lonnerstater, AICP – City Planner  
 Subject: Sign Setback Variance (Ground Sign)  
 PZBA 22-06; 30031 Dequindre Rd.

## REQUEST

The applicant, *Hudson Madison LLC d/b/a The Reserve at Red Run*, requests a variance from the minimum ground sign setback requirement of **Section 10.511(IV)(C)(3)**. The subject property is located at 30031 Dequindre Road and is zoned O-1, Office district.

A senior living facility known as ‘The Reserve at Red Run’ is currently under construction on the subject site. Per Section 10.511(IV)(C)(3) of the Zoning Ordinance, ground signs within the O-1 district shall be set back from the front property line a minimum of one-half the setback of the building. Based on the approved site plan for the facility, the principal building is set back approximately 63 feet from the front property line, requiring a minimum ground sign setback of 31.5 feet. Due to the location of the parking lot in front of the building and the narrow width of the approved front yard greenbelt, the applicant proposes a ground sign setback of 1 foot from the front property line, resulting in a variance request of **30.5 feet**.

The ground sign is proposed within a ten-foot wide landscape strip located between the front property line and the parking lot. The proposed sign is 5 feet tall and 8 feet wide (40 square feet) and satisfies the dimensional standards of the O-1 district. The sign is not proposed within any required sight-distance triangles. As proposed, the sign will be designed to contain a brick veneer and decorative limestone caps.

## 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 legal sign placement on the property is limited due to the combination of a fairly large building setback, shallow front landscape strip, and restrictive sign setback standards. Based on the sign setback standard and 63-foot building setback, a ground sign could not be placed within the front landscape strip adjacent to Dequindre Road under existing zoning ordinance regulations. Staff finds that the required 31.5 foot ground sign setback standard would likely be impractical for the property owner.

- ***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 approval of the requested sign setback dimensional variance would grant the property owner a property right similar to that possessed by other commercial properties along Dequindre Road and would not result in a substantial detriment to the public good. Further, staff finds that the requested variance, if granted, would not impair the intent and purposes of the Zoning 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**

The SPRC considered the variance request at their May 25<sup>th</sup>, 2022 meeting and stated no objections.

#### **ZBA ACTION**

**Any ZBA motion should include findings of fact relating to the variance criteria listed in Sections 10.804(2) and 10.805.** 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.

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#### **CODE REFERENCES**

##### ***Sec. 10.511(IV)(C)(3) – Sign Regulations – O-1 Office District***

(a) Ground sign: Each office development shall be permitted one ground sign.

1. *Not over eight feet maximum height or ten feet above the adjacent roadway.*
2. *The ground sign must be set back a minimum of one-half of the setback of the building.*
3. *A ground sign under this section is not to exceed 0.5 square foot per each lineal foot of lot frontage to a maximum of 48 square feet in area.*
4. *No sign shall be located closer than 30 feet to any property line of an adjacent residential district.*
5. *Individual ground signs for each tenant within an office building shall not be permitted.*

##### ***Sec. 10.804. - Power of zoning board of appeals.***

**(2) Variance.** *To authorize upon an appeal, a variance from the strict applications of the provisions of this Ordinance where by reason of exceptional narrowness, shallowness, shape or area of a specific piece of property at the time of enactment of this 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*

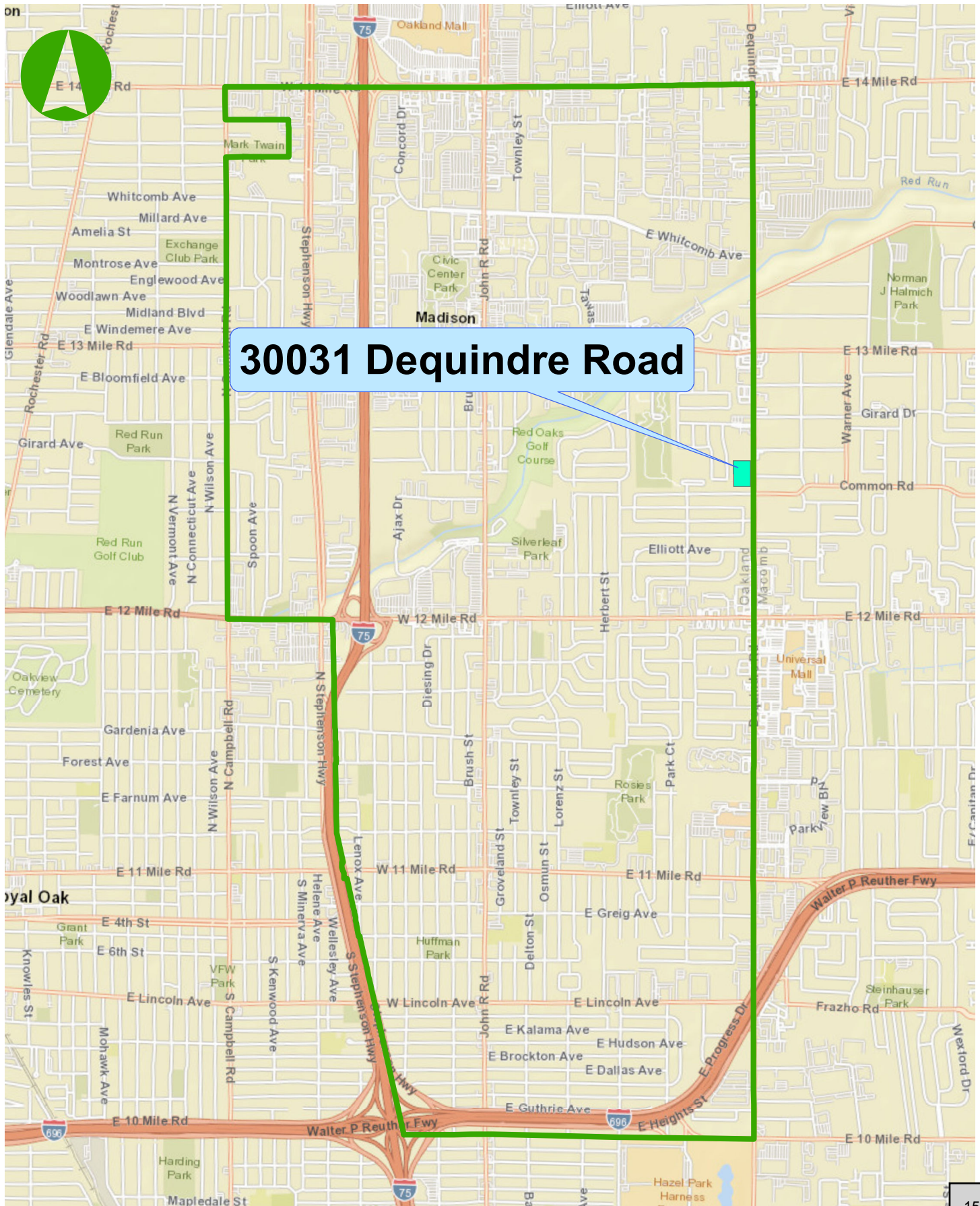
*hardship upon the owner of such property, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purposes of this Ordinance. In granting a variance the board may attach thereto such conditions regarding the location, character and other features of the proposed uses as it may deem reasonable in furtherance of the purpose of this Ordinance. In granting a variance, the board shall state the grounds upon which it justifies the granting of a variance.*

**Sec. 10.805. - Standards.**

*Each case before the city council, zoning board of appeals or plan commission shall be considered as an individual case and shall conform to the detailed application of the following standards in a manner appropriate to the particular circumstances of such case. All uses as listed in any district requiring approval for a permit shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is situated and will not be detrimental to the orderly development of adjacent districts. Consideration shall be given to the following:*

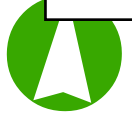
- 1) The location and size of the use.*
- 2) The nature and intensity of the operations involved in or conducted in connection with it. (See section 10-319(4).)*
- 3) Its size, layout and its relation to pedestrian and vehicular traffic to and from the use.*
- 4) The assembly of persons in connection with it will not be hazardous to the neighborhood or be incongruous therewith or conflict with normal traffic of the neighborhood.*
- 5) Taking into account, among other things, convenient routes of pedestrian traffic, particularly of children.*
- 6) Vehicular turning movements in relation to routes of traffic flow, relation to street intersections, site distance and the general character and intensity of development of the neighborhood.*
- 7) The location and height of buildings, the location, the nature and height of walls, fences and the nature and extent of landscaping of the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.*
- 8) The nature, location, size and site layout of the uses shall be such that it will be a harmonious part of the district in which it is situated taking into account, among other things, prevailing shopping habits, convenience of access by prospective patrons, the physical and economic relationship of one type of use to another and related characteristics.*
- 9) The location, size, intensity and site layout of the use 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.*



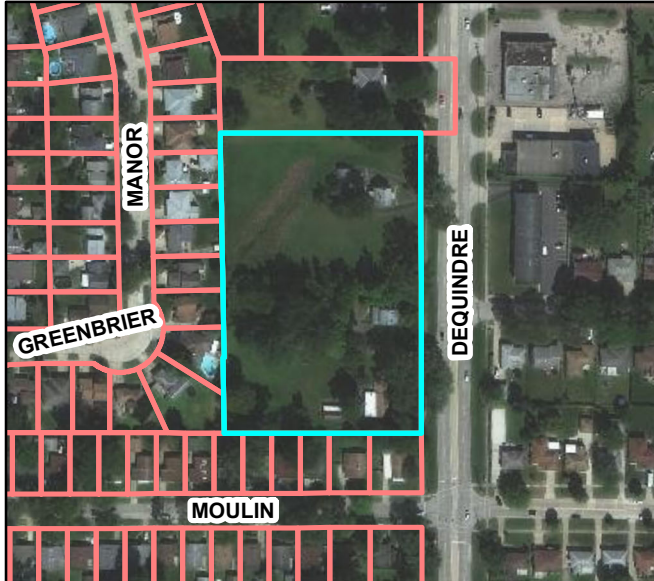


# Site Address: 30031 Dequindre Road

[Click for Maps](#)

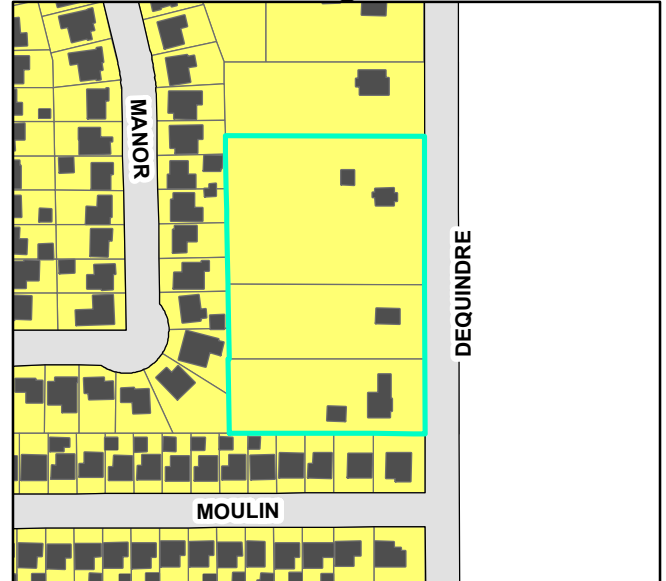


Aerial



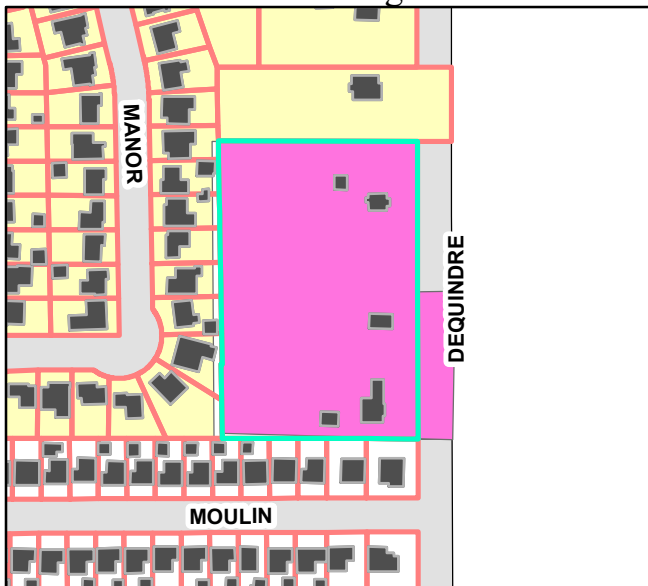
- 30031 Dequindre Road
- Parcels

Existing Land Use



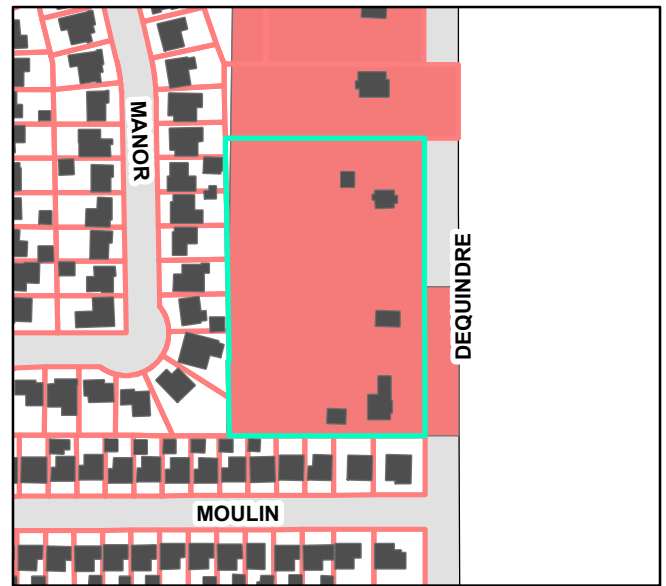
- 30031 Dequindre Road
- Parcels
- Buildings
- Vacant
- Single And Two Family
- Office
- Commercial
- Industrial
- Public

Zoning



- 30031 Dequindre Rd
- Parcels
- Buildings
- R-3 Residential
- R-1 Single Family House
- O-1 Office

Future Land Use

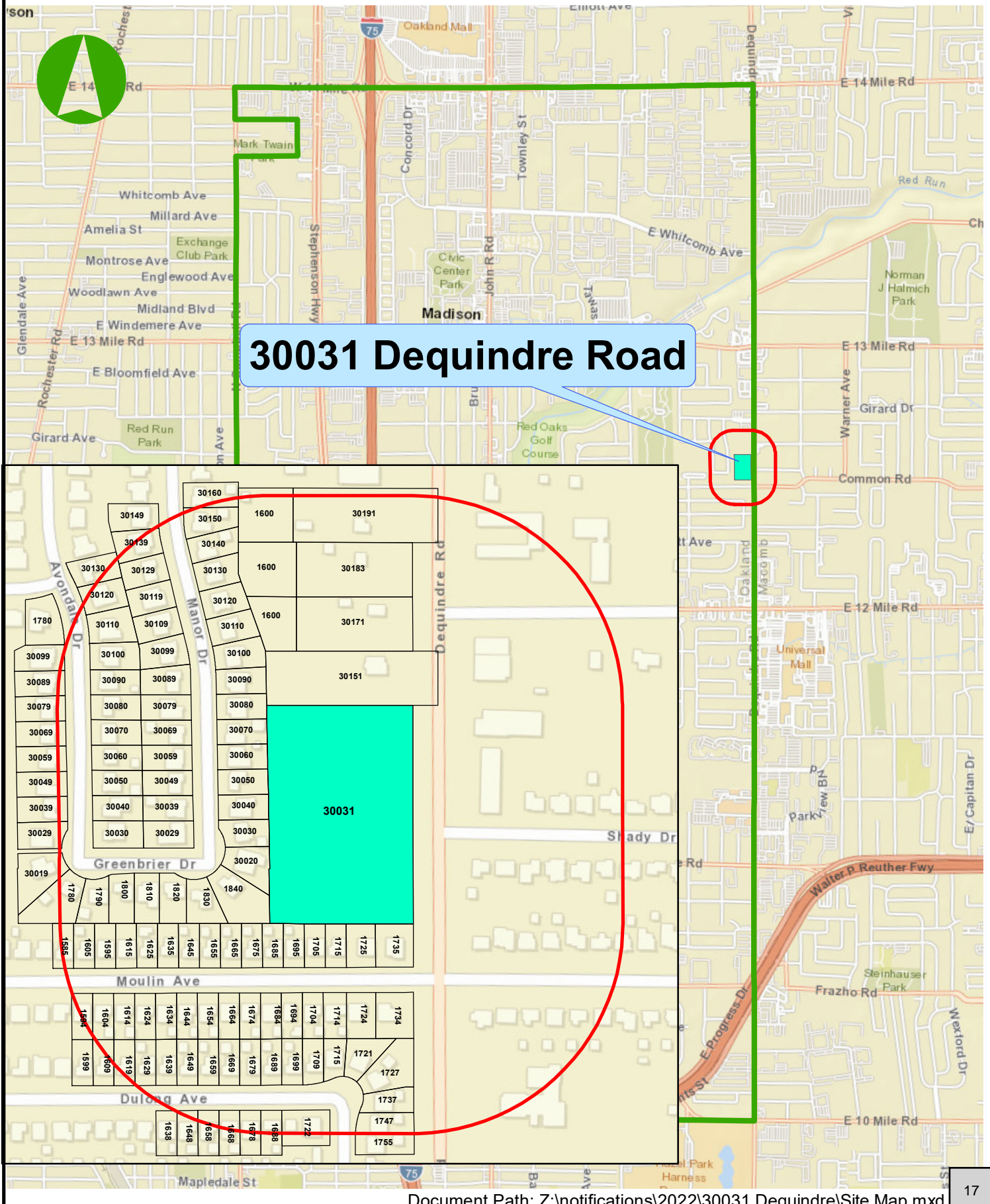


- 30031 Dequindre Rd
- Parcels
- Buildings
- Single Family
- Multiple Family
- Office
- Commercial
- Industrial
- Public and Schools
- Recreation
- Conservation
- Mixed Use Innovation



# ZBA CASE: 22 - 06

## BUFFER- 500 FT



## NOTICE OF PUBLIC HEARING

Notice is hereby a Meeting of the Madison Heights **Zoning Board of Appeals** will be held in the **City Council Chambers** of the Municipal Building at **300 W. 13 Mile Road**, Madison Heights, Oakland County, Michigan 48071 on **Thursday, June 2<sup>nd</sup>, 2022, at 7:30 p.m.** to consider the following requests:

- 1. Case # PZBA 22-06: 30031 Dequindre Road**  
REQUEST: The applicant, Hudson Madison LLC, requests a variance from Section 10.511(IV)(C)(3) of the Zoning Ordinance pertaining to minimum ground sign setbacks.

The subject property is located at 30031 Dequindre Road (tax parcel # 44-25-12-280-035) and is zoned O-1, Office.

The applications and any supporting documents can be viewed during regular business hours at the Community & Economic Development Department. In addition, the agenda item can be viewed online at [www.madison-heights.org](http://www.madison-heights.org) in the Agenda Center after 4:00 p.m. on Friday before the meeting.

If you are unable to attend the meeting, you can send your comments via email to: [MattLonnerstater@madison-heights.org](mailto:MattLonnerstater@madison-heights.org) and your comment will be read into the record at the meeting. Written comments may also be mailed prior to the meeting to 300 West Thirteen Mile Road, Madison Heights, Michigan, 48071. All comments will be heard at the meeting.

CITY CLERK'S OFFICE  
(248) 583-0826





## CITY OF MADISON HEIGHTS ZONING BOARD OF APPEALS APPLICATION

Item 2.

Application No.:

PZ-BASS-0006

Date Filed:

5-10-22

(This application must be typed)

SUBMIT TWO ORIGINAL COPIES

1. **Petitioner:** Name: The Reserve at Red Run  
Address: 30031 Dequindre Road  
City: Madison Heights State: MI Zip: 48071  
Telephone: (248) 540-9300 Fax: \_\_\_\_\_  
Email: jbuck@cypresspartners.biz
2. **Petitioner's Interest in Property:** Business Operations
3. **Property Owner:** (Attach list if more than one owner)  
Name: Hudson Madison LLC  
Address (Street): 280 W. Maple Rd, Suite 230  
City: Birmingham State: MI Zip: 48009  
Telephone: (248) 540-9300  
Email: jbuck@cypresspartners.biz
4. **Property Description:**  
Address: 30031 Dequindre Road  
Tax Parcel #: 44 - 25 - 12 - 280 - 035  
Legal Description - Attach if metes and bounds description.  
If in a subdivision: Lot #: \_\_\_\_\_  
Subdivision name: \_\_\_\_\_  
Lot size: 4.11 Acres  
Size of proposed building or addition: \_\_\_\_\_
5. **Present Zoning of Property:** O-1 Office **Present Use:** Senior Housing
6. **Action Requested:** (Check the appropriate section and attach response on separate sheets)  
☐ **APPEAL OF AN ADMINISTRATIVE DECISION (Administrative Review)**  
The applicant requests the Board of Appeals to reverse/modify the \_\_\_\_\_  
decision/interpretation of Article \_\_\_\_\_, Section \_\_\_\_\_. The decision should be  
reversed/modified because: (On a separate sheet describe in detail the nature of the problem, the  
reason for the request and the desired remedy)

PAGE 2

## ZONING BOARD OF APPEALS APPLICATION

6. **Action Requested:** (Continued) (Check the appropriate section and attach response on separate sheets)

☒ **VARIANCE**

Request is hereby made for permission to erect ☒ alter ☐ convert ☐ or use ☐ a  
monument sign for new under construction senior living community.

Contrary to the requirements of Section(s) 10.511.(IV).(C).(3).(a).2 of the Zoning Ordinance  
\_\_\_\_\_ of the Zoning Ordinance  
\_\_\_\_\_ of the Zoning Ordinance

The following questions must be answered fully on a separate sheet of paper:

- A. Clearly explain the variance desired and how the proposed building and/or use is contrary to the Zoning Ordinance.
- B. Explain the special conditions and circumstances that exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district. (Note: Your district includes all areas of the City sharing a zoning designation with your property. If your zoning classification were B-1 (Local Business) your district would include all City lands zoned B-1.)
- C. Explain why the literal interpretation of the provisions of this ordinance deprives you of rights commonly enjoyed by others in the same zoning district.
- D. Did the special conditions and/or circumstances result from your actions?
- E. Can you use the property in a manner permitted by the Ordinance if a variance is not granted? Is this the minimum variance you need to use the property in the way you want?
- F. Will granting the variance change the essential character of the area?

☐ **TEMPORARY PERMIT**

Applicant is requesting a Temporary Use ☐ and/or a Temporary Structure ☐

Describe in detail the proposed use or structure and the length of time requested.

☐ **INTERPRETATION OF ORDINANCE LANGUAGE IN SECTION** \_\_\_\_\_

Describe in detail the nature of the requested interpretation.

☐ **PUBLIC UTILITY BUILDING**

Describe in detail the proposed use or structure.

☐ **OTHER ACTION**

Describe in detail action requested.

7. **CASE HISTORY**

Have you been denied a permit for a building, sign or use on this property? Yes ☐ No ☐

Has there been any previous appeal involving these premises? Yes ☐ No ☐

(If yes, provide character and disposition of previous appeals.)

PAGE 3

# **ZONING BOARD OF APPEALS APPLICATION**

Application No.:

P2BA22-0786

Applicant(s) and property owner(s) hereby consent to city staff, board and commission members, and contractors to access the property for purposes of evaluating the site for the requested action(s).

**FOR THE OWNER:**Signature Jeffrey BuckPrinted Name Jeffrey BuckDate 5-10-2022**FOR THE APPLICANT IF NOT THE OWNER:**

Signature \_\_\_\_\_

Printed Name \_\_\_\_\_

Date \_\_\_\_\_

Note: A notarized letter of authority or a power of attorney may be substituted for the original signature of the owner.

Notices are to be sent to the Applicant ☐ Owner ☒

**ATTACHED HERETO, AND MADE PART OF THIS APPLICATION, ARE THE FOLLOWING:** (All required items must be submitted with this application)

- ☐ 1. Two copies of drawings of Site Plan (no larger than 11"x 17") drawn to scale and containing all necessary dimensions and all features involved in this appeal, including measurements showing open space on abutting properties.
- ☐ 2. Dimensioned elevations of all buildings involved in the requested variance.
- ☐ 3. All required responses to above items.
- ☐ 4. Building permit application if applicable.
- ☐ 5. Letter of authority if applicable
- ☐ 6. Applicable fees:

- A. Variance Review (Single Family) \$300.00
- B. Variance Review (Dimensional) \$400.00 plus \$300 per variance
- C. Use Variance Review \$1,000.00

## **OFFICE USE ONLY**

**APPROVALS**

Approved for hearing by City Attorney \_\_\_\_\_

Approved for hearing by C.D.D. \_\_\_\_\_

Reviewed by Site Plan Committee \_\_\_\_\_

**INTER-DEPARTMENTAL NOTIFICATION**

Community Development Department \_\_\_\_\_

Fire Department \_\_\_\_\_

Department of Public Services \_\_\_\_\_

**ZONING BOARD OF APPEALS**FEE: \$ 750

APPROVED: \_\_\_\_\_

PAID: 5-10-22

DENIED: \_\_\_\_\_

RECEIPT NO. \_\_\_\_\_



## Zoning Board of Appeals Application

**A. Clearly explain the variance desired and how the proposed building and/or use is contrary to the Zoning Ordinance.**

We are requesting a variance to construct a ground sign for the new senior living community, The Reserve at Red Run, along Dequindre Road between 12 Mile & 13 Mile. The zoning ordinance requires a ground sign must be set back a minimum of one-half of the setback of the building. The setback of the building in O-1 is 20 feet, therefore the sign would need to be constructed a minimum of 10 feet from the right of way. We are unable to meet those requirements due to the circulation drive starting 10 feet from the right of way.

**B. Explain the special conditions and circumstances that exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district. (Note: Your district includes all areas of the City sharing a zoning designation with your property. If your zoning classification were B-1 (Local Business) your district would include all City lands zoned B-1.)**

Our building is a new senior living community in Madison Heights. Typically, a community such as ours would not be in an office zoning district. Because the underlying zoning is O-1 it restricts how a ground sign can be constructed, more than the MF, which would allow us to construct the sign in the proposed location. The scale of ROW for Dequindre has also limited the ability of this property that would not otherwise happen with similar properties in the city.

**C. Explain why the literal interpretation of the provisions of this ordinance deprives you of rights commonly enjoyed by others in the same zoning district.**

The ordinance does not take in consideration special uses such as ours. The proposed sign meets all requirements but because of the size and shape of the property, the setback requirements cannot be met. Upon purchasing the property, the ROW line of Dequindre was severely decreased (it was previously from the center of Dequindre). Doing so has decreased the area that we are able to construct the sign in. At the required setback it is unfeasible to construct because it falls within the required circulation drive.

**D. Did the special conditions and/or circumstances result from your actions?**

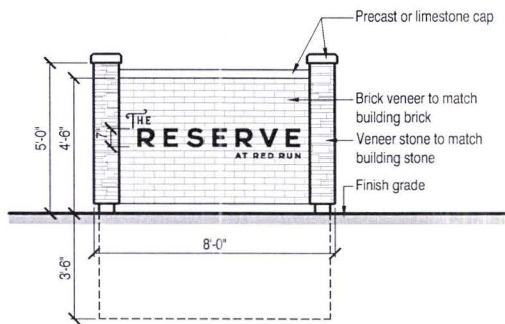
No, the special conditions or circumstances did not result from our actions.

**E. Can you use the property in a manner permitted by the Ordinance if a variance is not granted? Is this the minimum variance you need to use the property in the way you want?**

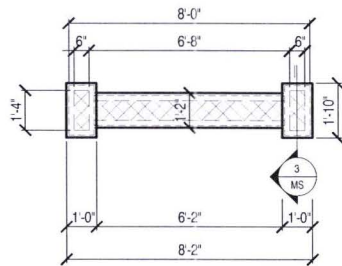
No, we will not be able to construct a ground sign for this senior community project. This is the minimum variance to be able to construct the proper permanent ground sign at the site in order for the residents & prospects to identify the community from Dequindre Road.

**F. Will granting the variance change the essential character of the area?**

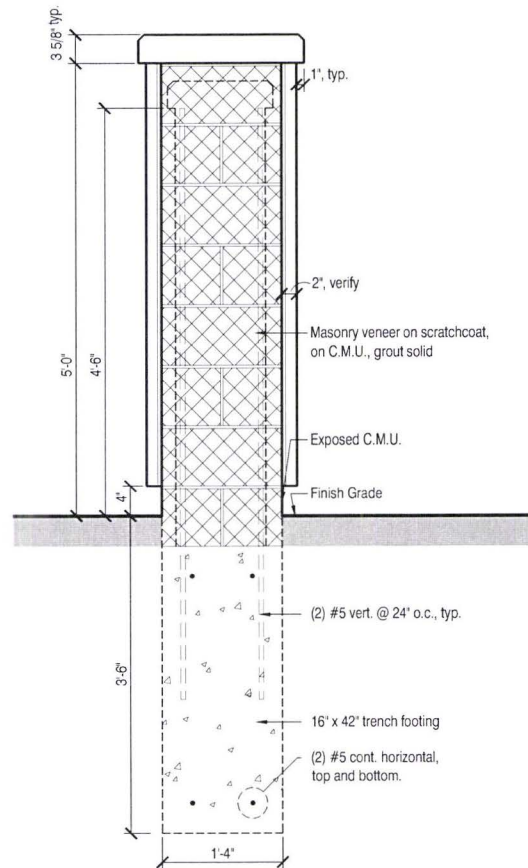
We feel that the granting of the variance will not change the essential character of the area. This type of ground sign would be located in a similar location as the Eastwood Office Center and Edward Swanson & Son Funeral Home to the north.



2 Monument Sign Elevation - Option 2  
MS-1 SCALE: 1/4" = 1'-0"



1 Monument Sign Plan  
MS-1 SCALE: 1/4" = 1'-0"



3 Monument Sign Section  
MS-1 SCALE: 3/4" = 1'-0"

**SHELTER**  
DESIGN STUDIO LLC

104 W. Fourth St., Suite 303  
Royal Oak, Michigan 48067  
T: 248.629.7153 F: 248.629.7154  
www.SHELTERSTUDIOILLC.com

Project  
Reserve at Red Run

Drawing No.: MS-1

Drawing Title  
Monument Sign

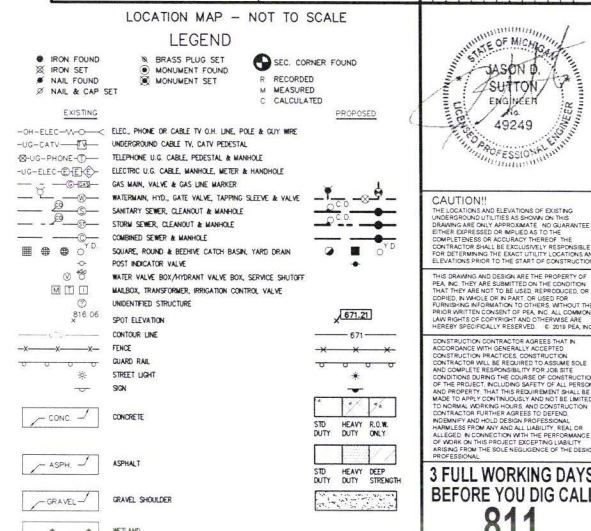
Issued For: Review-DRAFT Date: 04.14.2022





**NOTE:** DEQUINDRE ROAD IS UNDER THE COMBINED JURISDICTION OF THE CITY OF MADISON HEIGHTS AND THE MACOMB COUNTY ROAD COMMISSION. A PERMIT FOR ALL WORK IN THE COURSEWAY OF DEQUINDRE RD. MUST BE OBTAINED FROM EITHER THE CITY OF MADISON HEIGHTS OR THE MACOMB COUNTY ROAD COMMISSION.


**NOTE:**  
PROPOSED SIDEWALK IS TO BE INSTALLED THROUGH THE PROPOSED DRIVE APPROACH. NO RAMPS ARE NECESSARY AND ADA DETECTABLE WARNING TILES ARE NOT REQUIRED.



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 280 W. MAPLE ROAD, SUITE 230  
 BIRMINGHAM, MI 48009

**DIMENSION AND PAVING PLAN**

**PINE VILLAGE OF MADISON HEIGHTS**  
 PART OF THE NE 1/4 OF SECTION 12, T.01N., R.11E  
 CITY OF MADISON HEIGHTS, OAKLAND COUNTY, MICHIGAN

PTS.	JDS	DN	SUR	GWC	P.W.	JPB
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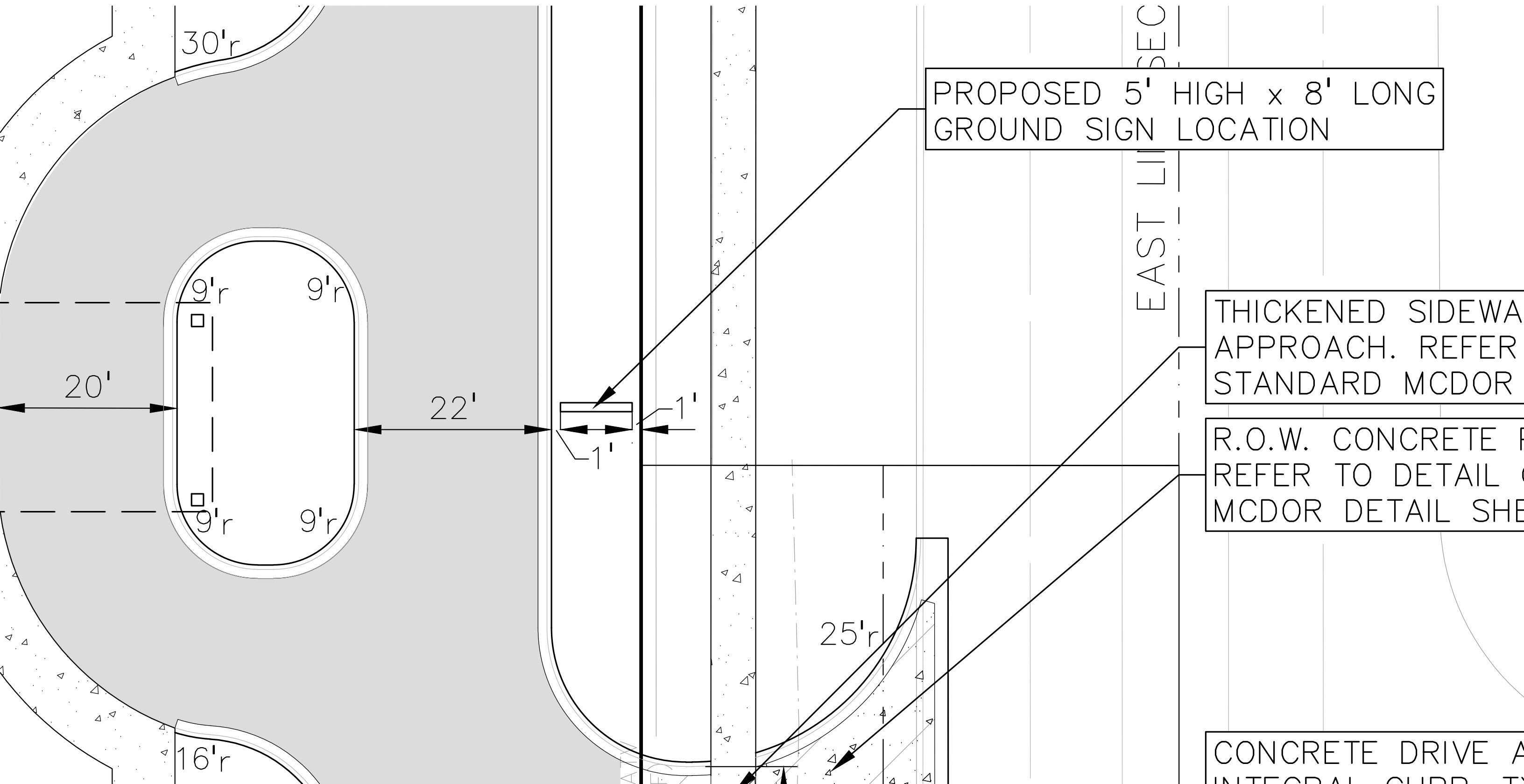
ORIGINAL ISSUE DATE:  
MARCH 13, 2020

PEA JOB NO. 2019-236

SCALE: 1" = 30'

DRAWING NUMBER:  
**C-3.1**







## MEMORANDUM

Date: May 26<sup>th</sup>, 2022  
 To: City of Madison Heights Zoning Board of Appeals  
 From: Matt Lonnerstater, AICP – City Planner  
 Subject: Draft ZBA Bylaws

The Michigan Zoning Enabling Act (*Public Act 110 of 2006, as amended*) states that a local Zoning Board of Appeals may set their own rules of procedure or “by-laws.” Additionally, Section 10.802 of the Madison Heights Zoning Ordinance (*Procedure of Zoning Board of Appeals*) states that, “*the board shall adopt its own rules or procedures and shall maintain a record of its proceedings which shall be a public record.*”

In addition to state and local ordinances, ZBA bylaws are also listed as a required element of the Michigan Economic Development Corporation’s (MEDC) *Redevelopment Ready Communities (RRC)* program, in which the City of Madison Heights participates. City staff was unable to locate any active ZBA bylaws on-record. As such, city staff proposes the attached Zoning Board of Appeals Bylaws to assist board members in running effective ZBA meetings and public hearings.

These draft bylaws aim to provide clarification on the following topics:

- Organizational framework of the ZBA;
- Membership;
- Attendance;
- Duties of officers;
- Meeting schedule and notification;
- In-meeting procedures; and
- Conflicts of Interest

Since the last draft (April, 2022), staff has modified Section 3 (*attendance; delinquency; removal of members; filling of vacancies*) of the draft bylaws to match the City’s Charter. Section 5.3 of the City Charter states that a board member may be removed by City Council, “*if such officer shall miss three (3) consecutive regular meetings of such board or commission, or five (5) meetings in any fiscal year of the city, unless such absences shall be excused by such board or commission and the reason therefor entered in the proceedings of such board or commission at the time of each absence.*” This language has been carried over into the bylaws.

The ZBA may adopt these bylaws, with any suggested changes, via an affirmative vote of at least five (5) members. After adoption, the ZBA may amend the bylaws at any time under the same procedure.

## **BYLAWS OF THE CITY OF MADISON HEIGHTS**

### **ZONING BOARD OF APPEALS**

#### **ARTICLE I – NAME, PURPOSE, POWERS AND DUTIES**

The name of the Board shall be the Madison Heights Zoning Board of Appeals (ZBA). The purpose, objectives, powers, and duties of the Board shall be those as prescribed in the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, and the Zoning Ordinance of the City of Madison Heights.

#### **ARTICLE II – MEMBERSHIP**

##### **Section 1. Selection and Composition**

- A. The Zoning Board of Appeals shall be composed of nine (9) regular members, as appointed by City Council.
- B. The City Council may appoint not more than two (2) alternate members, with full voting rights, who may serve in the absence of regular members. An alternate member may be called on a rotating basis to sit as regular members of the Board in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made.
- C. One (1) elected councilmember may serve on the Zoning Board of Appeals as an ex-officio regular member.
- D. One (1) member of the Zoning Board of Appeals shall serve on the Planning Commission as an ex-officio regular member.

##### **Section 2. Terms of Office and Compensation of Members.**

- A. Unless otherwise noted, the term of each regular ZBA member shall be three (3) years. The term of any ex-officio member shall expire upon the expiration of their term in office, or the expiration of their term upon the ZBA, whichever event is first.
- B. All members of the ZBA shall serve without compensation

##### **Section 3. Attendance; Delinquency; Removal of Members; Filling of Vacancies**

- A. With the exception of ex-officio members, ZBA members may be removed by City Council for insufficiency, delinquency, neglect of duty, or malfeasance. Removals from office shall

be in accordance with Sections 5.3 and 5.4 of the City Charter. In accordance with the City Charter, a ZBA member shall be considered delinquent upon the following:

- i. Unexcused absence from three (3) consecutive regular meetings; or
  - ii. Unexcused absence from five (5) meetings in any fiscal year.
- B. A member who is unable to attend a regular or special meeting shall contact the Secretary as far in advance of the scheduled meeting as possible to request an excused absence and so that that an alternate member may be contacted about participating in the meeting. Excused absences shall be granted by motion and approved with a majority vote at the meeting in which the member is not present. Alternate members do not need to be present at meetings unless they are standing in for the absence of a regular member.
- C. Vacancies occurring otherwise than through the expiration of a term shall be filled for the unexpired term by the City Council.
- D. Any member may resign at any time by giving written notice of such resignation to the Chair in accordance with the Ordinance. The Chair shall promptly notify the Secretary of the ZBA, who shall then notify the City Clerk of the resignation.

### **ARTICLE III – OFFICERS**

#### **Section 1. Annual Election**

At the first regular meeting of each year, the members of the Zoning Board of Appeals shall elect a Chair and Vice-Chair to serve for one (1) year terms. Existing officers shall be eligible for re-election.

#### **Section 2. Chair; Vice Chair**

- A. The Chair shall preside over all meetings of the ZBA, appoint committees, act as the official spokesperson for the ZBA and perform such other duties as ordered by the ZBA or City Council.
- B. The Vice-Chair shall assume the responsibilities and perform the duties of the Chair if the Chair is absent or otherwise unavailable to perform their assigned duty. Ex-officio members shall not serve as Chair or Vice Chair.
- C. Should neither the Chair nor Vice Chair be present at a meeting, a temporary Chair shall be elected by a majority vote of the members present.
- D. In the event the office of Chair becomes vacant, the Vice Chair shall succeed to this office for the unexpired term, and the ZBA shall select a successor to the Vice Chair for the unexpired term.

### **Section 3. Secretary; Minutes**

The City Manager shall designate an employee of the City to serve as Secretary of the ZBA. The Secretary shall provide required administrative, technical and clerical support for the ZBA. The Secretary shall prepare agendas, maintain an attendance record, and maintain a public record of the minutes of each meeting, which shall be filed in the office of the City Clerk.

Minutes shall, at minimum, include a record of attendance, complete restatement of all motions, the record of votes taken, and all conditions or recommendations made on actions taken.

## **ARTICLE IV – MEETING SCHEDULE AND NOTIFICATION**

### **Section 1. Regular Meetings**

- A. The business of the Zoning Board of Appeals shall be conducted at a public meeting held in compliance with the Open Meetings Act. Notice of public meetings shall be given in accordance with all applicable laws. The ZBA may establish reasonable rules and regulations to enable an orderly meeting to minimize the possibility of disruption of the meeting.
- B. The Zoning Board of Appeals shall hold no less than four (4) regular meetings per year. If a regular meeting date falls on a holiday or at a time when a majority of members would be unable to attend, the Board may reschedule the regular meeting to an appropriate date, time, and location.

### **Section 2. Meeting Schedule Notification**

At or before its regular meeting in January, the Board shall adopt its regular meeting schedule for the year, including the time and place the meetings will be held. The meeting schedule shall be publicized through local media or a City publication and shall be posted at City Hall within ten (10) days of the regular meeting in January. Notification of the date, time and location of any special meeting or any change in the scheduling or location of a regular meeting shall be posted at City Hall at least eighteen (18) hours in advance of the meeting. Notification of all meetings of the ZBA shall comply with the Michigan Open Meetings Act, 1976 PA 267, as amended.

### **Section 3. Special Meetings**

Special meetings of the ZBA may be called by action of the Board. Special meetings may also be called by the Secretary if so directed by the Chair, by any other member of the Board in writing, or at the request of the City Manager. Notice of a special meeting shall be provided to each member of the ZBA at least twenty-four (24) hours in advance of the meeting and shall include the purpose of the meeting. The notice shall also be posted at City Hall at least eighteen (18) hours in advance of the meeting.

#### **Section 4. Notice of Public Hearing**

All public hearings held by the ZBA shall be held as part of a regular or special meeting of the ZBA. The ZBA shall fix a reasonable time for the public hearing and shall give due notice thereof in accordance with the City of Madison Heights Zoning Ordinance and Michigan Zoning Enabling Act Public, Act 110 of 2006, as amended.

#### **Section 5. Meeting Cancellation**

The Secretary, with the approval of the Chair, may cancel a regular or special meeting of the ZBA if there is no business to conduct or if it is known that a quorum will not be present at the meeting. Notice of such cancellation shall be provided to each member of the Board and shall be posted at City Hall.

#### **Section 6. Continuation of a Public Hearing**

The ZBA may grant a continuation of a public hearing to a subsequent meeting if one of the following conditions is met: (1) A quorum is not present to vote on the item; or (2) the applicant affirmatively states on the record the desire to continue the appeal prior to the deliberation and vote.

The public hearing shall be continued to the next regular meeting of the ZBA unless an alternative time is agreed to by the ZBA and applicant. The Notice of Public Hearing shall be sent for the new meeting date in accordance Article IV, Section 4 of these Bylaws.

### **ARTICLE V – MEETING PROCEDURES**

#### **Section 1. Quorum**

A quorum for the purposes of conducting any business at a ZBA meeting shall consist of at least fifty percent (50%) of the current membership of the Board.

#### **Section 2. Voting**

All proceedings, decisions, and resolutions of the ZBA shall be initiated by motion. To pass or deny any variance, appeal, or other official action required by the Zoning Ordinance, an affirmative vote of at least a majority of a present quorum of the ZBA is required. Voting shall be by a roll call vote. Except in the case of a conflict of interest, all ZBA members, including the Chair, shall vote on all matters. Voting by proxy shall not occur.

All motions to approve, approve with conditions, or disapprove any request shall state the basis of the motion and the findings upon which the motion is made.

#### **Section 3. Parliamentary Procedure**

Meetings shall generally be conducted in accordance with parliamentary procedures as defined in *Robert's Rules of Order*.

#### **Section 4. Public Participation**

All persons shall be provided the opportunity to address the Board on any issue of interest at each meeting. Such opportunity may be limited to prescribed times on the agenda and, to ensure that equal opportunity is provided to all persons present to address the Board, the Chair may limit the time each person is allowed to speak before the Board on any issue.

#### **Section 5. Public Hearing Procedure**

The order of procedure of a public hearing is recommended as follows:

1. The Chair shall state the name of the case and explain the particulars thereof in brief.
2. The City Planner or their designee shall present the official records, staff report, and staff recommendation in regards to the case.
3. The applicant and/or their representative shall be invited to present their case.
4. The Chair shall declare the public hearing open, and shall direct that all persons present in connection therewith identify themselves by name and address.
5. The Chair may invite final comments from the applicant, at the Chair's discretion.
6. The Chair shall declare the public hearing closed.
7. Discussion by the Board members.
8. Deliberation and Action by the Board.

#### **Section 6. Public Records**

All meetings, minutes, records, documents, correspondence and other materials of the Zoning Board of Appeals shall be open to public inspection in accordance with the Freedom of Information Act, except as may otherwise be provided by law.

#### **Section 7. Public Records; Filing of Decision and Orders.**

The decision of the Zoning Board of Appeals shall be final upon the approval of the meeting minutes. The approved meeting minutes shall serve as the official public record of the ZBA's actions. The Secretary shall maintain the approved meeting minutes and other public records of the ZBA as required.

Decisions and Orders of the ZBA shall be filed in the office of the City Clerk and shall be public record. Copies of final decisions and orders shall also be sent to the applicant and to other interested agencies and departments of the City Government.

### **ARTICLE VI – CONFLICT OF INTEREST**

- A. Before considering an agenda item or casting a vote on a matter which a Zoning Board of Appeals member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the Board. The member shall abstain from

discussion and voting. If such abstention results in loss of quorum, the matter shall be postponed to the next regularly-scheduled meeting, and testimony shall not be heard without a quorum.

- B. When a conflict of interest is declared, the member declaring such conflict of interest shall abstain from participating in deliberations and shall leave the room. A conflict of interest is defined as, but not limited to, the following situations:
1. An immediate family member is involved in any request for which the Zoning Board of Appeals is asked to make a decision.
  2. The Zoning Board of Appeals member has a business or financial interest in the property involved in the request or has a business or financial interest in the applicant's company, agency or association.
  3. The Zoning Board of Appeals member owns or has a financial interest in the neighboring property.
  4. There is a reasonable appearance of a conflict of interest, as determined by the Zoning Board of Appeals member declaring such conflict.

#### **ARTICLE VII – GIFTS**

Gifts shall not be accepted by a member of the ZBA from anyone connected with an agenda item before the ZBA. As used here, gifts shall mean cash, any tangible item, or service.

#### **ARTICLE VIII – AMENDMENT OF BYLAWS**

These Bylaws may be amended at any regular meeting of the ZBA on an affirmative vote of at least five (5) members, provided that the proposed amendment has first been submitted to the ZBA in writing at the previous regular meeting.

---

Adopted by the City of Madison Heights Zoning Board of Appeals on this \_\_\_\_ day of \_\_\_\_\_.

---

ZBA Chairperson

---

ZBA Secretary