



CITY OF MADISON HEIGHTS

COUNCIL CHAMBERS - CITY HALL, 300 W. 13 MILE ROAD

**ZONING BOARD OF APPEALS MEETING - SPECIAL MEETING
AGENDA**

AUGUST 17, 2023 AT 7:30 PM

CALL TO ORDER

ROLL CALL

ADDITIONS/DELETIONS

APPROVAL OF MINUTES

PUBLIC HEARING

1. PZBA 23-10: 29022 Stephenson Hwy.

REQUEST: The petitioner, Todd Gesund – BMW Kar Wash d/b/a Jax Kar Wash, requests four (4) variances from Section 10.326(8) of the Zoning Ordinance, *use-specific standards for auto wash uses*, pertaining to hours of operation, auto wash building setbacks, fencing, and outdoor vacuuming stations. The subject property is located at 29022 Stephenson Highway (tax parcels # 44-25-11-377-015; 44-25-11-377-016; and 44-25-11-377-019), zoned B-3, General Business.

MEETING OPEN TO THE PUBLIC: Items not listed on agenda

UNFINISHED BUSINESS

NEW BUSINESS

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 at least two working days in advance of the meeting. An attempt will be made to make reasonable accommodations.



MEMORANDUM

Report Date: August 8th, 2023
 To: City of Madison Heights Zoning Board of Appeals
 Meeting Date: August 17th, 2023 – Special Meeting
 From: Matt Lonnerstater, AICP – City Planner
 Subject: “Jax Kar Wash” Variances
 PZBA 23-10; 29022 Stephenson Highway

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.

Each variance request is briefly discussed on the following pages.

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 (shown below), 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.

Renderings – “Jax Kar Wash”



Staff believes that the intent behind the hours of operation, setback, and outdoor vacuuming standards is to protect adjacent properties from the adverse impacts of a car wash, such as aesthetics, lighting and noise. However, in this case, staff finds that many of the associated adverse impacts are mitigated based on the site location and proposed site design. The property is adjacent to other regional commercial uses, such as retail, drive-through restaurants, auto repair, and gas stations, and does not directly abut residential property or residential uses. Further, the site is designed in a way which screens the vacuuming stations from 12 Mile Road and Stephenson Highway and allows for the vacuum machinery to be enclosed within a building. Staff finds that the proposed landscaping buffers will provide a better aesthetic around the edge of the site than the required chain link fence.

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 at the end of this report.

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.

ZBA ACTION

Any ZBA motion, including approval and denial, should include findings of fact relating to the variance criteria listed in Sections 10.804(2) and 10.805. Template approval and denial motions are attached for the ZBA's consideration. The ZBA should act on each variance request separately.

In granting a variance, the ZBA may attach conditions regarding the location, character and other features of the proposed use(s) as it may deem reasonable in furthering the purpose of the Zoning Ordinance. **If the ZBA moves to approve the requested variances, staff suggests the following conditions of approval:**

1. *Vacuuming Variance: Vacuums shall be turned off no later than 10 p.m., consistent with the closure of the auto wash tunnel.*
2. *The Landscape Plan submitted with the site plan package shall be substantially consistent with the preliminary plans submitted with the Special Approval and ZBA Variance applications, except for any required modifications placed as conditions of approval.*

CODE REFERENCES

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.*

Sec. 10.326 - B-3 Uses Permissible on Special Approval

- (8) Auto washes:
 - (a) When completely enclosed in a building.
 - (b) An attendant must be on duty and on the premises at all times that such auto wash is in operation. All other times, the building must be locked and safely secured.
 - (c) The time of operation shall be limited between the hours of 8:00 a.m. and 10:00 p.m.
 - (d) 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.
 - (e) Where multiple wash stalls are proposed all auto stacking lanes must be channeled with curbs to each wash stall so as to prevent cross traffic and the minimum stacking space shall be six cars per stall. The minimum amount of stacking space to be provided in all car wash developments shall be equivalent to 20 minutes of full and continuous operation.
 - (f) Buildings must be constructed so as to be enclosed on two sides plus doors on the front and rear of each stall, capable of being locked.
 - (g) All lights used in connection with auto washes shall be shaded so as not to project upon or become a nuisance to adjacent properties.
 - (h) All land used in connection with auto washes is to be paved and drainage provided in accordance with existing ordinances pertaining to parking lots.

- (i) 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.
- (j) Access points are limited to not more than two 20-foot drives. Such drives are to be a minimum of 50 feet apart and ten feet from the exterior lot lines and 35 feet from any intersection right-of-way lines and shall not be constructed so that ingress and egress shall be through residentially zoned areas. Such access points must have the approval of the Madison Heights Police Department to effect that they will not interfere with vehicular traffic nor will they create a safety hazard.
- (k) No steam hose for public use shall be located upon the premises in connection with such auto wash.
- (l) All blowers shall be turned off when not in use in connection with the operation of the car wash.
- (m) It shall be unlawful for any person, firm or corporation or any agent, servant or employee thereof, who while operating an auto wash, to permit or cause to be permitted upon the premises in which the said business is located, a nuisance, by allowing the health, safety or welfare of the community to be impaired.
- (n) It shall be the duty of the licensee, manager, or person in charge of any auto wash, to keep the premises whereon said auto wash is located, together with the parking area and any adjacent area, free from rubbish, waste products and debris.
- (o) It shall be unlawful for any patron of an auto wash or for any other person while parking on or adjacent to the premises to race the motor of any vehicle, to suddenly start or stop any unseemly noise, nuisance or disturbance which shall impair the peace, health or safety of the community.
- (p) Construction of auto wash buildings shall not be permitted if said construction shall require standing or parking on public rights-of-way in connection with the operation of the auto wash.
- (q) All operations must be carried on within the building area, including but not limited to vacuuming, washing and drying.

TEMPLATE MOTIONS

VARIANCE #1 – HOURS OF OPERATION

Approval

Move 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.

Denial

Move to DENY 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 does not meet the criteria for approving a variance contained in Section 10.804 of the Zoning Ordinance. In particular:
 - a. The requested variance does not arise from the presence of an exceptional or extraordinary condition of the subject property; and
 - b. The strict application of the regulations does not result in an exceptional practical difficulty for the business owner; and
 - c. The literal interpretation of the provisions of this ordinance does not deprive the applicant of rights commonly enjoyed by others in the same zoning district; and
 - d. In the absence of the requested variance, the property could be used in a manner permitted by the Zoning Ordinance.

VARIANCE #2 – PROPERTY SETBACKApproval

Move 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.

Denial

Move to DENY 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 does not meet the criteria for approving a variance contained in Section 10.804 of the Zoning Ordinance. In particular:
 - a. The strict application of the regulations does not result in an exceptional practical difficulty for the business owner; and
 - b. The requested variance is not the minimum variance necessary; and
 - c. The requested variance results from the applicant's chosen site plan layout and building footprint; and
 - d. The literal interpretation of the provisions of this ordinance does not deprive the applicant of rights commonly enjoyed by others in the same zoning district.

VARIANCE #3 – CHAIN LINK FENCE

Approval

Move 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.

Denial

Move to DENY 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 does not meet the criteria for approving a variance contained in Section 10.804 of the Zoning Ordinance. In particular:
 - a. The requested variance does not arise from the presence of an exceptional or extraordinary condition of the subject property; and
 - b. The strict application of the regulations does not result in an exceptional practical difficulty for the business owner; and
 - c. The literal interpretation of the provisions of this ordinance does not deprive the applicant of rights commonly enjoyed by others in the same zoning district; and
 - d. In the absence of the requested variance, the property could be used in a manner permitted by the Zoning Ordinance.

VARIANCE #4 – OUTDOOR VACUUMING AND DRYING

Approval

Move to APPROVE the variance application for outdoor vacuuming and hand towel 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.

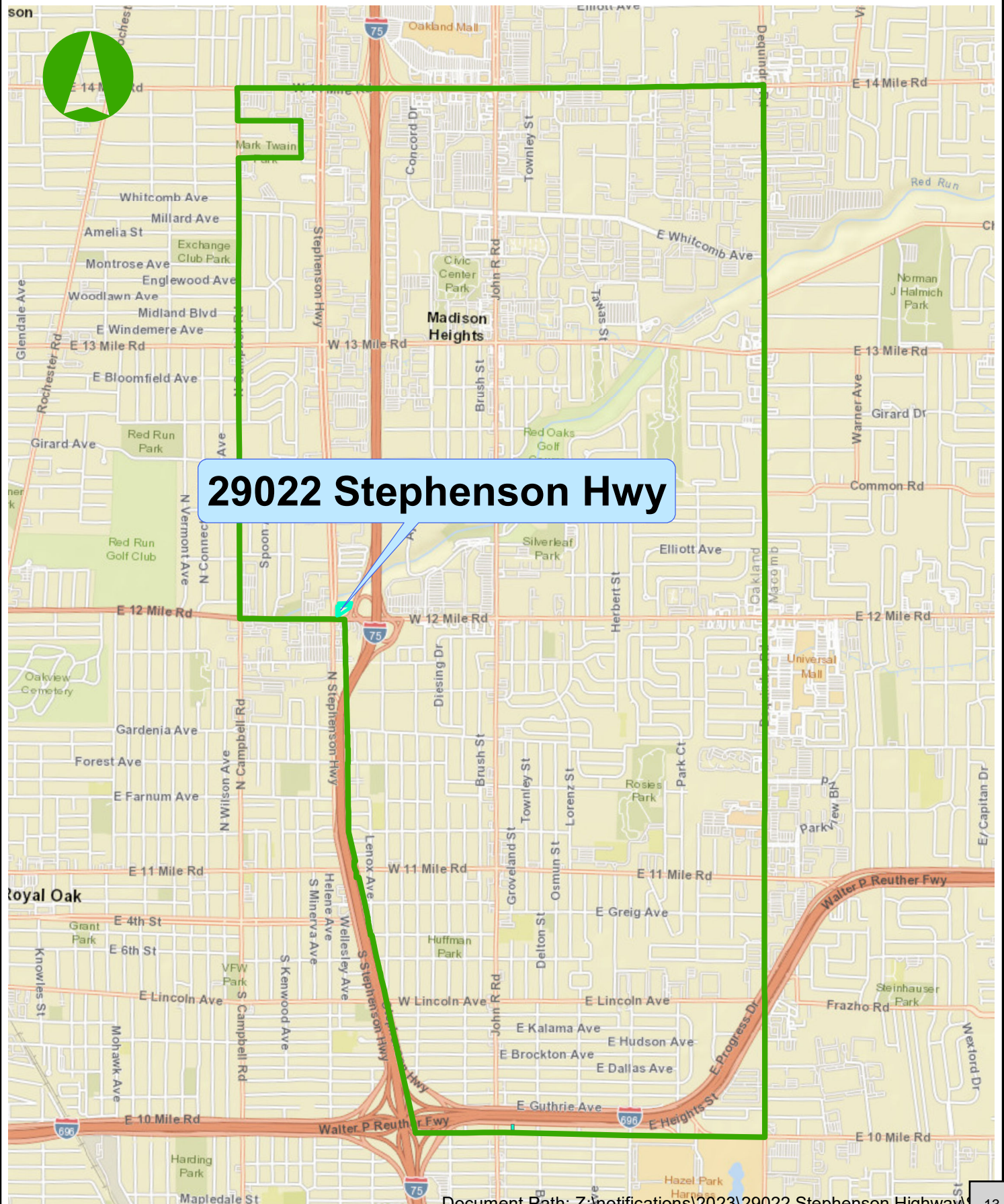
This variance is granted with the following conditions: Vacuums shall be turned off no later than 10 p.m., consistent with the closure of the auto wash tunnel.

Denial

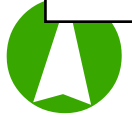
Move to DENY the variance application for outdoor vacuuming and hand towel drying at the subject property, 29022 Stephenson Highway, after the required public hearing, based upon the following findings:

- 1) The variances request does not meet the criteria for approving a variance contained in Section 10.804 of the Zoning Ordinance. In particular:
 - a. The strict application of the regulations does not result in an exceptional practical difficulty for the business owner; and
 - b. The requested variance is not the minimum variance necessary; and
 - c. The requested variance results from the applicant's chosen site plan layout; and
 - d. The literal interpretation of the provisions of this ordinance does not deprive the applicant of rights commonly enjoyed by others in the same zoning district; and
 - e. In the absence of the requested variance, the property could be used in a manner permitted by the Zoning Ordinance.

PZBA 23-10



Site Address: 29022 Stephenson Hwy



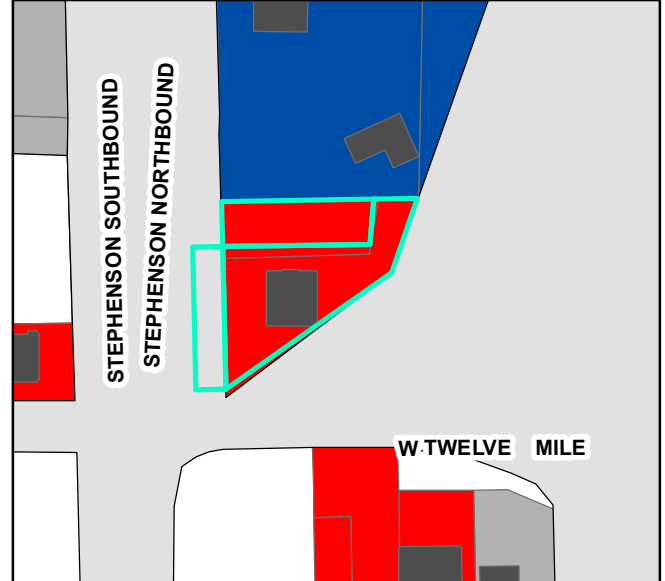
[Click for maps](#)

Aerial



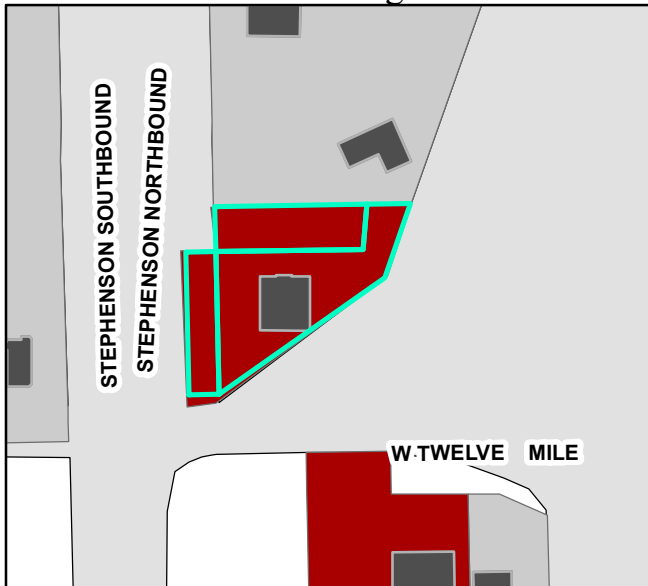
- 29022 Stephenson Hwy
- Parcels

Existing Land Use



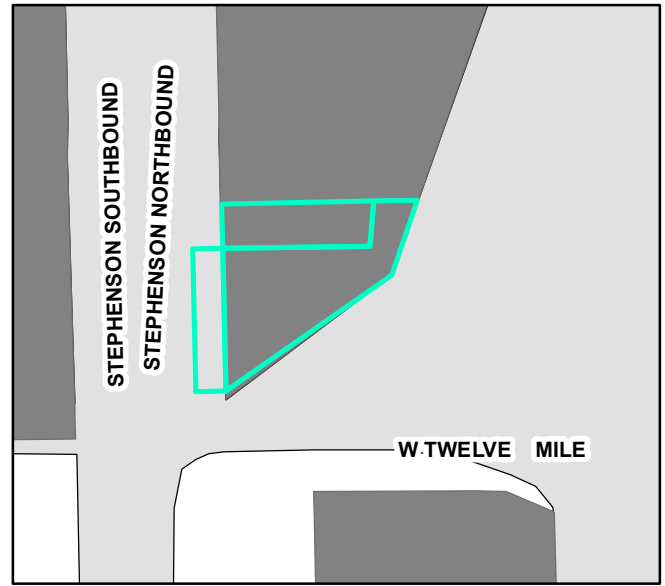
- 29022 Stephenson Hwy
- Commercial
- Buildings
- Industrial
- Parcels
- Public
- Vacant

Zoning



- 29022 Stephenson Hwy
- M-1 Light Industrial
- Buildings
- B-3 General Business
- Parcels

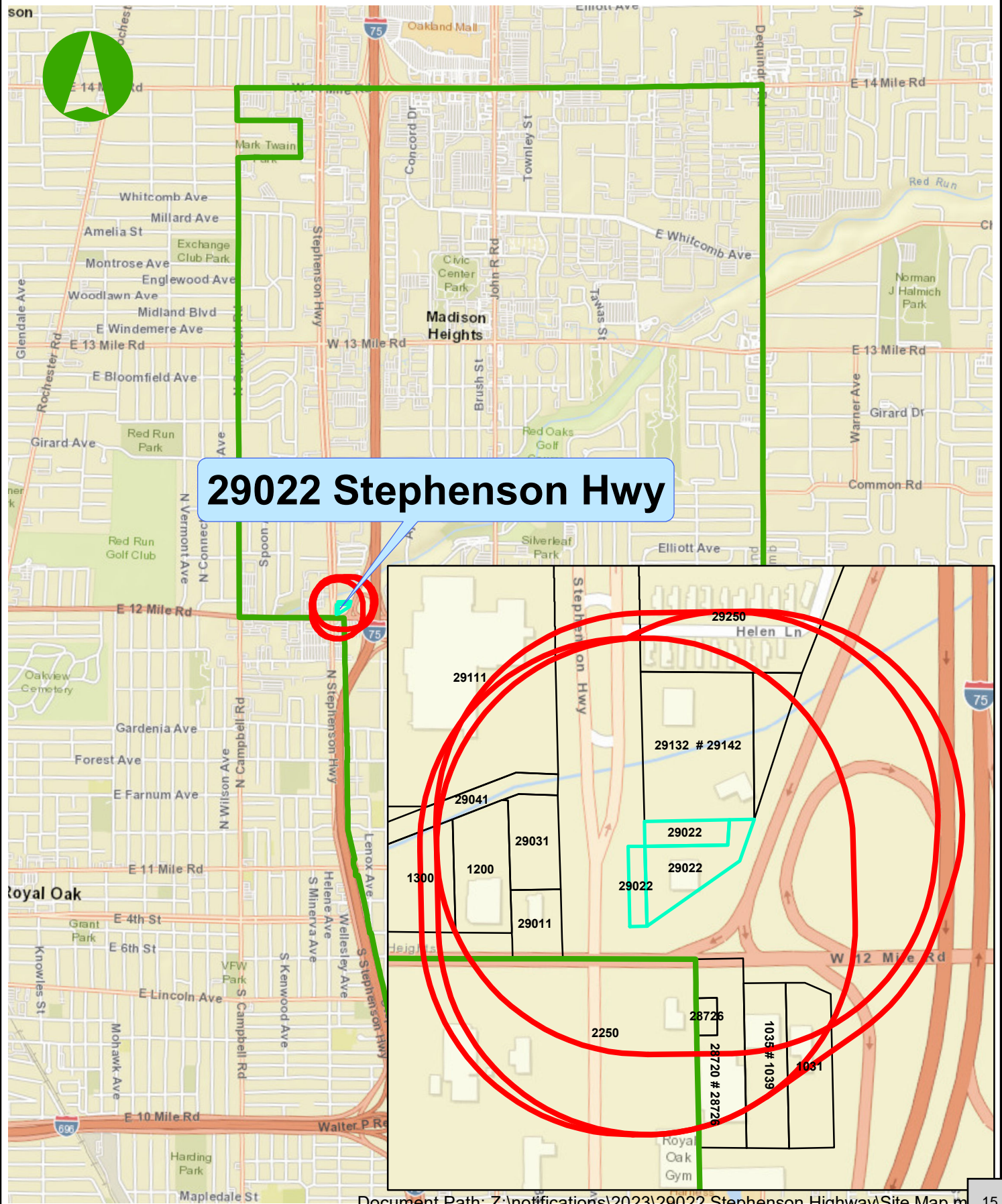
Future Land Use



- 29022 Stephenson Hwy
- Industrial
- Parcels

PZBA 23-10 BUFFER 500 FT

Item 1.





CITY OF MADISON HEIGHTS ZONING BOARD OF APPEALS APPLICATION

Item 1.

Application No.: _____

Date Filed: _____

(This application must be typed)

SUBMIT TWO ORIGINAL COPIES

1. **Petitioner:** Name: Todd Gesund - BMW Kar Wash, Inc., dba Jax Kar Wash
Address: 28845 Telegraph Road
City: Southfield State: MI Zip: 48034
Telephone: 248-514-5565 Fax: N/A
Email: todd@jaxkarwash.net
2. **Petitioner's Interest in Property:** Contract purchaser
3. **Property Owner:** (Attach list if more than one owner)
Name: Sokol & Angjelina Ndrejaj
Address (Street): 29022 Stephenson Hwy
City: Madison Heights State: MI Zip: 48071
Telephone: _____
Email: _____
4. **Property Description:** Address: 29022 Stephenson Hwy.
Tax Parcel #: 44 - - - -.
Legal Description - Attach if metes and bounds description.
If in a subdivision: Lot #: See attached legal.
Subdivision name: _____
Lot size: 1.09 acres
Size of proposed building or addition: +/- 6,200sf
5. **Present Zoning of Property:** B-3 **Present Use:** Restaurant
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)

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
6,200sf drive-through autowash, parking, vacuums, site improvements

Contrary to the requirements of Section(s) 10.326(8)(c) of the Zoning Ordinance
10.326(8)(d) of the Zoning Ordinance
10.326(8)(i)&(q) 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.)

Application No.:

PAGE 3

**ZONING BOARD OF APPEALS
APPLICATION**

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 _____

Printed Name Sokol Ndrejaj

Date _____

**FOR THE APPLICANT IF NOT THE
OWNER:**

Signature _____

Printed Name Todd Gesund

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. PDF
- ☒ 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
 - D. Appeal of Administrative Decision \$400.00

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: \$ _____

APPROVED: _____

PAID: _____

DENIED: _____

RECEIPT NO. _____

**ADDENDUM TO ZONING BOARD OF APPEALS APPLICATION
CITY OF MADISON HEIGHTS, MICHIGAN**

**Applicant: BMW Kar Wash Inc., d/b/a Jax Kar Wash
Parcel ID No.: 25-11-377-015, -016, -019
Date: July 11, 2023**

Jax Kar Wash proposes to construct a modern automatic car wash on the property. This use obtained special approval from the Madison Heights City Council on July 10, 2023. For the development and operation of an automatic car wash on the property, the property is subject to the requirements of Section 10.326(8) of the Zoning Ordinance for specific design/operational standards for automatic car washes. The Applicant would request the following variances from the Zoning Board of Appeals to such Section:

Variance #1 – Opening for Business at 7:00 a.m.

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

Section 10.326(8)(c) requires the time of operation for automatic car washes to be limited between the hours of 8:00 a.m. and 10:00 p.m.

Variance Requested – The Applicant requests a variance to commence operation of the business at 7:00 a.m.

- 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.

Other businesses in the B-3 district are not limited by the hours of operation imposed upon car washes. For example, a fast-food restaurant would not be precluded from opening at 7:00 a.m. for breakfast. The important fact in this case is that there are no nearby residential or commercial neighbors who would be adversely impacted if the car wash is allowed to open at 7:00 a.m.

- 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 Applicant is being deprived of the same rights and opportunities as other businesses in the B-3 district to operate and generate revenue before 8:00 a.m.

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

No, the special conditions are an ordinance requirement, and are not caused by the actions of the Applicant.

- 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?

The economic feasibility of the car wash project requires that it have the opportunity to be open at 7:00 a.m. to service customers on their way to work. Without this variance, the Applicant would be deprived of the ability to achieve an adequate return on its investment in the property.

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

The requested variance will not change the essential character of this area or cause negative impacts upon surrounding property owners. The Property is located in a business district, surrounded by I-75, Twelve Mile Road, Stephenson Highway and the Oakland County Water Resources Commission. There are no residential or commercial neighbors who would be adversely impacted by the car wash opening at 7:00 a.m.

Variance #2 – 10 Foot Building Variance From Twelve Mile Road Right-of-Way

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

Section 10.326(8)(d) requires the building to be set back 20 feet from the Twelve Mile Road right-of-way.

Variance Requested – The Applicant requests a variance to locate the car wash building 10 feet from the Twelve Mile Road 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.

The property shape and configuration is somewhat triangular, with the diagonal side facing Twelve Mile Road and I-75. This right-of-way includes a substantial width of lawn buffer area which is not part of the road infrastructure improvements, providing a substantial setback and buffer from any road improvements, which allows a 10 foot setback to be sufficient. The Property will also have trees and shrubs on that side of the building to further shield it from the adjacent roads. Therefore, the property shape and configuration and the wide open buffer along the I-75 interchange and Twelve Mile Road are special conditions that are peculiar to this parcel, and not other parcels in the same district.

- 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.

Enforcing the 20 foot setback would likely prevent the property from being developed as an automatic car wash because there would be insufficient land area to make the property safe for vehicular traffic on-site, as the parking spaces or drive aisles would be shorter or narrower. At the very least, this condition would cause an on-site vehicle safety hazard if the development is reduced in size to comply with this requirement.

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

The need for the requested variance results from the unusual shape and configuration of the property, not the actions of the Applicant.

- 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?

If the variance is not granted, the property either cannot be used as an automatic car wash, or would cause unsafe vehicular conditions because the drive areas would need to be reduced. The variance requested is the minimum needed to alleviate an unsafe condition and permit the proposed automatic car wash.

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

Granting the variance will not change the essential character of the area, given the existence of the wide road right-of-way being used as a lawn buffer, together with the additional landscaping installed on this side of the building.

Variance #3 – Eliminating Chain-Link Fence Along the Property Boundary

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

Section 10.326(8)(i) requires the erection of a chain-link fence around the property boundary.

Variance Requested – The Applicant requests a variance to eliminate the chain-link fence, and instead install landscaping along the property boundaries.

- 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.

A chain-link fence enclosing the property would be unsightly, and is applicable to car washes, not other businesses within the B-3 district.

- 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 aesthetic value to be realized from landscaping at the property boundaries instead of a chain-link fence would entice potential customers to utilize the site, and would provide a more visually attractive site at this very visible gateway location to the City. The Applicant believes that the City does not desire chain-link fencing in its visible commercial areas, and would instead prefer a landscaping buffer around the property boundary.

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

No, the special conditions result from the ordinance requirement for all car washes, which has been waived for other car washes in the City.

- 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?

The Applicant would not develop the property with an automatic car wash if a chain-link fence surrounding the property was required, due to the poor visual aesthetics of the chain-link fence, which would preclude the installation of the substantial landscaping proposed for the site, and thereby be less inviting to potential customers.

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

Granting of the variance will enhance and improve the essential character of this area, particularly at this very visible gateway location to the City, allowing the property to be surrounded by attractive landscaping instead of a chain-link fence.

Variance #4 - Allowing Vacuums and Hand Towel Drying Outside Building

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

Section 10.326(8)(q) requires that vacuuming and drying be located within the building area.

Variance Requested – The Applicant requests a variance to install 19 vacuums outside the building and to operating hand towel drying of vehicles outside the building.

- 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.

These ordinance requirements are unworkable for modern automatic car wash facilities, as all have self-service vacuums located outside of the car wash building, and many have hand towel drying outside the building as well.

- 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.

Compliance with the ordinance requirement would prevent practically any car wash from being operating within the City, as today's car washes must provide self-serve vacuums and/or hand towel drying outside the building to be competitive in the marketplace.

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

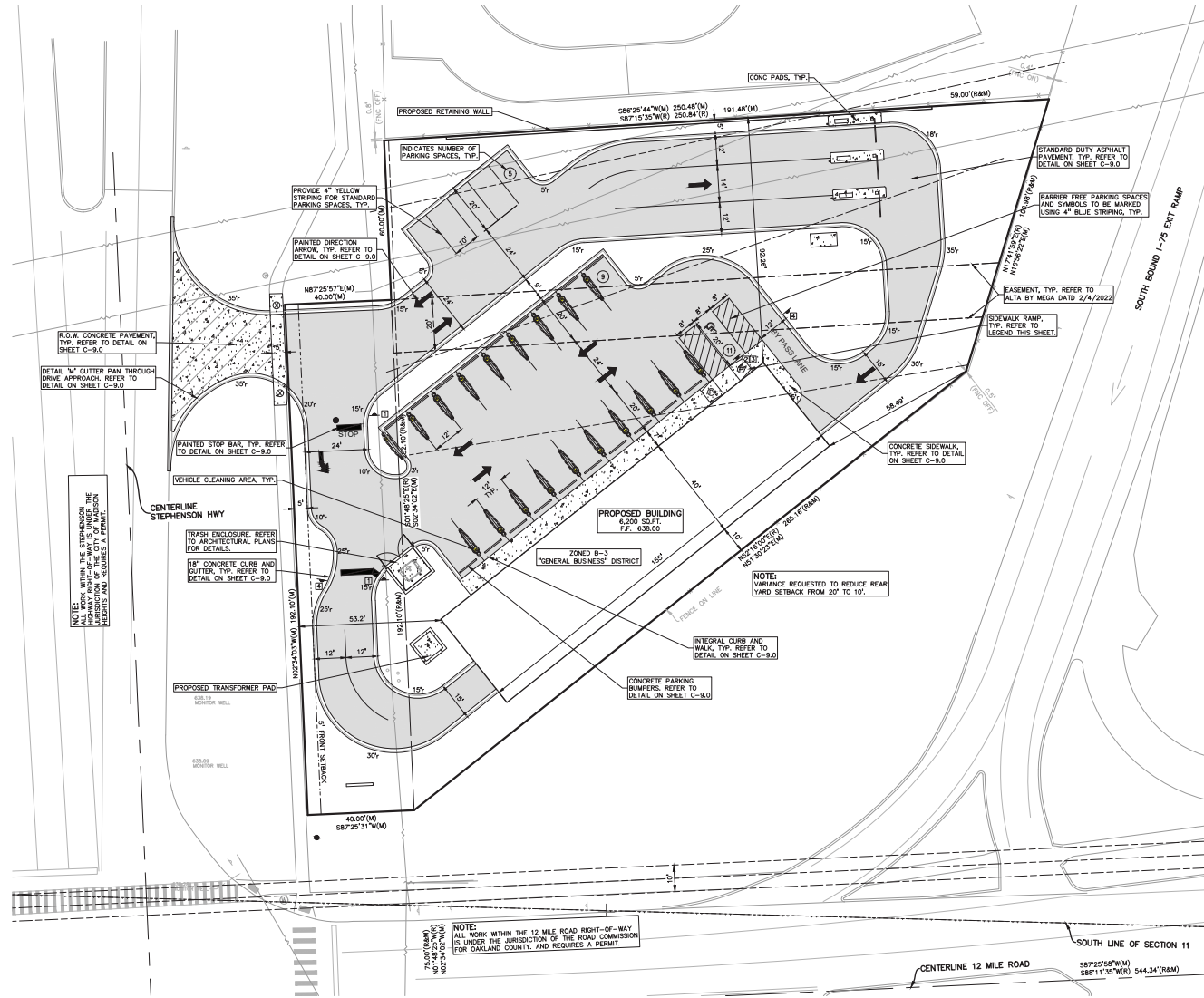
No, the special conditions result from the ordinance requirements.

- 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?

A modern automatic car wash would not be developed on the Property if outdoor vacuums and hand towel drying are not permitted, as it would put that facility at a competitive disadvantage. The requested variance is the minimum required for operation.

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

The requested variance will not change the essential character of the area, which is surrounded by roads and commercial businesses. The vacuums and Jax' hand towel drying services will be located outdoors, as is typical in most car wash facilities, but the main vacuum filter/separator and vacuum turbine motors will be located inside the building, so as to minimize external noise to the surrounding areas. The vacuums will be free for public use. These areas will also be substantially shielded from public view from Twelve Mile Road by the building, and from Stephenson Highway by substantial landscaping in excess of ordinance requirements.



0 10 20 40
SCALE: 1" = 20'



CAUTION!
THIS DRAWING IS UNLESS OTHERWISE SPECIFIED, TO BE CONSIDERED AS A PRELIMINARY DESIGN. IT IS NOT TO BE USED FOR CONSTRUCTION OR FOR ANY OTHER PURPOSE WITHOUT THE WRITTEN APPROVAL OF THE DESIGNER.



CLIENT
CUNNINGHAM LIMP COMPANY
2810 CANNON DRIVE SUITE 100
ROYAL, MI 48067

PROJECT TITLE
JAX CAR WASH
20002 STEPHENSON HWY
WADSWORTH, MI 48093



REVISIONS
OWNER REVIEW 08/02/23

ORIGINAL ISSUE DATE:

DRAWING TITLE
PRELIMINARY SITE PLAN

PEA JOB NO. 2023-0317
P.M. JPS
D.N. J.L.
D.E.S. K.M.
DRAWING NUMBER:

C-3.0

NOT FOR CONSTRUCTION

Overview (Stephenson Hwy)

6-9-23



Proposed Exterior Renderings for:



Cunningham-Limp
Building Better Communities

F.A.studio

design to inspire

Overview (12 Mile Rd)

6-9-23



Proposed Exterior Renderings for:



Cunningham-Limp
Building Better Communities

F.A.studio
design to inspire

View 1

6-9-23



Proposed Exterior Renderings for:



Cunningham-Limp
Building Better Communities

F.A.studio
design to inspire

City Council Regular Meeting
Madison Heights, Michigan
July 10, 2023

A City Council Regular Meeting was held on Monday, July 10, 2023, at 7:30 PM at City Hall - Council Chambers, 300 W. 13 Mile Rd.

PRESENT

Mayor Roslyn Grafstein
Councilwoman Toya Aaron
Mayor Pro Tem Mark Bliss
Councilman Sean Fleming
Councilor Emily Rohrbach
Councilman David Soltis
Councilor Quinn Wright

OTHERS PRESENT

City Manager Melissa Marsh
Assistant City Attorney Jeffrey Sherman
Deputy City Clerk Phommady A. Boucher

CM-23-172. Appoint Acting City Clerk.

Motion by Councilwoman Aaron, seconded by Councilor Wright, to appoint Acting City Clerk Boucher for tonight's meeting.

Voting Yea: Mayor Grafstein, Councilwoman Aaron, Mayor Pro Tem Bliss, Councilman Fleming, Councilor Rohrbach, Councilman Soltis, Councilor Wright

Motion carried.

Councilman Soltis gave the invocation and the Pledge of Allegiance followed.

CM-23-173. Additions to the Agenda.

Motion made by Mayor Pro Tem Bliss, Seconded by Councilman Fleming, to add under Bid Awards/Purchases, Purchase of Properties 945 and 959 E. Ten Mile Road.

Voting Yea: Mayor Grafstein, Councilwoman Aaron, Mayor Pro Tem Bliss, Councilman Fleming, Councilor Rohrbach, Councilman Soltis, Councilor Wright

Motion carried.

Motion made by Mayor Pro Tem Bliss, Seconded by Councilman Fleming, to under Bid Awards/Purchases, Amendment to the Budget for the Purchase of 945 and 959 E. Ten Mile Road.

Voting Yea: Mayor Grafstein, Councilwoman Aaron, Mayor Pro Tem Bliss, Councilman Fleming, Councilor Rohrbach, Councilman Soltis, Councilor Wright

Motion carried.

PRESENTATIONS:

Kimberly Heisler, Executive Director of Madison Heights Community Coalition introduced Josie Wenzell, the new Youth Coordinator/Marketing Specialist, and Jordan Aaron, the new Student Intern. Ms. Wenzell and Mr. Aaron reviewed the Youth Wellness Council with a PowerPoint presentation by the Madison Heights Community Coalition.

Mayor Grafstein commended the Madison Heights Community Coalition for engaging our youth. She welcomed Ms. Wenzell and Mr. Aaron and encouraged them to reach out to City Council for any help.

PUBLIC HEARINGS:

CM-23-174. Special Approval PSP 23-04 – Auto Wash – 29448 John R Road.

City Manager Marsh advised that staff recommends Special Approval request PSP 23-04 for an Auto Wash at 29448 John R Road be postponed until August 28, 2023, or later.

Motion made by Councilor Rohrbach, Seconded by Councilwoman Aaron, to postpone the Special Use request PSP 23-04 for an Auto Wash at 29448 John R Road until August 28, 2023, or later.

Voting Yea: Mayor Grafstein, Councilwoman Aaron, Mayor Pro Tem Bliss, Councilman Fleming, Councilor Rohrbach, Councilman Soltis, Councilor Wright

Motion carried.

CM-23-175. Special Approval PSP 23-05 – Auto Wash – 29022 Stephenson Highway.

City Manager Marsh reviewed Special Approval request PSP 23-05 an Auto Wash at 29022 Stephenson Highway.

Mayor Grafstein opened the public hearing at 7:45 p.m.

John Gaber, Applicant's attorney, introduced Todd Gesund and John Zimmerman from Jax Kar Wash. From the City's perspective it's master planned for industrial use but the Council recognizes that this corridor is going commercial with the current uses, and it was rezoned B-

3 last year to permit car washes as a Special Land Use. There is a gas station across the street, Kroger fuel station to the Southwest, and an auto repair shop to the south which are all auto related uses. There are four other car washes in the City, but none west of Stephenson Highway and in the 12 Mile Road area; the current car washes are off the Dequindre and the John R corridor. Jax Kar Wash has provided a Special Approval application, special use letter, and an addendum in support of the special approval to show they have satisfied all the special land use requirements. Competition is one of the criteria but there is competition in the community when it comes to restaurants, retail, and such; this is no different. This project meets the goals and objectives of the Master Plan. There will be a highly aesthetically pleasing building with materials that are proposed to be relatively maintenance free and very durable. They will promote the city's positive identity with an entrance sign and giving the city the easement to do so and a contribution of \$60,000. The quality design and materials of the building, the building placement and landscapes that shield internal operations, and the vacuum turbines located inside the building to minimize external noise help protect the business district from negative impacts. The following are to promote environmentally friendly practices: the wastewater recycle and recuse on site before it ever gets into the environment through a filter separator tank, the traffic flow and circulation site plan for an orderly one-way flow of traffic around the perimeter of the site which provides a lack of conflict with turning movements; the ample stacking that is concealed from view; the single access point at the far north end at Stephenson Hwy reduces conflict with traffic; and a generous contribution to a playground and other equipment at Twelve-Sherry Park.

Todd Gesund, Vice President of Jax Kar Wash, shared that Jax Kar Wash started in 1953 as a full-service car wash by Jack Milan. His sons Bruce and Jason continued the tradition in Michigan. The name Jax derives from the founder Jack and Jax Kar Wash celebrated their 70th birthday in May. Jax Kar Wash expanded their partnerships with existing car wash companies such as Super Car Wash which was started by Mr. Gesund's father in Madison Heights in 1977 on Dequindre and 11 Mile Road. Jax Kar Wash has grown to 33 locations throughout the Midwest and employs almost 800 team members. Jax Kar Wash goal is to offer clean, shiny, dry, and fast service. They provide free self-serve vacuum stations with compressed air. Jax Kar Wash has an indoor temperature-controlled mat room with a mat cleaning machine, a vending machine with car care products, and a customer friendly restroom. A unique practice they do is hand towel dry the vehicles after the car washing to give customers the extra personal touch; they have been doing this for 70 years. Jax Kar Wash works with host cities and builds beautiful car washes that fit in the current architecture and environment. Their community outreach has included sponsoring community events, golf outings, and donating gifts and prizes for raffles. They have Jack's charity weekend that they provide a location to bring in a local charity and raise money by matching customer donations. In 2022, combined donations from Jax raised \$14,000 for local charities in the communities. They have 20 locations in the metro Detroit area such as Madison Heights, Royal Oak, and Warren. They believe Stephenson Highway and 12 Mile Road is a gateway to the City of Madison Heights and their excited for the opportunity to build their brand at that site. Mr. Gesund answered Councilman Solti's question that there are 33 locations throughout the Midwest and 20 in the Metro Detroit area. Jax Kar Wash does a phase one environmental study on all their sites and any sites that had a gas station may require a phase two environmental study, a do care plan, and/or remediation depending on the findings.

Seeing no one further wishing to speak, Mayor Grafstein closed the public hearing at 7:56 p.m.

Motion made by Councilor Rohrbach, Seconded by Councilor Wright, to approve the Special Use request PSP 23-05 for an Auto Wash at 29022 Stephenson Highway, with the following conditions of approval:

1. 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.
2. Install a pedestrian sidewalk connection and a bicycle rack, as required per Section 10.505 of the Zoning Ordinance; the exact locations may be determined through the Site Plan review process.
3. Add landscaping at the southwest corner of the site, adjacent to the proposed monument sign, to fill in the landscaping gap and to screen the view of the auto wash bay from the road; the details of this landscaping may be determined through the Site Plan review process.
4. Move the location of the dumpster enclosure out of the front yard; the exact location may be determined through the Site Plan review process.
5. The Landscape Plan and Building Elevations submitted with the site plan package shall be substantially consistent with the preliminary plans submitted with this special use application, with the exception of any required modifications placed as conditions of approval.
6. As voluntarily offered by the applicant, the applicant shall donate a minimum of \$60,000 towards Madison Heights ongoing entrance identification and beautification sign project and a minimum of \$90,000 towards public improvements at Twelve-Sherry Park.
7. As voluntarily offered by the applicant, the City of Madison Heights shall have the right to obtain an easement at the southwest corner of the subject property for the purposes of installation, operation, and maintenance of a City entrance/identification sign, provided that the location of the sign does not interfere with the use and operation of the Property as an auto wash in accordance with the approved special use.

Voting Yea: Councilwoman Aaron, Councilman Fleming, Councilor Rohrbach,
Councilman Soltis, Councilor Wright

Nay: Mayor Grafstein, Mayor Pro Tem Bliss

Motion carried 5-2.

NOTICE OF PUBLIC HEARING

Notice is hereby given that a Special 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, August 17th, 2023 at 7:30 p.m.** to consider the following requests:

Item 1.

(A) Case # PZBA 23-10: 29022 Stephenson Highway

REQUEST: The petitioner, Todd Gesund – BMW Kar Wash d/b/a Jax Kar Wash, requests four (4) variances from Section 10.326(8) of the Zoning Ordinance, use-specific standards for auto wash uses, pertaining to hours of operation, auto wash building setbacks, fencing, and outdoor vacuuming stations. The subject property is located at 29022 Stephenson Highway (tax parcels # 44-25-11-377-015; 44-25-11-377-016; and 44-25-11-377-019), zoned B-3, General Business.

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

If you are unable to attend the meeting, you can send your comments via email to: 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.

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CITY CLERK'S OFFICE

(248) 583-0826