

# VILLAGE OF HOMEWOOD



**MEMORANDUM**

**DATE OF MEETING: October 12, 2023**

**To:** Planning and Zoning Commission

**From:** Noah Schumerth, Assistant Director of Community and Economic Development

**Through:** Angela Mesaros, Director of Economic and Community Development

**Topic:** Case 23-28

## APPLICATION INFORMATION

APPLICANT	Emad Abed
ACTION REQUESTED	Variance for a Fast Casual Carry Out Restaurant
ADDRESS	810 Maple Avenue, Unit C, Homewood, IL, 60430
PIN	29-32-200-022

## ZONING & LAND USE

SUBJECT PROPERTY	ZONING	LAND USE
CURRENT	B-4 Shopping Center	Vacant
PROPOSED	B-4 Shopping Center	Carry Out Restaurant
SURROUNDING	N: B-4 Shopping Center	Planned Unit Development (Kohl's)
	E: B-4 Shopping Center	Carry-Out Restaurant (McDonald's)
	S: B-4 Shopping Center	Multi-Tenant Commercial Center
	W: B-4 Shopping Center	Professional Office (Special Olympics)

## LEGAL NOTICE

Legal notice was published in *Daily Southtown* on September 22, 2023; letters were sent to property owners and residents within 250'.

## DOCUMENTS FOR REVIEW

Title	Pages	Prepared by	Date
Staff Exhibits	2	Noah Schumerth, Asst. Dir. ECD	10/06/2023
Application Form	2	Emad Abed	09/05/2023
Responses to Standards for Variance	1	Emad Abed/Mohammad Majid	09/05/2023
Conceptual Floor Plan	1	Harold Beron Design	08/11/2023
Conceptual Site Plan	1	Harold Beron Design	08/11/2023
Previous Approved Variance Ordinance	3	Chris Cummings, Village Attorney	09/13/2022

**BACKGROUND**

The applicants, Emad Abed and Mohammad Majid, are requesting a Variance to modify parking requirements for operation of a carry-out restaurant at 810 Maple Avenue. The building is currently fitted for two commercial retail spaces, and the applicants are proposing the creation of a third tenant space for a “fast casual carry-out restaurant.” The building was previously occupied by a tire retail and vehicle service facility, and was split into two commercial/retail tenant spaces following the approval of the Site Plan Review and Variance cases presented before the Planning and Zoning Commission in August 2022. The proposed use is classified as a *carry-out facility*, as defined in the Village Zoning Ordinance:

*“...a business which sells food or beverages to the consumer in a ready-to-consume state and whose operation includes serving food or beverages in paper, plastic, or other disposable containers, and does not include associated seating for dining on the premises.”*

**HISTORY**

Year	Approval/Planning Action
Pre-1975	The site was originally a part of the Washington Park racetrack. The racetrack structure was lost to fire damage in the late 1970s.
January 1984	The property was developed as a multi-tenant building for DeRe Goodyear Tire and Harley-Davidson.
August 1997	The Planning and Zoning Commission approved Case 97-36, for approval of a Special Use Permit to operate a car repair facility in the multi-tenant building. The building is consolidated into a single tire and car repair facility, with Harley Davidson vacating the building.
August 2004	The Planning and Zoning Commission approved Case 04-26, allowing façade improvements to the existing car repair facility on the site. The car repair facility was rebranded to Discount Tire.
August 2022	The Planning and Zoning Commission approved Case 22-23, including a Site Plan Review of plans for splitting the single building on the property into two commercial/retail tenant spaces. The Planning and Zoning Commission approved a concurrent Variance (Case 22-24), approving a reduction in required parking spaces for the two-tenant building from 46 to 28 spaces.
September 2022	The Appearance Commission approved Case 23-25, for approval of façade changes to convert the approved Discount Tire building into two commercial spaces and provide exterior improvements.

**DISCUSSION**

Site Discussion

The applicant has proposed the addition of a third tenant space in the 11,940 square foot structure located at 810 Maple Avenue. The proposed tenant is a fast-casual carryout restaurant business, classified as a *carryout facility* in the Village Zoning Ordinance. The structure was originally a tire service and vehicle repair center, branded as Discount Tire, which was constructed in 1984. In 2022, approvals were provided for the building to be divided into two tenant spaces for retail/commercial use, with

plans proposing a tobacco store and a beauty supply store in the two leasable spaces. The new proposed restaurant tenant will occupy an area of the building which was to be left as stockroom and storage area after the 2022 approval of the new site plan and building improvements. A parking variance, similar to the one requested in this case, was approved to allow the applicant to reduce the total number of required parking spaces for the site from 48 to 28 spaces (42% reduction).

The third space is proposed to occupy the westernmost portion of the structure, facing south along the subject site's frontage with Maple Avenue. The new tenant space will include customer seating and service areas, a food preparation area, and additional backroom areas, totaling approximately 2,500 square feet of gross floor area for the new tenant. The new tenant will be connected to existing parking areas on the property by a concrete walkway included in approved site improvements submitted in 2022.

The applicant is requesting a variance from existing parking regulations on the site, allowing for the operation of the third tenant in the building without additions to the existing parking available on the site. An approved variance will allow for the operation of the three tenants with 28 parking spaces on the site.

The footprint of the building is 11,940 square feet of gross floor area (GFA), and the applicant has not proposed changes to this footprint. However, since the approval of the first parking variance for this site in 2022, the Village has adopted a new zoning ordinance with significant changes to parking requirements. This code adjusted the parking calculation method applied to this site, applying a standard of 1 space per 300 square feet of gross floor area for all *multi-tenant shopping centers*. Based on this new standard, the subject site requires 39 parking spaces, which is a reduction from the 48 spaces required for the two tenants initially proposed in 2022 but remains greater than the 28 spaces currently provided on the site. The site currently provides 71% of the off-street parking required for the site.

In the 2023 Village Zoning Ordinance, the Variance process was updated to include clarity regarding the authority of the Planning and Zoning Commission. The new guidance, found in Section 44-07-12(B) of the Village Zoning Ordinance, determined that variances to required off-street parking and loading standards may not be exceed:

*“more than one (1) parking space, or twenty (20%) percent of the off-street parking spaces required by applicable regulations, whichever is greater.”*

As discussed, the proposed variance would be measured against the parking requirements of the new Village Zoning Ordinance. Based on this new requirement (39 parking spaces), the variance proposes a reduction of required off-street parking by 29%, which is a greater reduction than can be approved by the Planning and Zoning Commission.

Staff recommends that the applicant continue to work with surrounding properties to execute a shared parking agreement which will allow use of existing parking spaces on lots to the north or east of the subject site.

### Variance Conditions Analysis

In order to reach approval of a Variance, the applicant must provide clear demonstration of an external hardship limiting by-right development on the site, and a clear plan for providing the smallest possible deviation from the Village Zoning Ordinance. The hardship must be demonstrated by evaluated against the Standards for Variance, which include the following three standards:

1. The property cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located.
2. The plight of the owner is due to unique and external circumstances which are not self-imposed by the property owner.
3. The variance will not alter the essential character of the locality surrounding the subject site.

The applicant's responses to the Standards of Variance are attached for review by the Planning and Zoning Commission. Staff analysis of the Standards of Variance is provided below.

#### **The property cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located.**

While the applicant has stated that financial hardship may be caused by the failure to provide a third tenant in the building, the site was previously reviewed and approved with two tenants. The site has also operated historically with a single vehicle service tenant. No additional evidence was provided to economic hardship caused by the operation of the building under the current Village Zoning Ordinance, nor has the applicant provided a demonstration that seeking an alternative arrangement to meet zoning requirements would cause undue financial hardship. Staff has not identified that the effect on reasonable economic return justifies the granting of a variance from zoning standards.

#### **The plight of the owner is due to unique and external circumstances which are not self-imposed by the property owner.**

The applicant is requesting the reduction of required parking for an existing building. Parking was originally constructed to support a single vehicle service use, which requires less parking than commercial, retail and restaurant uses. While this condition limits property redevelopment, the redevelopment of an existing building does not alone constitute a unique circumstance for a particular property. Exceptions to this rule may exist if redevelopment is hampered by unique limitations applied by a prior ordinance, regulation, or development condition; however, the subject property recently received further relief from parking standards with the classification of the building on the site as a *multi-tenant commercial center* under the new Zoning Ordinance, reducing total parking requirements by approximately 25%. Previous ordinance requirements have not placed a unique hardship on this property, and alternative remedies exist within the zoning ordinance for supporting redevelopment of sites which were developed with less parking than the proposed use requires. There are not site conditions cited which constitute a unique burden on the redevelopment of the property.

The applicant has cited unique opportunities that would be created with the approval of this variance and the allowance of the proposed use in the building without significant site changes, including an increase in business activity, increased tax revenue and the opportunity to provide a neighborhood gathering area. While these variables may be true, providing positive benefits for the community, these do not constitute reasons for varying the zoning standards established for all properties in the B-4

Zoning District. Staff has not identified that a unique hardship has been applied to this site which justifies the granting of a variance from zoning standards.

**The variance will not alter the essential character of the locality surrounding the subject site.**

The applicant has identified that the variance allows another use which is compatible with surrounding commercial businesses and will not affect the local area adversely. Staff is in agreement with this argument, given the intense, auto-oriented commercial areas surrounding the site and the compatibility of this use being located near a major arterial on Halsted Street.

Additionally, the Village reserves the authority in variance applications to ensure that the essential character of the locality, particularly the existing condition of safety, health, and general welfare in the surrounding area, is preserved with the approval of the variance. This also allows for the ability for staff to provide recommendations in the event that the variance causes substandard site function or may cause external impacts on surrounding property.

Staff has reviewed this case to ensure the mitigation of external impacts and the preservation of the essential character of the locality. In this review, staff has identified numerous concerns pertaining to the function of the site and potential impacts on surrounding properties. In addition to concerns regarding the variance request exceeding what is allowable by the Village Zoning Ordinance, staff has concerns about the nature of the use and the impacts the use may have on parking facilities which are already significantly below the standard required by the Zoning Ordinance due to previous approval of a parking variance. The restaurant is proposed to offer both carry-out food services as described, with additional seating for food service more reflective of a restaurant/bar use vs. a carry-out facility. The applicant has proposed 50 seats for restaurant service in the floor plans provided with this application. Additional "sit-down" dining may place a strain on the reduced parking available on the site, which will need to be shared with all three tenants. With additional spaces reserved for employee parking in the rear of the building in areas inconvenient for any customer parking, parking will not be sufficient to accommodate all three uses in the building, and the proposed use is not compatible with the lower-traffic uses which were proposed in the initial parking variance in 2022. Parking overflow onto surrounding properties can be anticipated if the variance for relief from parking expansion is provided for the proposed use.

### **STAFF COMMENTS**

The proposed variance will require deviation beyond which the Village has the authority to grant, per Variance standards provided in Section 44-07-12 of the Zoning Ordinance. Staff has identified that the three Standards for Variance have not been met by applicant responses or staff analysis of the property. Staff recommends that the applicant continue to work with neighboring properties to demonstrate a shared parking agreement, recorded with the documentation required by Section 44-05-02(K) of the Village Zoning Ordinance. Staff also recommends that the applicant consult with the Director of Community and Economic Development to discuss administrative exceptions, with may be granted administratively for up to 5% of the total parking required on a site per Section 44-07-06 of the Zoning Ordinance.

Additionally, improvement plans submitted with this application identify exterior façade changes required to support the proposed restaurant use. The applicant is required to appear before the Appearance Commission and receive approval for façade improvements supporting the new use prior to receiving any additional building permits.

**DRAFT FINDINGS OF FACT**

Staff has prepared the draft findings of fact in accordance with the standards set forth in Section 44-07-12 of the Zoning Ordinance. The findings of fact, as proposed or amended, may be entered into the record.

1. The subject property is located at 810 Maple Avenue and owned by the applicant, Mohammad Majid.
2. The subject property is located in the B-4 Shopping Center Zoning District.
3. Carry-out restaurant facilities, as proposed by the applicant, are permitted in the B-4 Shopping Center Zoning District.
4. The existing development on the site, including a 11,940 square foot building and 28 surface parking spaces, was formerly built for vehicle repair and service.
5. The subject property received approval in 2022 to support the renovation of the building to support two new commercial and retail tenants, and received a parking variance to allow for reduced parking requirements for these proposed uses.
6. The building on the site is now designed to support multiple tenants, and has been classified as a multi-tenant shopping center in the Village Zoning Ordinance.
7. The Village Zoning Ordinance requires 1 off-street parking space per 300 square feet of gross square footage (GFA) within a multi-tenant shopping center, and the building requires a total of 39 parking spaces for the 11,490 square feet of retail and commercial space.
8. The applicant proposed to provide 28 parking spaces on the subject property to support the uses within the multi-tenant shopping center on the site.

**RECOMMENDED PLANNING & ZONING COMMISSION ACTION**

The Planning and Zoning Commission may wish to consider the following motion:

Recommend denial of Case 23-28 Variance from Table 44-05-01(C) and General Off-Street Parking Requirements in Section 44-05-01(A) to allow 810 Maple Avenue to operate with 28 parking spaces.

And

Incorporate the Findings of Fact into the record.