

April 15, 2021

ZBA Review

Non-Conforming Use Determination

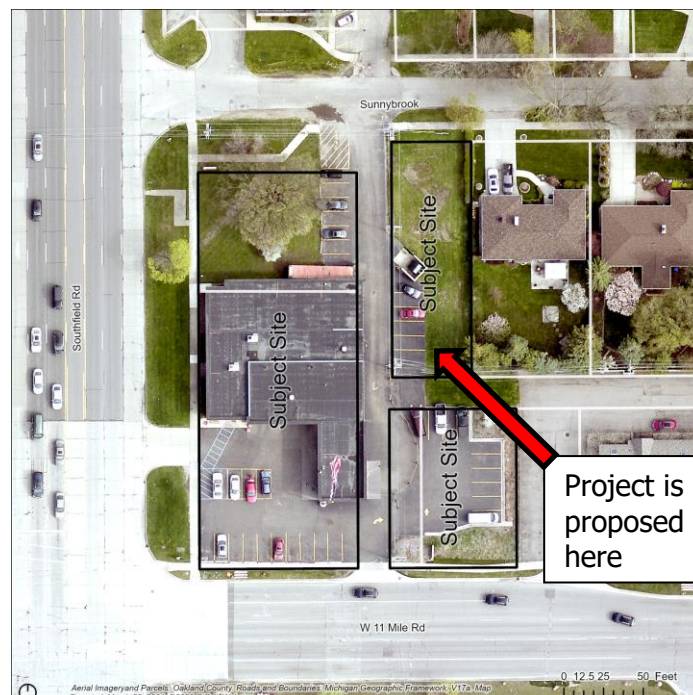
Address:	27000 Southfield Road	Applicant:	Joseph Westerbeke, PE
Parcel ID:	24-13-359-007; -016; -052; -054; -061	App. Date:	03-19-2021
Zoning:	Commercial – Vehicular District, Mixed Use District, Single Family District	Reviewer:	Eric Pietsch Jill Bahm, AICP

Proposed Improvements Requiring ZBA Approval

The applicant is seeking a Class B nonconforming use status to allow for the expansion of an existing, nonconforming use.

General Site Information:

- Summary.** The subject property, consisting of 0.93-acres, is located at the northeast corner of Southfield and 11 Mile Roads. The northern boundary abuts Sunnybrook Avenue, a local, residential street. The site contains a 9,744 square foot automobile service facility and is comprised of 5 separate tracts, one of which is zoned R-1 single-family residential. The main service facility is located on the portion zoned Commercial Vehicular and is permitted as a special land use. A portion of the single-family parcel is currently used as surface parking and dumpster enclosure for the automotive service facility, which is a nonconforming use in the R-1 district. The applicant is proposing to expand the paving on this parcel to more fully utilize it for off-street parking, install a masonry screen wall along the east property line and reconfigure the loading zone. The addition of a small interior storage area is also proposed.



2. Determination Requested by Applicant: Class B Nonconforming Use.

Section 7.8.11 of the zoning ordinance outlines special classes of nonconforming structures and uses. The applicant may file an application with the ZBA to determine and pass upon whether a nonconforming lot should be classified as a special nonconforming use, either Class A or Class B. The ZBA shall hold a public hearing and thereupon determine and pass upon whether the subject structure or use is either:

- A. Class A:** A nonconformity which seriously impairs the fair market value of neighboring properties or which grossly offends the principles of sound community planning or which seriously impairs the public health, safety, or welfare, or
- B. Class B:** A nonconformity which has slight detrimental impact on the fair market value of neighboring properties and which deviates only to a slight degree from the principles of sound community planning and which does not impair the public health, safety, or welfare to any substantial degree.

This use has been operating for many years in this location, in a district zoned for such purpose. The parking area does not necessarily expand the operation or intensity of the use but may better accommodate vehicles and circulation on the site. The number of parking spaces (39) is not proposed to change but be reconfigured to replace parking along the Southfield Road frontage with a loading zone.

3. Impact of Determination.

- A. Section 7.8.12. Class A nonconformities.** Upon a determination that a nonconforming use has been classified as class A special nonconformity, it shall be the duty of the building official to exercise due care to request all city administrative personnel to make a special effort (using any lawful means at their disposal) to effect changes in the lot which will have the result of wholly or partially abating the factors which cause the structure or use to be so classified. Such administrative efforts may include a recommendation to the council to exercise its powers under Section 7.8.14 (City power of acquisition).
- B. Section 7.8.13. Class B nonconformities.** Upon determination that a lot has attained class B nonconforming status, a property owner or occupant may file a special land use application to effect changes in the nonconforming structure or use involving reconstruction, repairs, extensions, enlargements, or substitutions of the nonconformity which would otherwise be prohibited by the other provisions of this ordinance. Such applications may and shall be granted when such changes will not disturb its class B nonconformity status and the proposed modified structure or use conforms to the standards of Section 6.2. Special Use Procedures and Standards. If permitted to move forward, the next steps for the applicant include:
 - Applicant submits an application for special land use, which includes a site plan.
 - The Planning Commission will hold a public hearing on the special land use request and review and take action on the site plan. The PC will make a recommendation on the special land use request.
 - City Council will take action on the special land use request. For reference, Section 6.2.10 provide general standards of approval:
 - A.** The use must be a “reasonable use” (as defined in Section 2.2) as and where proposed to be located.

- B. The use must conform to all of the other regulations of this ordinance and the other ordinances of this city.
- C. The location, intensity, and periods of operation of the use must be such as to eliminate an reasonable likelihood that it will be, cause, or create a public or private nuisance in fact.
- D. The use, as and where proposed, must not be inconsistent with the spirit and purpose of this ordinance nor contrary to the principles of sound community planning.
- E. The use must be of such character and be arranged on the site so as not to cause or create adverse effects on neighboring properties or the community at large be [by] reason of noise, dust, dirt, glare, odor, fumes, pedestrian or vehicular traffic, or other factors discernible to the human senses beyond those customarily resulting from other uses permitted in the same district of this city.
- F. The use must not diminish the fair market values of neighboring lands or buildings to any substantial or significant degree.
- G. The site design and proposed manner of operation of the use must provide for the maximum reasonable and feasible enhancement of the environment of the surrounding area. In determining whether this standard has been met, the approving authority shall consider any provisions for buffering, landscaping, or other site amenities over and above the minimum requirements of this ordinance.



Site looking south toward 11 Mile Road from Sunnybrook Avenue.



Site looking southeast from Sunnybrook Avenue.

We are available to answer questions.

Respectfully,
Giffels Webster



Jill Bahm, AICP
Principal Planner



Eric Pietsch
Senior Planner

