

DRAFT

Zoning Board of Appeals
Madison Heights, Michigan
March 06, 2025

A Zoning Board of Appeals was held on Thursday, March 06, 2025 at 7:30 PM at Council Chambers - City Hall, 300 W. 13 Mile Rd.

PRESENT: Chair Kimble and members: Aaron, Corbett, Fleming, Holder (arrived @ 8:10 p.m.), Loranger, Marentette, and Thompson

ABSENT: Oglesby and Sagar

ZBA 01-25. Minutes

Motion made by Ms. Aaron, Seconded by Ms. Marentette, to approve the December 5, 2024, Meeting Minutes as presented.

Voting Yea: Aaron, Corbett, Kimble, Loranger, Marentette, Fleming, and Thompson

ZBA 02-25. Excuse member(s)

Motion made by Ms. Marentette, Seconded by Ms. Aaron, to excuse Mr. Clifford Oglesby from tonight's meeting.

Voting Yea: Aaron, Corbett, Kimble, Loranger, Marentette, Fleming, and Thompson

ZBA 03-25. Case # PZBA 25-01: 27351 Dequindre Road

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

REQUEST

The applicant, Image 360 Brighton, on behalf of property owner Henry Ford Health, requests a dimensional sign variance from Section 12.03 and 12.07 of the Zoning Ordinance pertaining to the maximum size of a temporary sign, per the procedures set forth in Section 15.06 of the Zoning Ordinance. The subject property is located at 27351 Dequindre Road (PIN 44-25-13-426-031) and is zoned O-1, Office. The property is located on the west side of Dequindre Road,

north of 11 Mile Road, and is improved with the Henry Ford Madison Heights Hospital (formerly Ascension Macomb-Oakland Hospital).

The applicant requests a variance from Section 12.07.3 of the Zoning Ordinance which sets a maximum area of sixteen (16) square feet for temporary signs in the O-1 district. The applicant requests to install one (1) 15 ft. by 45 ft. temporary banner (675 sq. ft.) along the side of the hospital tower, requiring a 659 square foot dimensional variance.

Proposed Banner

The 675 square foot banner is proposed on the east façade of the hospital tower adjacent to the main access drive; the hospital tower is set back approximately four-hundred feet (400 ft.) from the Dequindre Road right-of-way. The banner is proposed to be attached to the building face with concrete anchors. While the applicant has not formally indicated a maximum length of time for hanging the banner, an email dated November 13th, 2024, suggested a length of six (6) months.

VARIANCE FINDINGS AND CRITERIA

Section 15.06.2 of the Zoning Ordinance grants the Zoning Board of Appeals the power to authorize dimensional variances from sign regulations, provided that such variances will not be inconsistent with the purpose and intent of such requirements. In granting a variance, the Zoning Boards of Appeals shall make findings that the petitioner has adequately proven the existence of a practical difficulty, explicitly with regard to the following criteria:

- A. That strict compliance with area, setbacks, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for a permitted purpose, and would thereby render the conformity unnecessarily burdensome for other than financial reasons; and
- B. That a variance will provide and preserve a substantial property right similar to that possessed by other properties within the same zoning district and in the neighboring area, provided that possible increased financial return shall not of itself be deemed sufficient to warrant a variance; and
- C. That the plight of the owner is due to unique circumstances of the property, such as the shape of the parcel, unique topographic or environmental conditions, or any other physical situation on the land, building or structure deemed by the Zoning Board of Appeals to be extraordinary; and

D. That the requested variance is the minimum amount necessary to permit reasonable use of the land, building or structure; and

E. That the authorization of such variance will not be of substantial detriment to adjacent properties and will not materially impair the intent and purpose of this Ordinance or the public health, safety, and general welfare of the community; and

F. That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).

In granting any variance, the ZBA may prescribe appropriate conditions and safeguards in conformity with the Ordinance, provided that said conditions are designed to protect natural resources, the health, safety, and welfare and social and economic well-being of the public. Such conditions shall be necessary to meet the intent and purpose of the Ordinance, be related to the standards established in the section for the land use or activity under consideration and be necessary to ensure compliance with those standards.

STAFF ANALYSIS

The applicant has provided written responses addressing the variance criteria of Section 15.06.2 of the Zoning Ordinance. Per their application, the applicant primarily cites visibility from Dequindre Road due to building setbacks and the ability to inform patients/visitors of the ownership/name change of the hospital as justifications for the requested variance.

Practical difficulties relating to a dimensional variance request should generally relate to unique physical constraints on the property, including but not limited to natural features (e.g. wetlands, topography, soil situations) or extraordinary parcel shape. Where physical constraints severely limit the ability to place a legal temporary sign on the property, variances may be warranted.

ZBA ACTION

Any ZBA motion, including approval and denial, shall include findings of fact relating to the variance criteria listed in Sections 15.06.2 of the Zoning Ordinance. Template approval and denial motions are provided below for the ZBA's consideration, which may be modified at the discretion of the board.

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. A maximum of one (1) temporary banner shall be placed on the hospital building in the location presented within the variance application.
2. The temporary banner shall be removed from the building no later than one (1) year from the date of ZBA approval. Any extension of this time limit shall require a new application and public hearing in front of the ZBA.

Robert Dempster, Image 360 Brighton, representing Henry Ford Health System at 27351 Dequindre Road. Henry Ford Health System acquired 9 hospitals and rebranded them. The banner will remain up for one year and the monument and directional signs will go through the sign permit review process.

Chair Kimble opened the public hearing at 7:42 p.m. to hear comments on application #25-01.

There being no comments on application #25-01, Chair Kimble closed the public hearing at 7:43 p.m.

Motion made by Ms. Aaron, Seconded by Ms. Corbett, to approve the dimensional variance application to allow one (1) temporary banner measuring 675 square feet at the subject property located at 27351 Dequindre Road. This motion being made after the required public hearing based upon the following findings:

- 1) That Section 12.07.3 of the Zoning Ordinance sets a maximum area of sixteen (16) square feet for temporary signs in the O-1 district, and the applicant is requesting a 659 square foot variance.
- 2) That strict compliance with dimensional sign regulations would unreasonably prevent the owner from using the property for a permitted purpose, and would thereby render the conformity unnecessarily burdensome for other than financial reasons; and
- 3) That a variance will provide and preserve a substantial property right similar to that possessed by other properties within the same zoning district and in the neighboring area, provided that possible increased financial return shall not of itself be deemed sufficient to warrant a variance; and
- 4) That the plight of the owner is due to unique circumstances of the property, including large setbacks from the adjacent public street; and
- 5) That the requested variance is the minimum amount necessary to permit reasonable use of the land, building or structure; and
- 6) That the authorization of such variance will not be of substantial detriment to adjacent properties and will not materially impair the intent and purpose of this Ordinance or the public health, safety, and general welfare of the community; and
- 7) That the need for the requested variance is not the result of actions of the property owner or previous property owners.

Approval is granted with the following conditions designed to ensure compliance with the intent and purpose of the sign regulations:

- 1) A maximum of one (1) temporary banner shall be placed on the hospital building in the location presented within the variance application.
3. The temporary banner shall be removed from the building no later than one (1) year from the date of ZBA approval. Any extension of this time limit shall require a new application and public hearing in front of the ZBA.

Voting Yea: Aaron, Corbett, Kimble, Loranger, Marentette, Fleming, and Thompson

ZBA 04-25. Case # PZBA 25-02: 29305/29411 John R Road

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

REQUEST

The applicant, Hang Phonrath d/b/a Kim Nhung Superfood, Inc., on behalf of property owner William Gershenson, requests a dimensional sign variance from Section 12.07 of the Zoning Ordinance pertaining to maximum wall sign area allowances, per the procedures set forth in Section 15.06 of the Zoning Ordinance. The subject property is located at 29305/29411 John R Road (PIN 44-25-11-476-022) and is zoned B-2, Community Business. The property is located on the west side of John R Road north of 12 Mile Road, and is improved with a 42,000 square foot grocery store, currently undergoing interior renovations.

The applicant requests a variance from Section 12.07.2 of the Zoning Ordinance which sets a maximum total wall sign area of 150 square feet for the tenant space's primary front facade. The tenant has already been approved for a 148.75 square foot wall sign, approaching the maximum allowance. The applicant requests to install one (1) additional 29.5 square foot wall sign on the same façade for the grocery store's food court, requiring a 28 square foot dimensional variance.

Proposed Wall Sign

The 29.5 square foot wall sign is proposed above the store's northern entrance, with the words "EATERY" to denote the food court entrance. The proposed sign features illuminated channel letters on a raceway. Based on the tenant space's frontage along the street and its large setback from the road, the tenant is afforded a total wall area allowance of 150 square feet along the front facade. The

Zoning Ordinance does not cap the total number of wall signs on a single façade; however, the existing 148.75 square foot wall sign uses up almost all of the total wall sign allowance, leading to this variance request.

VARIANCE FINDINGS AND CRITERIA

Section 15.06.2 of the Zoning Ordinance grants the Zoning Board of Appeals the power to authorize dimensional variances from sign regulations, provided that such variances will not be inconsistent with the purpose and intent of such requirements. In granting a variance, the Zoning Boards of Appeals shall make findings that the petitioner has adequately proven the existence of a practical difficulty, explicitly with regard to the following criteria:

- A. That strict compliance with area, setbacks, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for a permitted purpose, and would thereby render the conformity unnecessarily burdensome for other than financial reasons; and
- B. That a variance will provide and preserve a substantial property right similar to that possessed by other properties within the same zoning district and in the neighboring area, provided that possible increased financial return shall not of itself be deemed sufficient to warrant a variance; and
- C. That the plight of the owner is due to unique circumstances of the property, such as the shape of the parcel, unique topographic or environmental conditions, or any other physical situation on the land, building or structure deemed by the Zoning Board of Appeals to be extraordinary; and
- D. That the requested variance is the minimum amount necessary to permit reasonable use of the land, building or structure; and
- E. That the authorization of such variance will not be of substantial detriment to adjacent properties and will not materially impair the intent and purpose of this Ordinance or the public health, safety, and general welfare of the community; and
- F. That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).

In granting any variance, the ZBA may prescribe appropriate conditions and safeguards in conformity with the Ordinance, provided that said conditions are designed to protect natural resources, the health, safety, and welfare and social and economic well-being of the public. Such conditions shall be necessary to meet the intent and purpose of the Ordinance, be related to the standards established in the section for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

STAFF ANALYSIS

The applicant has provided written responses addressing the variance criteria of Section 15.06.2 of the Zoning Ordinance. Per their application, the applicant primarily cites visibility from John R Road due to building setbacks and the ability to advertise the eatery portion of the business as justifications for the wall sign variance.

Practical difficulties relating to a dimensional variance request should generally relate to unique physical constraints on the property, including but not limited to natural features (e.g. wetlands, topography, soil situations) or extraordinary parcel shape. Where physical constraints severely limit the ability to place a legal wall sign on the property, variances may be warranted.

ZBA ACTION

Any ZBA motion, including approval and denial, shall include findings of fact relating to the variance criteria listed in Sections 15.06.2 of the Zoning Ordinance. Template approval and denial motions are provided below for the ZBA’s consideration, which may be modified at the discretion of the board.

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.

Applicant Hang Phonrath, Kim Nhung Superfood, Inc., there will be a grocery store and a food court with seven (7) additional units for restaurants. The units are 600 square feet each for seven (7) different food styles and a common area to eat. They’re in the middle of signing a lease agreement with a Thai street food, a Korean, a bakery from Ann Arbor, a Filipino, a sushi, a Vietnamese, and a noodle restaurant.

Chair Kimble opened the public hearing at 7:56 p.m. to hear comments on application #25-02.

There being no comments on application #25-02, Chair Kimble closed the public hearing at 7:57 p.m.

Motion made by Councilman Fleming, Seconded by Ms. Thompson, to approve the dimensional variance application to allow one (1) wall sign measuring 29.25 square feet at the subject property located at 29305/29411 John R Road. This

motion being made after the required public hearing based upon the following findings:

- 1) That Section 12.07.2 of the Zoning Ordinance sets a maximum area of one-hundred fifty (150) square feet for the tenant space's primary front façade, and the applicant is requesting a 28 square foot variance.
- 2) That strict compliance with dimensional sign regulations would unreasonably prevent the owner from using the property for a permitted purpose, and would thereby render the conformity unnecessarily burdensome for other than financial reasons; and
- 3) That a variance will provide and preserve a substantial property right similar to that possessed by other properties within the same zoning district and in the neighboring area, provided that possible increased financial return shall not of itself be deemed sufficient to warrant a variance; and
- 4) That the plight of the owner is due to unique circumstances of the property, including large setbacks from the adjacent public street; and
- 5) That the requested variance is the minimum amount necessary to permit reasonable use of the land, building or structure; and
- 6) That the authorization of such variance will not be of substantial detriment to adjacent properties and will not materially impair the intent and purpose of this Ordinance or the public health, safety, and general welfare of the community; and
- 7) That the need for the requested variance is not the result of actions of the property owner or previous property owners.

Approval is granted with the following conditions designed to ensure compliance with the intent and purpose of the sign regulations.

Voting Yea: Aaron, Corbett, Kimble, Loranger, Marentette, Fleming, and Thompson

ZBA 05-25. Case # PZBA 25-03: 32275 Stephenson Highway

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

REQUEST

The applicant and property owner, Ahmad Nassar, requests a variance from Section 8.05.5 of the Zoning Ordinance pertaining to fence materials, per the procedures set forth in Section 15.06 of the Zoning Ordinance. The subject property is located at 32275 Stephenson Highway (PIN 44-25-02-101-036) and is zoned MUI-1, Mixed-Use Innovation 1. The property is located on the west side of Stephenson Highway north of Whitcomb Ave. and is improved with a 3,200 square foot building. The applicant currently operates a food truck on the site

and is in the process of renovating building to accommodate their new brick and mortar restaurant.

The applicant requests a variance from Section 8.05.5.F of the Zoning Ordinance which states that, “materials such as, but not limited to, metal, plastic, vinyl, wood, or fabric may not be inserted into, attached, or hung over chain link fences.” The applicant intends to hang a decorative fabric covering over a fence adjacent to the western (rear) property line, and over a new chain link fence surrounding an outdoor storage area at the rear of the building.

Proposed Fence Covering

Per the application, the proposed fence coverings will consist of 100% UV-resistant, high-quality fabric and feature a decorative design which may be updated seasonally. The fabric is fade-proof and will be professionally maintained. The images below depict examples of the designs which may be used on site

VARIANCE FINDINGS AND CRITERIA

Section 15.06.2 of the Zoning Ordinance grants the Zoning Board of Appeals the power to authorize dimensional variances from sign regulations, provided that such variances will not be inconsistent with the purpose and intent of such requirements. In granting a variance, the Zoning Boards of Appeals shall make findings that the petitioner has adequately proven the existence of a practical difficulty, explicitly with regard to the following criteria:

- A. That strict compliance with area, setbacks, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for a permitted purpose, and would thereby render the conformity unnecessarily burdensome for other than financial reasons; and
- B. That a variance will provide and preserve a substantial property right similar to that possessed by other properties within the same zoning district and in the neighboring area, provided that possible increased financial return shall not of itself be deemed sufficient to warrant a variance; and
- C. That the plight of the owner is due to unique circumstances of the property , such as the shape of the parcel, unique topographic or environmental conditions, or any other physical situation on the land, building or structure deemed by the Zoning Board of Appeals to be extraordinary; and
- D. That the requested variance is the minimum amount necessary to permit reasonable use of the land, building or structure; and

E. That the authorization of such variance will not be of substantial detriment to adjacent properties and will not materially impair the intent and purpose of this Ordinance or the public health, safety, and general welfare of the community; and

F. That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).

In granting any variance, the ZBA may prescribe appropriate conditions and safeguards in conformity with the Ordinance, provided that said conditions are designed to protect natural resources, the health, safety, and welfare and social and economic well-being of the public. Such conditions shall be necessary to meet the intent and purpose of the Ordinance, be related to the standards established in the section for the land use or activity under consideration and be necessary to ensure compliance with those standards.

STAFF ANALYSIS

The regulation that prohibits materials from being hung over or placed within chain link fences was carried over from the previous Zoning Ordinance, and was likely put in place to prevent this material from becoming torn, ripped or damaged over time which can present unsightly conditions. The applicant has provided written responses addressing the variance criteria of Section 15.06.2 of the Zoning Ordinance. Per their application, the applicant primarily cites limited impact to adjacent properties, high quality materials, and attractive design as justification for the variance.

Practical difficulties relating to a dimensional variance request should generally relate to unique physical constraints on the property, including but not limited to natural features (e.g. wetlands, topography, soil situations) or extraordinary parcel shape. Where physical constraints severely limit the ability to place traditional screening on the property, variances may be warranted.

If a motion to approve the variance is presented, staff recommends several conditions of approval to further limit adverse impacts on adjacent property, ensure compatibility with the Zoning Ordinance's screening standards, and ensure the long-term durability and maintenance of the fabric material:

Suggested conditions:

1. The location of the fabric material shall be limited to those areas depicted within the application.

2. The fabric material shall be kept in good condition, maintained regularly, and shall be properly secured to the fencing at all times.
3. The design of the fabric cover may be permitted to be changed from time to time, with notification provided to the Planning and Zoning Administrator. However, text shall not be permitted on the fabric at any time.
4. On the fence adjacent to the rear property line, the exterior western-facing side of the fabric cover shall feature a solid color so as to not present a distracting design towards the adjacent school property.
5. After a public hearing, and at the recommendation of the Planning and Zoning Administrator, the Zoning Board of Appeals may revoke this variance upon a finding that the applicant or property owner has failed to comply with any of the above conditions.

ZBA ACTION

Any ZBA motion, including approval and denial, shall include findings of fact relating to the variance criteria listed in Sections 15.06.2 of the Zoning Ordinance. Template approval and denial motions are provided below for the ZBA's consideration, which may be modified at the discretion of the board.

Applicant Ahmad Massar, Detroit 75 Kitchen, shared that the family business has been operating for 11 years starting in Detroit. The rear screen wall material is a UV-resistant fabric that will be professionally maintained and have seasonal updates. The fence covering material is a UV-resistant fabric that will be decorative and durable, with seasonal rotation and maintenance to align with brand standards. Temporary fencing will be removed once brick and mortar opens. The rear of the building will be converted to storage with screening and they are proposing a patio area in the front of the building with proper barrier for cars to be submitted to the Building Department.

Chair Kimble opened the public hearing at 8:11 p.m. to hear comments on application #25-03.

There being no comments on application #25-03, Chair Kimble closed the public hearing at 8:12 p.m.

Motion made by Ms. Thompson, Seconded by Mr. Loranger, to approve the variance to allow fabric fence coverings at the property located at 32275

Stephenson Highway. This motion, being made after the required public hearing, is based upon the following findings:

- 1) That 8.05.5.F of the Zoning Ordinance states that, “materials such as, but not limited to, metal, plastic, vinyl, wood, or fabric may not be inserted into, attached, or hung over chain link fences.”
- 2) That strict compliance with fence materials regulations would unreasonably prevent the owner from using the property for a permitted purpose, and would thereby render the conformity unnecessarily burdensome for other than financial reasons; and
- 3) That a variance will provide and preserve a substantial property right similar to that possessed by other properties within the same zoning district and in the neighboring area, provided that possible increased financial return shall not of itself be deemed sufficient to warrant a variance; and
- 4) That the plight of the owner is due to unique circumstances of the property, including unique site layout and orientation; and
- 5) That the requested variance is the minimum amount necessary to permit reasonable use of the land, building or structure; and
- 6) That the authorization of such variance will not be of substantial detriment to adjacent properties and will not materially impair the intent and purpose of this Ordinance or the public health, safety, and general welfare of the community; and
- 7) That the need for the requested variance is not the result of actions of the property owner or previous property owners.

Approval is granted with the following conditions designed to ensure compliance with the intent and purpose of the sign regulations:

1. The location of the fabric material shall be limited to those areas depicted within the application.
2. The fabric material shall be kept in good condition, maintained regularly, and shall be properly secured to the fencing at all times.
3. The design of the fabric cover may be permitted to be changed from time to time, with notification provided to the Planning and Zoning Administrator. However, text shall not be permitted on the fabric at any time.
4. On the fence adjacent to the rear property line, the exterior western-facing side of the fabric cover shall feature a solid color so as to not present a distracting design towards the adjacent school property.
5. After a public hearing, and at the recommendation of the Planning and Zoning Administrator, the Zoning Board of Appeals may revoke this variance upon a

finding that the applicant or property owner has failed to comply with any of the above conditions.

Voting Yea: Aaron, Corbett, Holder, Kimble, Loranger, Marentette, Fleming, and Thompson

ZBA 06-25. Public Comment: For items not listed on the agenda.

Seeing no one wished to comment, Chair Kimble opened public comment at 8:16 p.m. and closed the public comment at 8:17 p.m.

ZBA 07-25. Officer Elections: Chair and Vice Chair

Chair Kimble called for nominations for the position of Chairperson and Vice Chairperson of the Board.

Ms. Holder nominates Mark Kimble as Chair and Toya Aaron as Vice-Chair.

Mark Kimble accepts the nomination for the Chair position and Toya Aaron accepts the nomination for the Vice-Chair position.

Motion made by Ms. Holder, Seconded by Ms. Corbett, to approve Mark Kimble as Chair and Toya Aaron as Vice-Chair.

Voting Yea: Aaron, Corbett, Holder, Kimble, Loranger, Marentette, Fleming, and Thompson

ZBA 08-25. Member updates

Chair Kimble wished Mr. Oglesby the best with his recovery.

Ms. Marentette provided Mr. Oglesby's home address to send him get well cards.

ZBA 09-25. City Planner updates

City Planner Lonnerstater shared that him and his wife welcomed a new baby girl in January.

ZBA 10-25. Adjournment

Motion made by Ms. Holder, Seconded by Ms. Marentette.

Voting Yea: Aaron, Corbett, Holder, Kimble, Loranger, Marentette, Fleming, and Thompson

Motion Carried.

There being no further business, Chair Kimble adjourned the meeting at 8:20 p.m.