



MEMORANDUM

Report Date: March 28th, 2025
To: City of Madison Heights Zoning Board of Appeals
Meeting Date: April 3rd, 2025
From: Matt Lonnerstater, AICP – City Planner
Subject: Structural Alteration of Nonconforming Pylon Sign
PZBA 25-04; 32275 Stephenson Hwy.

REQUEST

The applicant, Ahmad Nassar d/b/a Detroit 75 kitchen, requests a variance from **Section 12.09** of the Madison Heights Zoning Ordinance to permit the **structural alteration of a legally non-conforming pylon sign**. The property is located at 32275 Stephenson Highway (tax parcel # 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 property features an existing 24-foot-tall pylon sign adjacent to Stephenson Highway, pictured on the following page. The applicant proposes to remove the existing side-mounted sign cabinet (approximately 50 sq. ft.) and replace it with a new top-mounted sign cabinet (approximately 54 sq. ft.). The applicant proposes to reutilize the existing pole and ultimately maintain the 24-foot total sign height (officially 23 ft. 9 in.). The Zoning Ordinance does not permit new pylon signs, defined as a *“freestanding outdoor sign with either one or two poles for support.”* As such, the existing pylon sign is considered a legally non-conforming sign.

Per Section 12.09.3 of the Zoning Ordinance (Nonconforming Signs), a nonconforming sign shall not be, *“structurally altered so as to prolong the life of the sign, including modifications to cabinets, support structures, and framing elements. A sign face is permitted on a non-conforming sign if there are no other structural modifications.”* While the applicant proposes to utilize the existing sign pole and maintain the 24-foot-tall sign height, the applicant proposes a new sign cabinet, which is considered a structural alteration. Therefore, the applicant requests a variance from Section 12.09 to permit a new cabinet on the nonconforming pole sign.

Regulations for Permitted Signs

To comply with Zoning Ordinance standards, the applicant would be required to remove the nonconforming pylon sign and replace it with a shorter monument sign. As opposed to a pylon sign (not permitted in the City), a monument sign is defined as a, *“freestanding sign mounted to the ground that does not have any exposed poles or pylons.”* Per Section 12.07, the maximum permitted height for a monument sign in the MUI-1 district is eight (8) feet.

Proposed Pole Sign Cabinet (Left) and Existing Pole Sign Cabinet (Right)



Proposed Pole Sign Cabinet

The proposed cabinet is approximately 54 square feet in area and features an aluminum face with push-through acrylic and a faux neon L.E.D. border. Internal illumination is proposed. The cabinet is proposed to sit atop the existing pole as opposed to the existing cabinet which is mounted to the side.

VARIANCE FINDINGS AND CRITERIA

Section 15.06.2 of the Zoning Ordinance grants the Zoning Board of Appeals the power to authorize 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. As justification for their variance request, the applicant primarily cites the historic precedent of pole signs along this stretch of Stephenson Highway, the potential for enhancement and modernization of an outdate pylon sign, and the fact that the new cabinet will not result in an increase in sign height, thus creating minimal impact or departure from existing conditions.

Practical difficulties relating to a 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 ground 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,

Attachments

- Maps
- ZBA Application
- Section 12.07.2 – Regulations for Permitted Signs (MUI-1, Mixed-Use Innovation 1 District)
- Section 12.09 – Nonconforming Signs
- Section 15.06 – Variances and Appeals
- Public Hearing Notice

TEMPLATE MOTIONS

Variance – Structural Alteration to Legally Nonconforming Pylon Sign

APPROVAL (NOTE: ALL STANDARDS NEED TO BE LISTED TO MOVE FOR APPROVAL)

Move that the Zoning Board of Appeals **APPROVE** the variance request for the structural alteration of a legally nonconforming pylon sign on the subject property located at 32275 Stephenson Highway. This motion, being made after the required public hearing, is based upon the following findings:

- 1) Per Section 12.09.3 of the Zoning Ordinance, a nonconforming sign shall not be, *“structurally altered so as to prolong the life of the sign, including modifications to cabinets, support structures, and framing elements. A sign face is permitted on a non-conforming sign if there are no other structural modifications.”*
- 1) The existing 24-foot-tall pylon sign located on the subject property is nonconforming in that the City of Madison Heights does not allow pylon signs as a permitted ground sign; it is further nonconforming in that it exceeds the maximum ground sign height of 8 feet permitted in the MUI-1 district. The applicant proposes to remove and replace the sign cabinet on this existing pylon sign against Ordinance standards.
- 2) The proposed cabinet will not increase the height of the existing pylon sign and will be of a similar area to the existing cabinet.
- 3) The requested variance generally satisfies the variance criteria set forth in Section 15.06.2 of the Zoning Ordinance. In particular, the Zoning Board of Appeals finds that:
 - a. The requested variance is the minimum amount necessary to permit reasonable use of the existing nonconforming pylon sign; and
 - b. The authorization of the variance will not be of substantial detriment to adjacent properties and will not materially impair the health, safety, and general welfare of the community; and
 - c. 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 and will result in a modernized sign that will enhance the aesthetics of the Stephenson Highway corridor.

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

- 1) The total height of the pylon sign shall not exceed twenty-four (24) feet from grade;
- 2) The total area of the sign cabinet shall not exceed 55 square feet, consistent with that presented within the variance application.
- 3) Future face changes of the cabinet shall be permitted administratively in accordance with Section 12.09 of the Zoning Ordinance.

DENIAL (NOTE: ONLY ONE NON-COMPLIANT STANDARD NEEDS TO BE LISTED TO MOVE FOR DENIAL)

Move that the Zoning Board of Appeals **DENY** the variance request for the structural alteration of a legally nonconforming pylon sign at the subject property located at 32275 Stephenson Highway. This motion, being made after the required public hearing, based upon the following findings:

- 1) Per Section 12.09.3 of the Zoning Ordinance, a nonconforming sign shall not be, *“structurally altered so as to prolong the life of the sign, including modifications to cabinets, support structures, and framing elements. A sign face is permitted on a non-conforming sign if there are no other structural modifications.”*
- 2) The existing 24-foot-tall pylon sign located on the subject property is nonconforming in that the City of Madison Heights does not allow pylon signs as a permitted ground sign; it is further nonconforming in that it exceeds the maximum ground sign height of 8 feet in the MUI-1 district. The applicant proposes to remove and replace the sign cabinet on this existing pylon sign against Ordinance standards.
- 3) The requested variance does not satisfy the variance criteria set forth in Section 15.06.2 of the Zoning Ordinance. In particular, the Zoning Board of Appeals finds that:
 - a. Strict compliance with the sign standards would not unreasonably prevent the owner from using the property for a permitted purpose, and would not thereby render the conformity unnecessarily burdensome for other than financial reasons. The applicant has the ability to install an 8-foot-tall monument sign in accordance with the Zoning Ordinance; and
 - b. That the plight of the owner is not 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
 - c. The requested variance is not the minimum amount necessary to permit reasonable use of the land, building or structure in that a reduced sign height could be achieved; and
 - d. The authorization of such variance will materially impair the intent and purpose of Section 12.09 of the Zoning Ordinance