



MEMORANDUM

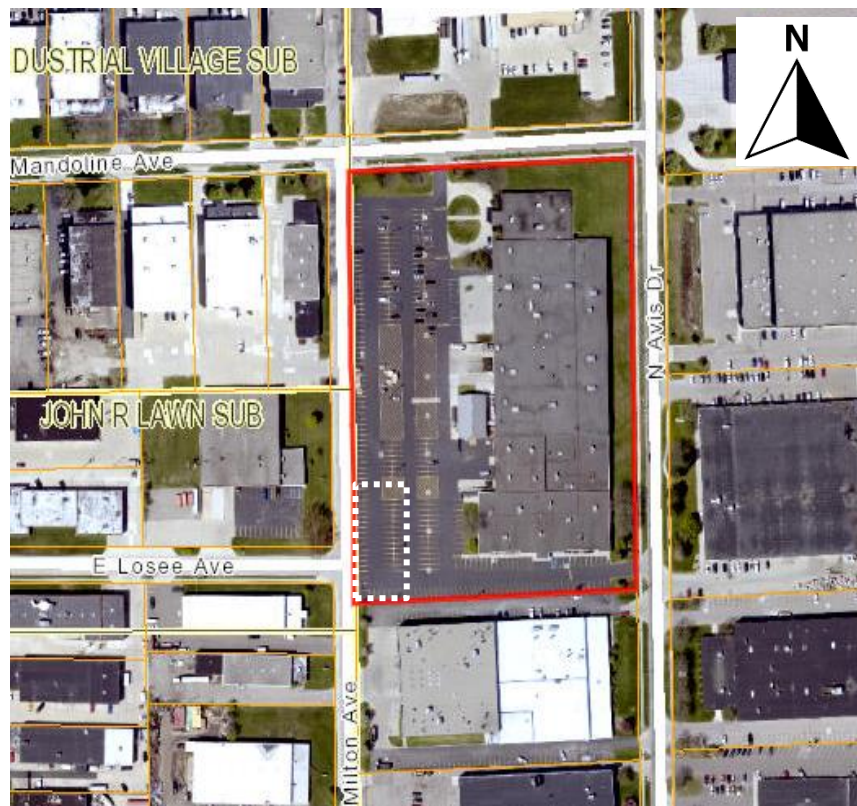
Date: May 25th, 2023
To: City of Madison Heights Zoning Board of Appeals
From: Matt Lonnerstater, AICP – City Planner
Subject: Fleet Vehicle Storage Screening Variance and Fence Setback Variance
PZBA 23-07: 1100 E. Mandoline Avenue

REQUEST

The applicant, Tom Paglia on behalf of the Ford Building, Inc., requests two variances from the Zoning Ordinance: (1) a variance from Section 10.505(C)(3) pertaining to fleet vehicle storage screening; and (2) a variance from Section 10.516(j)(2) pertaining to fence setback requirements. The subject property is located at 1100 E. Mandoline Avenue and is zoned M-1, Light Industrial district.

The subject site is approximately eight (8) acres in area and is improved with a large industrial building split into multiple suites. The site has frontage on three (3) streets: Milton Avenue to the west, Mandoline Avenue to the north, and Avis Drive to the east. Per the ZBA application, the applicant intends to enter into a lease agreement with a school bus fleet company which will require the outdoor storage of school buses. The applicant proposes to store the bus fleet in the southwest corner of the existing parking lot, outlined in the image below.

1100 E. Mandoline Ave.: Proposed School Bus Storage Area (white dashed line)



Section 10.516(j)(2) of the Zoning Ordinance – Parking Requirements – states that fleet and company vehicles, including rental passenger vehicles, shall be screened from adjoining properties by an enclosure consisting of a wall not less than the height of the vehicles; fence or alternative screening options such as landscaping may be permitted by the approving body. The southwest corner of the site features an existing chain link fence, as shown in the images below. The fence is legally non-conforming in that it is installed directly on the Milton Avenue right-of-way property line, whereas the Ordinance requires a five (5) foot setback. The fence also straddles the southern property line.

Proposed Fleet Vehicle Storage Area (looking north along Milton Avenue)



Proposed Fleet Vehicle Storage Area (looking south along Milton Avenue)



Staff informed the applicant that the existing transparent chain link fence did not meet the intent of the ordinance to visually screen the proposed storage area from the right-of-way and adjacent properties, but that a new opaque fence (e.g. vinyl or wood), landscaping, or both, could be installed to achieve the intent.

However, new fencing, if installed, would need to be set back a minimum of five (5) feet from the Milton Avenue right-of-way line to meet Section 10.516(j)(2).

Therefore, the applicant requests the following variances:

- (1) A blanket variance from Section 10.505(C)(3) to waive the fleet vehicle screening requirements and deem the existing chain-link fence as an adequate form of screening; and
- (2) In the case that the screening variance is denied, a variance from Section 10.516(j)(2) to permit the installation of a new screening fence within the required five (5) foot right-of-way setback along Milton Avenue.

Note that Section 10.516(f) of the fence regulations prohibits materials such as metal, plastic, wood or fabric from being inserted into, attached to, or hug over chain link fences.

VARIANCE FINDINGS

Section 10.804(2) outlines criteria for reviewing variance requests, summarized below with staff findings and comments:

- ***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.***

Staff Finding: Staff finds that the subject property is unique in that it has frontage along three (3) public roads: Milton Avenue, E. Mandoline Avenue, and N. Avis Drive. For all intents and purposes, the property has three (3) front yards; this precludes the property owner from placing parking and fleet storage in the rear or interior side yard, as encouraged by the Zoning Ordinance. The Zoning Ordinance accounts for this in Section 10.505(C)(3)(b) by stating,

In case of a corner lot or lots with no available space to park in rear or interior side yard, the approving body may permit parking in alternate locations. The approving body shall have the right to impose other restrictions such as, but not limited to landscape buffer or screen wall as it may deem advisable for welfare of the surrounding area.

Staff believes that the southwest corner of the parking lot is an appropriate alternate location for bus fleet storage given the unique triple-frontage condition. However, per the Ordinance, staff finds that adequate screening methods shall still be provided to offset visual impacts from Milton Avenue and the adjacent property to the south. Staff does not find a valid relationship between the triple frontage and the ability to install an appropriate screening system.

Staff does find a unique condition on the property in that the existing non-conforming chain link fence is installed at the Milton Avenue right-of-way/property line; the existing parking lot is also built directly to the property line, potentially precluding the installation of a fence with a greater setback.

- ***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.***

Staff Finding: Staff finds that the strict application of the fleet vehicle screening requirements would not result in a practical difficulty for the property owner, and that relief from the screening

requirements, in this case, could substantially impair the intent and purpose of the Zoning Ordinance. Staff finds that the primary intent of Section 10.505(C)(3) is to reduce the visual impact of fleet vehicle storage from public roads and adjacent properties. Where a new use is proposed for a site with non-conforming conditions, the Zoning Ordinance encourages the elimination of non-conformities to the greatest extent possible.

However, staff finds that relief from the fence setback requirement could be provided in a manner that maintains the spirit, intent, and purpose of the Ordinance.

Additional standards for reviewing variance cases are contained in Section 10.805, listed at the end of this report.

SITE PLAN REVIEW COMMITTEE (SPRC) ACTION

Staff summarized the variance request to the Site Plan Review Committee (SPRC) at their May 10th, 2023 meeting. The SPRC did not oppose the proposed fleet vehicle storage location or the requested fencing setback variance but was not supportive of a blanket screening variance.

ZBA ACTION

Any ZBA motion should include findings of fact relating to the variance criteria listed in Sections 10.804(2) and 10.805. 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.

CODE REFERENCES

Sec. 10.505(C)(3) – Parking Requirements - Fleet and Company Vehicles

For the purposes of this section, fleet and company vehicles shall include vehicles of a similar nature which are also of a type commonly used by electrical, plumbing, heating and cooling, and other construction-oriented contractors and may also include taxicabs and other rental passenger vehicles.

- a. Such vehicles which are over eight feet in width and/or 19 feet in length shall not be located in the front yard or in any required off-street parking, loading/unloading spaces or stacking spaces. Such vehicles shall be parked or stored in areas designated for such purpose on an approved site plan to the rear or interior side of the principal building when not in use or during non-business hours.*
- b. In case of a corner lot or lots with no available space to park in rear or interior side yard, the approving body may permit parking in alternate locations. The approving body shall have the right to impose other restrictions such as, but not limited to, landscape buffer or screen wall as it may deem advisable for the welfare of the surrounding area.*
- c. Parking or storage areas for such vehicles shall be hard surfaced, paved with asphalt or concrete. Such areas shall comply with all applicable standards for regular parking areas, unless otherwise approved by the approving body.*
- d. Such parking shall be screened from adjoining properties by an enclosure consisting of a wall not less than the height of the equipment, vehicles and all materials to be stored. A fence or alternative screening options such as landscape buffer that comply with related standards in section 10.510,*

landscape and screening, may be permitted if the subject property is surrounded by similar non-residential uses.

Sec. 10.516(j)(2) – Fences – Industrial or business zoned property.

(2) Location:

- a. *Fences in industrial and commercial districts, which are adjacent to industrial or commercial districts, shall not occupy any required front setback and must be five feet setback from any right-of-way property line.*

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.*