



MEMORANDUM

Report Date: September 1st, 2023
To: City of Madison Heights Zoning Board of Appeals
Meeting Date: September 7th, 2023
From: Matt Lonnerstater, AICP – City Planner
Subject: Modification of Nonconforming Use – Banquet Hall
PZBA 23-11; 876 Horace Brown Drive

REQUEST AND BACKGROUND

The applicant, *876 Horace Brown LLC (property owner)*, requests action from the Zoning Board of Appeals under Section 10.503(6)(c) of the Zoning Ordinance to permit the modification of an existing non-conforming event/banquet hall. The subject property is located at 876 Horace Brown Drive (tax parcel # 44-25-11-201-032) and is zoned O-1, Office.

The subject property is located on the south side of Horace Brown Drive, west of Barrington Street, and is improved with a 40,000 square foot office building which includes a 12,000 square foot banquet hall. The property was previously occupied by the United Food and Commercial Workers Union who used the banquet hall for union meetings. Per the applicant, additional events such as Chamber of Commerce meetings and various civic functions have historically been held at the banquet hall.

Despite the historic use of the banquet hall, assembly halls and similar places of assembly are not permitted uses in the O-1, Office district. Therefore, per Section 10.503 of the Zoning Ordinance, the assembly hall is considered a non-conforming use. The applicant recently purchased the property and would like to offer the banquet hall for private functions (e.g. wedding receptions), including catering and alcohol service.

While non-conforming uses typically run with the land (meaning that additional review/approval is not needed solely for change of ownership), staff believes that offering the banquet hall for private events in addition to civic/community-oriented events represents a change in operation and warrants public review and approval through the Zoning Board of Appeals. Per Section 10.503(6)(c) of the Zoning Ordinance:

If no structural expansion is made, any nonconforming use of a structure, or structures and premises, may be changed to another nonconforming use provided that the board of appeals, by making findings in the specific case, shall find that the proposed use is a legal nonconforming use, reduces the level of nonconformity on the site, and is more appropriate to the district than the existing nonconforming use. In permitting such change, the board of appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this Ordinance.

EXISTING SITE CONDITIONS

The subject property is approximately 4 acres in area and is improved with a 40,000 square foot building with an associated parking lot. The property abuts office uses to the east and north, I-75 to the west, and one-family residential properties to the south (rear). The images on the following page depict aerial and Streetview images of the property.

Aerial and Streetview Images



VOLUNTARY APPLICANT CONDITIONS

Within their project narrative, the applicant recognizes the proximity of the existing banquet hall to adjacent residential properties to the south. To mitigate negative impacts to these neighbors, the applicant voluntarily offers to place a time restriction on events, ending no later than 11 p.m.

STAFF ANALYSIS

Generally, concerns relating to banquet and event halls revolve around external impacts to adjacent properties, such as noise and light. Staff reached out to the Madison Heights Police Department to inquire if there had been any citizen complaints relating to the existing banquet hall over the past twenty years; the Police Department reported that no such complaints had been made. With the transition to hosting private events, staff recommends that the applicant's voluntary condition relating to an 11 p.m. event cut-off be incorporated into any motion for approval.

SITE PLAN REVIEW COMMITTEE (SPRC) ACTION

The SPRC discussed the nonconforming use request at their August 23rd, 2023 meeting. The SPRC did not state any comments or concerns relating to the request.

ACTION FINDINGS

Section 10.503(6)(c) and Section 10.805 include criteria and standards for reviewing a proposed modification of an existing non-conforming use. Pertinent criteria/standards are summarized below:

- *The proposed use is a legal nonconforming use, reduces the level of nonconformity on the site, and is more appropriate to the district than the existing nonconforming use.*
- *The assembly of persons in connection with the use will not be hazardous to the neighborhood or be incongruous therewith or conflict with normal traffic of the neighborhood.*
- *The nature, location, size and site layout of the uses 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.*

Additional review criteria are contained in Section 10.805, listed at the end of this report.

ZBA ACTION

Any ZBA motion, including motions for approval and denial, should include findings of fact relating to the criteria listed in Sections 10.503(6)(c) and Section 10.805. Template approval and denial motions are attached to this memorandum for the ZBA's consideration.

In granting approval of the action, 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 modification of the non-conforming use, staff suggests the following condition of approval:

- 1) *Events held at the banquet hall shall end no later than 11 p.m. in order to reduce impacts to adjacent residential properties.*

CODE REFERENCES

Sec. 10.503 – Nonconforming Lots, Uses and Structures

[...]

- (6) *Nonconforming uses of structures and land. If a lawful use of a structure, or of structures and land in combination, exists at the effective date of adoption or amendment of this Ordinance that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:*
- (a) *No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except to accommodate a change in the use of the structure to a use permitted in the district in which it is located.*
 - (b) *Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.*
 - (c) *If no structural expansion is made, any nonconforming use of a structure or structures and premises, may be changed to another nonconforming use provided that the board of appeals, by making findings in the specific case, shall find that the proposed use is a legal nonconforming use, reduces the level of nonconformity on the site, and is more appropriate to the district than the existing nonconforming use. In permitting such change, the board of appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this Ordinance.*
 - (d) *Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use for any period of time, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not be resumed.*
 - (e) *When a nonconforming use of a structure, or structure and premises in combination, is discontinued or ceases to exist for six consecutive months, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.*
 - (f) *Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.*

[...]

Sec. 10.801. – Creation and Membership (Board of Appeals)

[...]

- (3) *The board of appeals shall hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official or body charged with the enforcement of an ordinance adopted pursuant to this Ordinance. The board of appeals shall also hear and decide matters referred to it or upon which it is required to pass under an ordinance of the legislative body adopted pursuant to this Ordinance.*

[...]

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.*