



# MEMORANDUM

Report Date: February 27<sup>th</sup>, 2025  
 To: City of Madison Heights Zoning Board of Appeals  
 Meeting Date: March 6<sup>th</sup>, 2025  
 From: Matt Lonnerstater, AICP – City Planner  
 Subject: Fence Material Variance  
 PZBA 25-03; 32275 Stephenson Hwy.

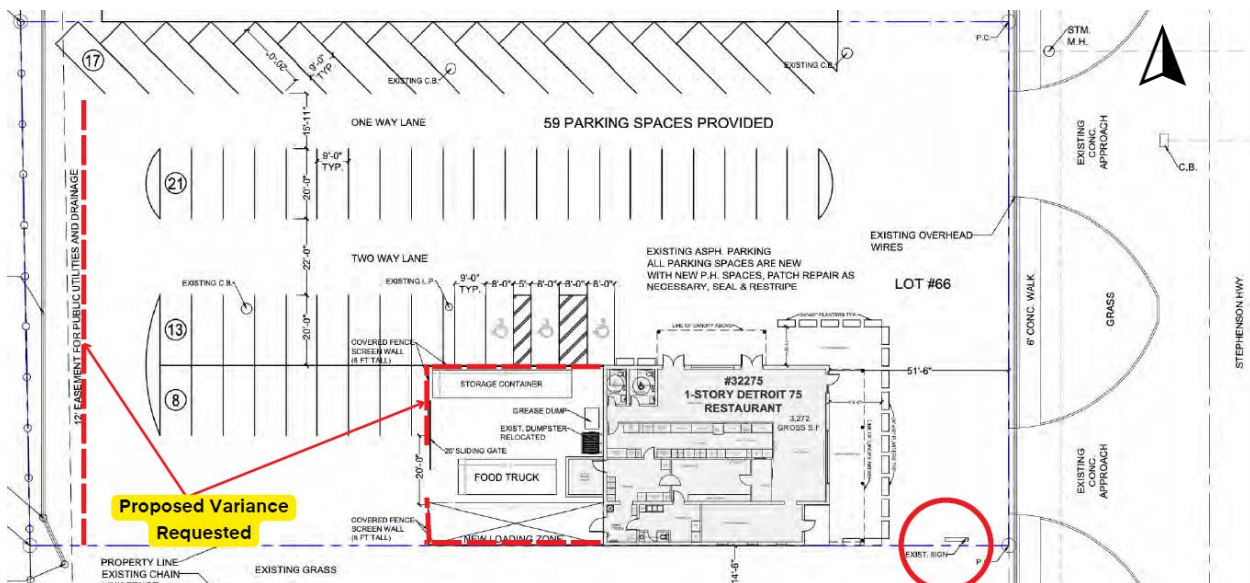
## REQUEST

The applicant, Ahmad Nassar d/b/a Detroit 75 Kitchen, requests a variance from the Madison Heights Zoning Ordinance pertaining to fence materials. 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 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.

The site plan below denotes the proposed locations of the decorative fabric covers on the site.

### Proposed Fabric Fence Covering Locations



### 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.

#### *Potential Designs for Fabric Fence Covering*



### 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.**

## TEMPLATE MOTIONS

### Variance– Fabric Fence Covering

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

Move that the Zoning Board of Appeals 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.

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 relating to fabric fence coverings at the property located at 32275 Stephenson Highway. This motion being made after the required public hearing 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 not 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
- 1) That a variance will not 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;
- 2) That the plight of the owner is not due to unique circumstances of the property;
- 3) That the requested variance is not the minimum amount necessary to permit reasonable use of the land, building or structure;
- 4) That the authorization of such variance will be of substantial detriment to adjacent properties and/or will materially impair the intent and purpose of this Ordinance or the public health, safety, and general welfare of the community;
- 5) That the need for the requested variance is the result of actions of the property owner or previous property owners.

**Attachments**

- Maps
- ZBA Application
- Section 8.05 - Fences
- Section 15.06 – Variances and Appeals
- Public Hearing Notice