



MEMORANDUM

Report Date: August 8th, 2023
To: City of Madison Heights Zoning Board of Appeals
Meeting Date: August 17th, 2023 – Special Meeting
From: Matt Lonnerstater, AICP – City Planner
Subject: “Jax Kar Wash” Variances
PZBA 23-10; 29022 Stephenson Highway

REQUEST

The applicant, *Todd Gesund on behalf of BMW Kar Wash/Jax Kar Wash*, requests four (4) variances from the City’s Zoning Ordinance relating to a proposed car wash use. The subject property is located at 29022 Stephenson Highway (tax parcels # 44-25-11-377-015; -016; and -017) and is zoned B-3, General Business. An existing restaurant building is proposed to be demolished to accommodate the new car wash.

The applicant requests variances from the following sections of the Zoning Ordinance:

- *Section 10.326(8)(c) [Auto Washes]: The time of operation shall be limited between the hours of 8:00 a.m. and 10:00 p.m.; and*
- *Section 10.326(8)(d) [Auto Washes]: All buildings to be used in connection with the auto wash shall be located at least 20 feet away from any right-of-way line; and*
- *Section 10.326(8)(i) [Auto Washes]: A chainlink-type fence must be constructed so as to enclose the entire property except drives and areas where screen walls are required, two feet along any street, four feet side and back; and*
- *Section 10.326(8)(q) [Auto Washes]: All operations must be carried on within the building area, including but not limited to vacuuming, washing and drying; and*

City Council approved the special land use request for the car wash at their July 10th, 2023 meeting, with the following condition relating to the ZBA:

- *Resolve site plan deficiencies relating to building setback, hours of operation, chain link fence, and outdoor self-service vacuum bays or seek the appropriate variances from the Zoning Board of Appeals.*

The applicant is not the current property owner. However, the current property owner has signed the ZBA application, as required.

Each variance request is briefly discussed on the following pages.

Hours of Operation Variance

Per Section 10.326(8)(c) of the Zoning Ordinance, auto wash uses shall only operate between 8:00 a.m. and 10:00 p.m. The applicant requests a variance of one hour to begin operating at 7:00 a.m. Proposed hours of operation would be from 7:00 a.m. to 10:00 p.m., daily.

Outdoor Vacuuming and Towel-Drying Variance

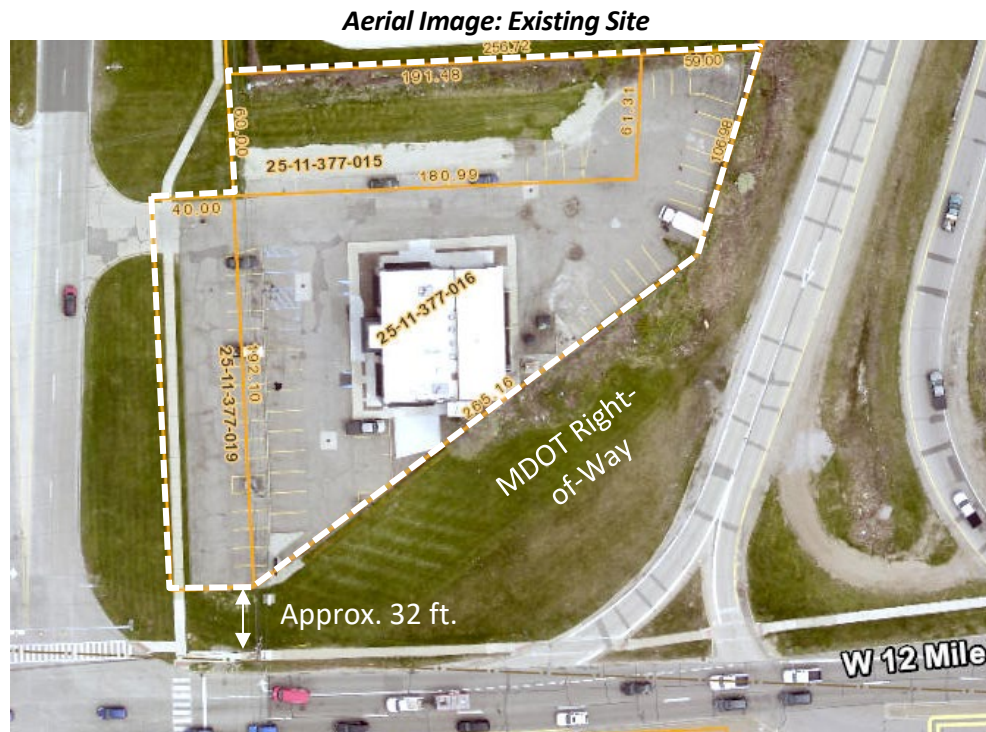
Per Section 10.326(8)(q) of the Zoning Ordinance, vacuuming areas related to auto wash uses are required to be placed within a building. The applicant requests a variance from this standard to allow approximately nineteen (19) outdoor vacuum stations adjacent to the auto wash and allow for outdoor hand towel drying. Per the site plan and renderings (shown below), the vacuuming stations will be screened from Stephenson Highway by the auto wash building and screened from Stephenson Highway by a landscape buffer. The motors and mechanical equipment powering the vacuums are proposed to be enclosed within the building.

Renderings – “Jax Kar Wash”



Setback Variance

Per Section 10.326(8)(d) of the Zoning Ordinance, all buildings to be used in connection with the auto wash shall be located at least 20 feet away from any right-of-way line. Due to the triangular shape of the property and the width of the I-75/MDOT right-of-way adjacent to the site, the applicant proposes a 10-foot building setback from the southern property line facing W. 12 Mile Road. The large grass lawn adjacent to the property is MDOT right-of-way and is not included within the boundaries of the subject property. The image below depicts an existing aerial image of the site and shows the large right-of-way lawn area adjacent to the site. At its shallowest measurement, the property line of the subject site is approximately 32 feet from the edge of the sidewalk adjacent to W. 12 Mile Road. The applicant proposes landscaping between the southern property line and the building.



Chain Link Fence Variance

Per Section 10.326(8)(i) of the Zoning Ordinance, a chainlink-type fence must be constructed to enclose the entire auto wash property, except drives and areas where screen walls are required, two feet along any street, four feet side and back. In lieu of the chain link fence, the applicant intends to install landscape buffers around the edge of the property, as illustrated in the renderings on the previous page.

STAFF ANALYSIS

The applicant has provided written responses addressing the variance criteria of Section 10.804(2) of the Zoning Ordinance. The applicant requests variances to the hours of operation and outdoor vacuuming/hand towel drying standards in order to align with the operating models of other modern car washes in the area. The applicant cites aesthetic benefits for permitting landscaping in lieu of the chain link fence. Further, the applicant cites the triangular shape of the property and the substantial lawn buffer within the I-75 right-of-way as practical difficulties for meeting the 10-foot setback standard.

Staff believes that the intent behind the hours of operation, setback, and outdoor vacuuming standards is to protect adjacent properties from the adverse impacts of a car wash, such as aesthetics, lighting and noise. However, in this case, staff finds that many of the associated adverse impacts are mitigated based on the site location and proposed site design. The property is adjacent to other regional commercial uses, such as retail, drive-through restaurants, auto repair, and gas stations, and does not directly abut residential property or residential uses. Further, the site is designed in a way which screens the vacuuming stations from 12 Mile Road and Stephenson Highway and allows for the vacuum machinery to be enclosed within a building. Staff finds that the proposed landscaping buffers will provide a better aesthetic around the edge of the site than the required chain link fence.

VARIANCE FINDINGS

Section 10.804(2) outlines criteria for reviewing variance requests, summarized below:

- ***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.***
- ***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.***

Additional standards for reviewing variance cases, as required per the ZBA application, are outlined below:

- *The literal interpretation of the provisions of this ordinance deprives the applicant of rights commonly enjoyed by others in the same zoning district.*
- *The special conditions and/or circumstances are not a result of the applicant.*
- *The variance is the minimum variance necessary to provide relief to the applicant.*
- *In the absence of a variance, the property could not be used in a manner permitted by the Ordinance.*

The complete list of variance review criteria is contained in Section 10.805 at the end of this report.

SITE PLAN REVIEW COMMITTEE (SPRC) ACTION

The SPRC discussed the variance request at their July 26th, 2023 meeting. The SPRC had no objections to the variance requests.

ZBA ACTION

Any ZBA motion, including approval and denial, should include findings of fact relating to the variance criteria listed in Sections 10.804(2) and 10.805. Template approval and denial motions are attached for the ZBA's consideration. The ZBA should act on each variance request separately.

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. *Vacuuming Variance: Vacuums shall be turned off no later than 10 p.m., consistent with the closure of the auto wash tunnel.*
2. *The Landscape Plan submitted with the site plan package shall be substantially consistent with the preliminary plans submitted with the Special Approval and ZBA Variance applications, except for any required modifications placed as conditions of approval.*

CODE REFERENCES

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.*

Sec. 10.326 - B-3 Uses Permissible on Special Approval

- (8) Auto washes:
 - (a) When completely enclosed in a building.
 - (b) An attendant must be on duty and on the premises at all times that such auto wash is in operation. All other times, the building must be locked and safely secured.
 - (c) The time of operation shall be limited between the hours of 8:00 a.m. and 10:00 p.m.
 - (d) All buildings to be used in connection with the auto wash shall be located at least 20 feet away from any right-of-way line.
 - (e) Where multiple wash stalls are proposed all auto stacking lanes must be channeled with curbs to each wash stall so as to prevent cross traffic and the minimum stacking space shall be six cars per stall. The minimum amount of stacking space to be provided in all car wash developments shall be equivalent to 20 minutes of full and continuous operation.
 - (f) Buildings must be constructed so as to be enclosed on two sides plus doors on the front and rear of each stall, capable of being locked.
 - (g) All lights used in connection with auto washes shall be shaded so as not to project upon or become a nuisance to adjacent properties.
 - (h) All land used in connection with auto washes is to be paved and drainage provided in accordance with existing ordinances pertaining to parking lots.

- (i) A chainlink-type fence must be constructed so as to enclose the entire property except drives and areas where screen walls are required, two feet along any street, four feet side and back.
- (j) Access points are limited to not more than two 20-foot drives. Such drives are to be a minimum of 50 feet apart and ten feet from the exterior lot lines and 35 feet from any intersection right-of-way lines and shall not be constructed so that ingress and egress shall be through residentially zoned areas. Such access points must have the approval of the Madison Heights Police Department to effect that they will not interfere with vehicular traffic nor will they create a safety hazard.
- (k) No steam hose for public use shall be located upon the premises in connection with such auto wash.
- (l) All blowers shall be turned off when not in use in connection with the operation of the car wash.
- (m) It shall be unlawful for any person, firm or corporation or any agent, servant or employee thereof, who while operating an auto wash, to permit or cause to be permitted upon the premises in which the said business is located, a nuisance, by allowing the health, safety or welfare of the community to be impaired.
- (n) It shall be the duty of the licensee, manager, or person in charge of any auto wash, to keep the premises whereon said auto wash is located, together with the parking area and any adjacent area, free from rubbish, waste products and debris.
- (o) It shall be unlawful for any patron of an auto wash or for any other person while parking on or adjacent to the premises to race the motor of any vehicle, to suddenly start or stop any unseemly noise, nuisance or disturbance which shall impair the peace, health or safety of the community.
- (p) Construction of auto wash buildings shall not be permitted if said construction shall require standing or parking on public rights-of-way in connection with the operation of the auto wash.
- (q) All operations must be carried on within the building area, including but not limited to vacuuming, washing and drying.