



CITY OF MADISON HEIGHTS
CITY HALL - COUNCIL CHAMBERS, 300 W. 13 MILE RD.
ZONING BOARD OF APPEALS (ZBA) AGENDA
MAY 05, 2022 AT 7:30 PM

CALL TO ORDER

ROLL CALL

ADDITIONS/DELETIONS TO AGENDA

APPROVAL OF MINUTES

1. March 03, 2022 Zoning Board of Appeals - Minutes

PUBLIC HEARING

2. **PZBA # 22-04: 45 & 47 E. TEN MILE ROAD**

The applicant, Walid Abbod, requests a variance from Section 10.350(c) of the Zoning Ordinance which states, "not more than one registered primary caregiver shall be permitted to operate at any one parcel located within the Caregiver Marijuana Grow Overlay District." The subject property is located at 45 & 47 E. Ten Mile Road (tax parcel # 44-25-24-355-018) and is zoned M-1, Light Industrial

3. **PZBA # 22-05: 1900 E. 14 MILE ROAD**

The applicant, Joe Ricci, requests a variance from City sign regulations, Section 10.511(IV)(C)(4)(c) of the Zoning Ordinance, which limits business signs displayed through glass to a maximum of 25% of the total glass area. The subject property is located at 1900 E. 14 Mile Road (tax parcel #44-25-01-226-038) and is zoned M-1, Light Industrial.

UNFINISHED BUSINESS

NEW BUSINESS

4. Adoption of ZBA Bylaws

MEETING OPEN TO THE PUBLIC: Items not listed on agenda

ADJOURNMENT

NOTICE: Persons with disabilities needing accommodations for effective participation through electronic means in this meeting should contact the City Clerk at (248) 583-0826 or by email: clerks@madison-heights.org at least two working days in advance of the meeting. An attempt will be made to make reasonable accommodations.

Zoning Board of Appeals
Regular Meeting
Madison Heights, Michigan
March 3, 2022

Item 1.

A Regular Meeting of the Madison Heights Zoning Board of Appeals was called to order by Chairman Kimble on March 3, 2022 at 7:30 p.m. in the Municipal Building at 300 West Thirteen Mile Road, Madison Heights, Michigan.

Present: Chair Kimble and members: Holder, Kehoe, Marentette, Ott and Thompson

Absent: L. Corbett, R. Corbett and Oglesby

Also Present: Assistant City Attorney Burns, City Planner Lonnerstater, and Clerk of the Board Boucher.

All votes taken at today's meeting are roll call votes.

22-01. Excuse Member(s).

Motion by Ms. Holder, seconded by Ms. Thompson, to excuse Ms. L. Corbett and Mayor Pro Tem R. Corbett from tonight's meeting.

Yea: Holder, Kehoe, Marentette, Ott, Thompson and Kimble

Nay: None

Absent: L. Corbett, R. Corbett and Oglesby

Motion Carried.

22-02. Excuse Member(s).

Motion by Ms. Holder, seconded by Ms. Thompson, to excuse Vice Chair Oglesby from tonight's meeting.

Yea: Kehoe, Marentette, Ott, Thompson, Holder and Kimble

Nay: None

Absent: L. Corbett, R. Corbett and Oglesby

Motion Carried.

22-03. Approval of the Agenda.

Motion by Ms. Kehoe, seconded by Ms. Marentette, to approve the agenda.

Yea: Marentette, Ott, Thompson, Holder, Kehoe and Kimble

Nay: None

Absent: L. Corbett, R. Corbett and Oglesby

Motion Carried.

22-04. Minutes

Motion by Ms. Kehoe, seconded by Ms. Ott, to adopt the minutes of the Regular Meeting held on December 2, 2021 as printed.

Yea: Ott, Thompson, Holder, Kehoe, Marentette and Kimble

Nay: None

Absent: L. Corbett, R. Corbett and Oglesby

Motion Carried.

22-05. Case # PZBA 22-01: 28091 Dequindre Road

REQUEST: The applicant, MRJ Sign Company, LLC, requests a variance from Section 10.511(IV)(C)(3) of the Zoning Ordinance pertaining to minimum ground sign setbacks. The subject property is located at 28091 Dequindre Road (tax parcel #44-25-13-279-038) and is zoned O-1, Office.

Applicant Mark R. Johnson from MRJ Sign Company, LLC at 256 Narrin Street, Ortonville, MI 48462, was present on behalf of Z Company Investment HP Chrysler Drive, LLC, Birmingham, MI 48012. Per Mr.

Johnson, the property owner is requesting to replace the existing non-conforming ground sign with a multi-tenant ground sign that will conform in square footage and overall height from top of sign to grade but will require a 3 foot 9 inch setback variance. The current ordinance states the front or leading edge of the ground sign needs to be set back half the distance from the property line to the building. This would require utilizing the square footage that was involved since there is 20 feet from the rear edge or private side of the sidewalk to the building and 19 feet from the actual property line to the building. This would put the proposed literally 18 inches off the front wall of the building and the building has a half way sunken first floor that's uneven. At the window well there's concrete that actually extends out from there and a sign at the required setback would really infringe and overhang into the landscaping area. The property owner is asking to remove the existing sign and install a new conforming sign. The minimum distance required from the rear edge of the sign to the landscaping in the daylight windows to get a zero turn mower in there and not get clipped. The new sign will be 9 inches further back than the existing sign. The variance request would reduce the non-conformity presented by the existing sign.

City Planner Lonnerstater overviewed the staff report and explained the applicant is requesting a variance of 3 feet 9 inches from the zoning ordinance requirement that the sign setback be set back a minimum of half the building setback. Staff finds a practical difficulty due to the pre-existing nature of the building set close to the road as well as the design of the building with the sunken daylight windows which are actually not taken into consideration for the building setback. Planner Lonnerstater stated that staff did find that the presence of a practical difficulty to meet the zoning ordinance requirement and that the variance, if granted, would not result in a strong detriment to adjacent property owners. The sign as proposed does actually decrease the existing non-conformity. Staff finds the criteria for granting a variance have been met.

Chair Kimble pointed out that the site plan review committee met on January 26, 2022 and stated they had no objections to this request.

Chair Kimble opened the public hearing at 7:45 p.m. to hear comments on application #22-01. There being no comments on application #22-01, Chair Kimble closed the public hearing at 7:46 p.m.

Ms. Marentette asked if the sign, as proposed, is going to run parallel or perpendicular, whether there is there anything underneath it, and inquired about the traffic view from Beverly.

Applicant Mark R. Johnson replied to Ms. Marentette, the sign will run perpendicular and will go in the same spot of the existing sign. The front edge of the sign will be 7 feet back and between the rear end of the public sidewalk. There will be a 7 foot clear area that won't have any obstruction. In the aerial drawing it is positioned on the property south end, a good 40 – 50 feet up and further away from Beverly.

Assistant City Attorney Burns suggested, "in accordance with the staff recommendation as presented to the body that you see there's a unique property that creates a substantial detriment to the property owner and does not impair the intent on the purpose of the ordinance." Mr. Burns suggested that the ZBA may agree based upon the recommendation of those two purposes or can act contrary to staff recommendations.

City Planner Lonnerstater suggested that a motion to approve should contain reference to a finding that the requested variant satisfies the criteria of section 10.8042 as listed in the staff report.

Motion by Ms. Holder, seconded by Ms. Kehoe, to approve the applicant's variance request due to a unique, exceptional configuration of the land in regard to the existing building setback, features of the existing building on the property, and the current non-conforming sign setback which creates a practical difficulty resolved by the variance. The variance does not create a detriment to the public good, adversely impact the character of surrounding properties nor impair the intent of the ordinance as is consistent with other signage in neighboring parcels and decreases the existing non-conformity on the site. Therefore the variance complies with Sec. 10-804 and Sec. 10-805 of the Code of Ordinances.

Yea: Thompson, Holder, Kehoe, Marentette, Ott and Kimble

Nays: None

Absent: L. Corbett, R. Corbett and Oglesby

Motion Carried.

Item 1.

22-06. Case # PZBA 22-02: 31624 Stephenson Highway

REQUEST: The applicant, Emerald Steel Processing, LLC requests a variance from Section 10.511(IV)(C)(4) of the Zoning Ordinance pertaining to maximum wall sign area. The subject property is located at 31624 Stephenson Highway (tax parcel # 44-25-02-328-013) and is zoned M-2, Heavy Industrial.

Mr. Michael Stevens from Signarama Troy at 1017 Naughton Drive, Troy MI 48083 introduced the applicant Mr. Joe Pagano from Emerald Steel Processing, LLC. They are seeking a variance for a new 218 square foot wall sign on the east elevation of 31624 Stephenson located in zone M-1 District which the ordinance restricts to a maximum of 100 square feet based on the building size and location. The property is on the I-75 corridor which makes it a unique circumstance and justifies the size that exceeds the restriction of 100 square feet. This property has a linear frontage of 226 square feet along the I-75 corridor and the overall size of the 218 square feet seems to fit that particular space. Emerald Steel is a tier one auto supplier to the auto industry and several other companies. This additional size increase would help their advertising.

City Planner Lonnerstater overviewed the staff report and explained the applicant is requesting a wall sign area variance. The property is actually zoned M-2, not M-1, but the sign regulations are the same for M-1 and M-2 Districts. The maximum wall sign area in the M-1 and M-2 districts is 100 square feet and covers all the signs on all sides of the building. The applicant's business has an existing sign which is 185 square feet, exceeding the maximum sign area. Lonnerstater stated that it's important to consider the lot and its shape for this variance request. The lot does not have much frontage on Stephenson which is why the existing sign is fairly large. This proposed sign would face I-75 similar to other businesses along the freeway that have either been grandfathered in or received a variance similar to this request. Staff does find that the sign ordinance is fairly strict when it comes to M-1 and M-2 District properties. If this property was zoned B-1 District, the property owners would be afforded up to 600 square feet of wall sign area. Staff does find based on the shape of the property, its lack of frontage, and the rights that have been granted to other properties along I-75 this variance request does satisfy the two criteria outlined in section 10.8042. The Site Plan Review Committee met and did not have any objections.

Chair Kimble indicated that the Site Plan Review Committee met on February 9th and stated no objections.

Chair Kimble opened the public hearing at 7:55 p.m. to hear comments on application #22-02. Chair Kimble read an email in support of the variance request from Rebecca Lee Scott at 31690 Stephenson Highway into record. There being no additional comments on application #22-02, Chair Kimble closed the public hearing at 7:57 p.m.

Motion by Ms. Holder, seconded by Ms. Ott, to approve the applicant's variance request to address a unique, exceptional configuration of the land due to its set back from the Stephenson Highway right-of-way, the fact that the view of the property from Stephenson Highway is blocked by another building on a neighboring parcel, and the primary frontage of the applicant's property along Interstate I-75 which provides a practical difficulty which is resolved with the variance. The variance does not create a detriment to the public good, adversely impact the character of surrounding properties, nor impair the intent of the ordinance. Approval of the variance is in compliance with Sec. 10-804 and Sec. 10-805 of the Code or Ordinances.

Yea: Holder, Kehoe, Marentette, Ott, Thompson and Kimble

Nay: None

Absent: L. Corbett, R. Corbett and Oglesby

Motion Carried.

22-07. Case # PZBA 22-03: 29472 Milton Avenue

REQUEST: The applicant, Angela Rondan, requests a variance from Section 10.401 of the Zoning Ordinance pertaining to maximum lot coverage. The subject property is located at 29472 Milton Avenue (tax parcel # 44-25-12-405-002) and is zoned R-3, One Family Residential.

Applicant Angela Rondan, 29472 Milton Avenue, was present to answer questions. Ms. Rondan stated that she has decided to put an addition in her home and garage to accommodate her mother.

City Planner Lonnerstater overviewed the staff report and explained this is a request for a 2.5 percent coverage variance to the maximum lot coverage standard in the R-3 District. The lot coverage standard measures the percentage of a lot occupied by all buildings; it includes the existing house and the existing accessory structure. The applicant would like to construct additions to both the home and garage; this would push it up to 37.5 percent lot coverage, as opposed to the maximum 35% coverage permitted in the R-3 district. The strict criteria of Section 10.8042 looks at the lot and any exceptional conditions. Staff finds that the subject lot is consistent with the dimensions required for the R-3 District and did not find any special circumstances relating to the lot. Staff finds that the strict application of the ordinance would not result in an exceptional practical difficulty but that the variance could be granted without a substantial detriment. Staff did not find an exceptional practical difficulty because the subject lot meets the dimensional standards. The home or garage additions by itself meet the standards of the ordinance without a variance; however, if both are granted it would not result in a substantial detriment to the public good. The Site Plan Review Committee met on February 9th and did not find exceptional condition pertaining to the property nor a practical difficulty. The motion should reference 10.804 and 10.805 which are our variance criteria.

Chair Kimble opened the public hearing at 8:03 p.m. to hear comments on application #22-03. There being no comments on application #22-03, Chair Kimble closed the public hearing at 8:04 p.m.

Ms. Marentette inquired about the buildings being on the property line.

Applicant Angela Rondan replied that her home and garage meets the standard minimum set back from the property line. There will be at least 5-6 feet from the fence to where the house would continue.

Chair Kimble inquired about any variance request for infringing on the setbacks. He clarified for this variance request there will not be any changes to zoning.

City Planner Lonnerstater clarified that the variance request is to exceed the lot coverage standard; the home and garage addition would be required to meet the side and rear yard setbacks of our ordinance. Staff would review it when the application is submitted and, if granted, the variance allows the applicant to go above the maximum lot coverage. City Planner Lonnerstater added the garage addition is being proposed on an existing concrete slab and based on the current improvements of the lot would not result in additional impervious surface. The home addition is on a green grass lot, however.

Ms. Thompson stated we add an addendum that if this request is approved we're not setting a precedent for the rest of the neighborhood.

Ms. Holder clarified the proposed building addition shall satisfy the setback and height standards of Section 10.401 Schedule of Regulations and 10.504 Accessory Building Structures and Uses.

Assistant City Attorney Burns suggested the Board to reference Section 10.804(2) and articulate that there's uniqueness to the property that differentiates it from other properties and creates the practical difficulty and extreme hardship.

Motion by Ms. Holder, seconded by Ms. Kehoe, to approve the applicant's variance request to exceed the maximum lot coverage standard of 35% by 2.5% to address unique considerations of the land with regards to the existing concrete pad. Construction for building improvements over the concrete pad would not decrease the permeable ground surface of the property. The practical difficulty of the situation is resolved by the 2.5% variance. The variance does not create a detriment to public good, adversely impact the character of surrounding properties nor impair the intent of the ordinance. Therefore the variance complies with Sec. 10-804 and Sec. 10-805 of the Code of Ordinances.

Yea: Kehoe, Marentette, Ott, Thompson, Holder and Kimble

Nays: None

Absent: L. Corbett, R. Corbett and Oglesby

Motion Carried.

Item 1.

22-08. Officer Elections: Chair and Vice Chair

Chair Kimble called for nomination for the position of Chairperson of the Board.

Motion by Ms. Kehoe, seconded by Ms. Ott, to re-appoint Mark Kimble as Chairman.

Yea: Marentette, Ott, Thompson, Holder, Kehoe and Kimble

Nays: None

Absent: L. Corbett, R. Corbett and Oglesby

Motion Carried.

Chair Kimble called for nomination for the position of Vice-Chairperson of the Board.

Motion by Ms. Kehoe, seconded by Chair Kimble, to appoint Gloria Thompson Vice-Chairman.

Yea: Ott, Thompson, Holder, Kehoe, Marentette and Kimble

Nays: None

Absent: L. Corbett, R. Corbett and Oglesby

Motion Carried.

22-09. Public Comment: For items not listed on the agenda

Seeing no one wished to comment, Chair Kimble opened and closed the public comment at 8:12 p.m.

22-10. Adjournment.

Motion by Ms. Holder, seconded by Vice-Chair Thompson, to adjourn the meeting.

Yea: Thompson, Holder, Kehoe, Marentette, Ott and Kimble

Nays: None

Absent: L. Corbett, R. Corbett and Oglesby

Motion Carried.

There being no further business, Chair Kimble, adjourned the meeting at 8:12 p.m.

Phommady A. Boucher
Clerk of the Board



MEMORANDUM

Date: April 26th, 2022
 To: City of Madison Heights Zoning Board of Appeals
 From: Matt Lonnerstater, AICP – City Planner
 Subject: PZBA 22-04: Use Variance Request – Medical Marihuana Caregiver; 45 & 47 E 10 Mile Rd.

REQUEST

The petitioner, *Walid Abbod*, requests a use variance from Section 10.350(c), *Caregiver Marihuana Grow Overlay District requirements*, of the Zoning Ordinance. The petitioner requests a variance to allow for the operation of (1) additional registered primary marihuana caregiver at 45/47 E. 10 Mile Road (tax map # 44-25-24-355-018), zoned M-1, Light Industrial. One (1) existing marihuana caregiver currently operates on the property. If granted, the use variance would permit two (2) caregiver operations on site.

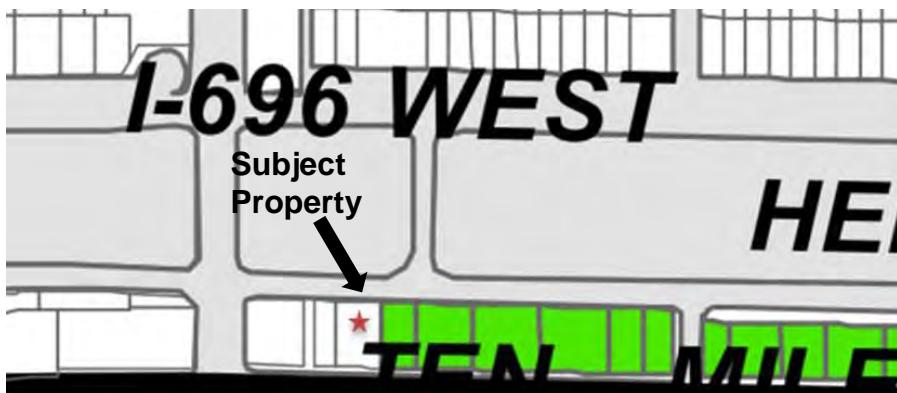
NOTE: The petitioner's request does not constitute an appeal of an administrative decision.

BACKGROUND INFORMATION

Per the Caregiver Marihuana Grow Overlay District, Section 10.350 of the Zoning Ordinance, a registered primary caregiver shall not cultivate medical marihuana at a parcel located outside of the Caregiver Marihuana Grow Overlay District. Further, not more than one registered primary caregiver shall be permitted to operate at any one parcel located within the Caregiver Marihuana Grow Overlay District.

The Caregiver Marihuana Grow Overlay District ordinance went into effect on July 13th, 2020. Prior to the effective date of the ordinance, the petitioner applied for and received site plan approval for a marihuana caregiver location and subsequently received an approved Certificate of Occupancy for one (1) caregiver on the property.

Based on the Caregiver ordinance and the associated overlay district map (overlay district boundaries depicted in green on the map below), the subject property is not located within the boundaries of the Caregiver Marihuana Grow Overlay District. Therefore, the existing single caregiver is a legal non-conforming use on the property.



The petitioner's variance request to allow for one (1) additional caregiver operation on the subject property is considered a use variance as new caregivers are not permitted on the property given its location outside of the boundaries of the Caregiver Marihuana Grow Overlay District.

USE VARIANCE FINDINGS

The petitioner's variance request is to allow for a use not permitted within the underlying zoning district of the property (medical marihuana caregiver). Note that the petitioner has not appealed any administrative decision made by staff.

Based on the *Rules of Procedure for Use Variance Applications* adopted at the ZBA meeting of July 2nd, 1998, the Zoning Board of Appeals may grant use variances upon the petitioner's demonstration that all four of the following criteria are satisfied:

1) Applicant's property cannot be used for the purposes permitted in the zoning district.

Staff Finding: While the property is not located within the boundaries of the Primary Caregiver Marihuana Grow Overlay District, staff finds that the property's underlying zoning of M-1, Light Industrial, permits a range of by-right uses such as, but not limited to, professional offices, medical offices, incubator workspaces, warehousing establishments, and light manufacturing establishments. Staff finds that the petitioner and property owner could reasonably utilize the subject property for one or more of the by-right or special approval uses permitted in the M-1 zoning district.

2) Applicant's plight is due to unique circumstances peculiar to his property and not to general neighborhood conditions.

Staff Finding: The property is not located within the boundaries of the Primary Caregiver Marihuana Grow Overlay District. Therefore, primary caregivers are not a permitted use on the property. The existing single caregiver on site was approved prior to the adoption of the caregiver overlay district ordinance, and is therefore a legal non-conforming use. Property owners with parcels located within the boundaries of the caregiver overlay district are permitted a maximum of one (1) caregiver operation per parcel. Staff finds that the petitioner's request for an additional caregiver goes above and beyond the rights granted to adjacent properties within the overlay district and is not due to unique circumstances peculiar to the property.

3) Applicant's suggested use would not alter the essential character of the area.

Staff Finding: The petitioner's request for an additional caregiver would afford the property owner a privilege (two caregivers on one parcel) not granted to properties located legally within the Caregiver Marihuana Grow Overlay District. Staff finds that the increased intensity of grow operations on site, as proposed, could have the effect of altering the character of this stretch of Ten Mile Road.

4) Applicant's problem has not been self-created

Staff Finding: The petitioner's use variance request is the result of a desire to operate two caregivers on the property as opposed to a use permitted in the M-1 district. Therefore, staff finds that the variance request is the result of a self-created problem.

In addition to the findings listed above, staff finds that the strict application of the Zoning Ordinance would not place an undue hardship upon the owner of the subject property and that a variance, if granted, would have the effect of impairing the intent and purpose of the Zoning Ordinance.

Additional procedures for reviewing use variance cases are contained in Sections 10.804 and 10.805 of the Zoning Ordinance and the *Rules of Procedure for Use Variance Applications*, all listed at the end of this report.

SITE PLAN REVIEW COMMITTEE (SPRC) ACTION

The SPRC considered the use variance request at their April 20th, 2022. The SPRC recommends denial of the variance as the petitioner's request does not satisfy the rules of procedures of use variance applications, nor the variance criteria of Section 10.804(2) and Section 10.805 of the Zoning Ordinance.

ZBA ACTION

Any ZBA motion should include findings of fact relating to the variance criteria listed in the *Rules of Procedure for Use Variance Applications*, the criteria/standards of Sections 10.804(2) and 10.805 of the Zoning Ordinance, and the presence or lack thereof of an undue hardship. If the ZBA so moves to approve the use variance request, conditions may be attached regarding the location, character and other features of the proposed use(s) as deemed reasonable in furthering the purpose of the Zoning Ordinance.

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

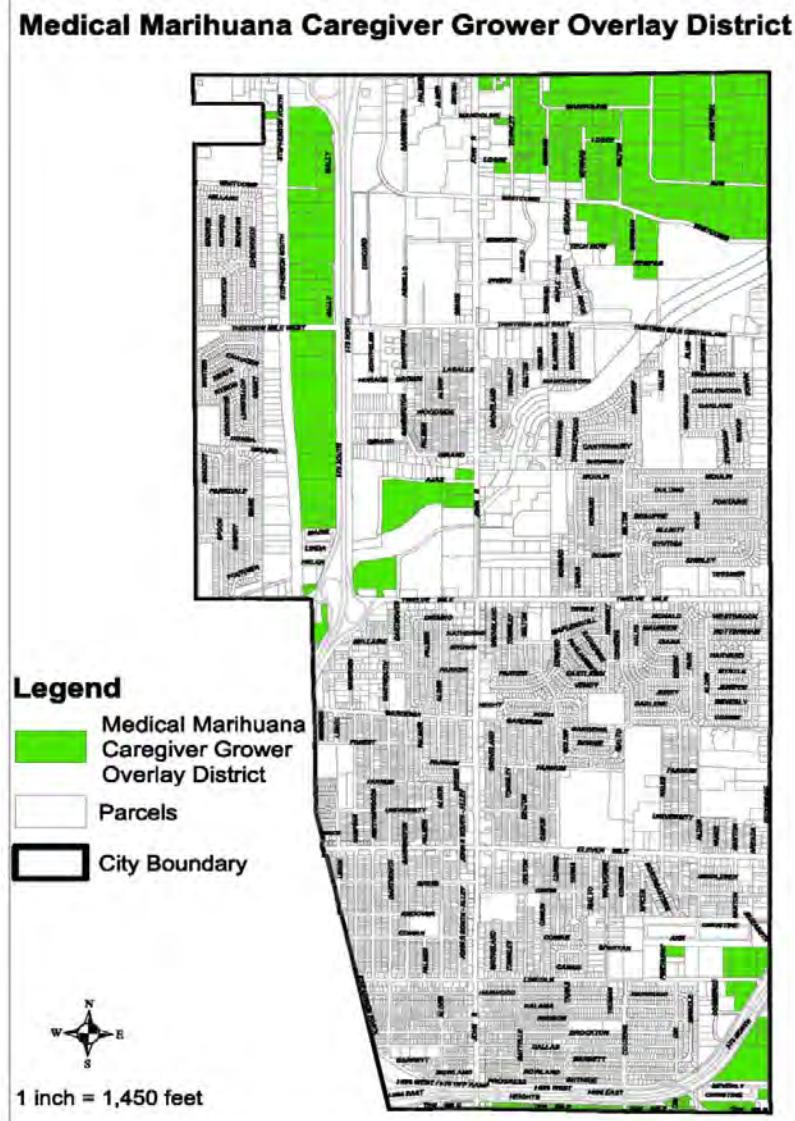
detrimental to the orderly development of adjacent districts. Consideration shall be given to the following:

- 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.*

ARTICLE XII. PRIMARY CAREGIVER MARIHUANA GROW OVERLAY DISTRICT

Sec. 10.346. Findings, purpose and intent.

The Michigan Medical Marihuana Act (MMMA), Initiated Law 1 of 2008, MCL 333.26421 et seq., as amended, does not nullify a municipality's inherent authority to regulate land use under the Michigan Zoning Enabling Act (MZEA), MCL 125.3101 et seq. as long as (1) the municipality does not prohibit or penalize the cultivation of medical marihuana and (2) the municipality does not impose regulations that are unreasonable and inconsistent with regulations established by state law. MCL 333.26424(b)(2) states that primary caregivers and qualifying patients must keep their plants in an enclosed, locked facility in order for those individuals to be entitled to the MMMA protections in MCL 333.26424(a) and (b).



Because an enclosed, locked facility may be found in various locations on various types of property, this ordinance, limiting where a primary caregiver can cultivate medical marihuana within the city, does not directly conflict with the MMMA's requirement that marihuana plants be kept in an enclosed, locked facility. The city finds that the average residence in the city is not aptly suited to the safe and favorable cultivation of 72 marihuana plants that a primary caregiver is permitted to grow under the MMMA. The city further finds that the cultivation of 72 marihuana plants by primary caregivers in residential districts creates potential hazards and potential adverse and detrimental effects on the neighboring properties that endanger the public health, safety and welfare. The purpose and intent of this ordinance is to identify suitable locations for primary caregivers to cultivate medical marihuana, in compliance with the MMMA and this article, to mitigate the potential adverse and detrimental effects on neighboring properties to protect the public health, safety and welfare.

(Ord. No. 2158 , § 1, 7-13-20)

Sec. 10.347. Definitions.

For the purpose of the provisions of this article, all words and phrases herein shall be construed to have the meanings as provided for in the Michigan Medical Marihuana Act (MMMA), Initiated Law 1 of 2008, MCL 333.26421 et seq., as amended.

(Ord. No. 2158 , § 1, 7-13-20)

Sec. 10.348. No effect on patients.

This article does not apply to or regulate any qualifying MMMA patient activities or conduct that is in compliance with the MMMA. A qualifying patient, operating in compliance with the MMMA, shall be permitted to cultivate, at the patient's primary residence, who shall also be full-time resident of the dwelling, no more than the 12 allowed marihuana plants as permitted by the MMMA for the patient's personal use to treat their debilitating medical condition.

(Ord. No. 2158 , § 1, 7-13-20)

Sec. 10.349. Caregiver Marihuana Grow Overlay District.

The Caregiver Marihuana Grow Overlay District boundaries shall be the parcels indicated as established in the following overlay district map:

(Ord. No. 2158 , § 1, 7-13-20)

Sec. 10.350. Caregiver Marihuana Grow Overlay District requirements.

The following standards and requirements shall apply to any location at which the cultivation of medical marihuana is conducted by a primary caregiver.

- (a) A registered primary caregiver shall not cultivate medical marihuana at a parcel that is not located within the Caregiver Marihuana Grow Overlay District.
- (b) The cultivation of medical marihuana by a caregiver shall comply at all times with the MMMA and the MMMA General Rules, as amended.
- (c) Not more than one registered primary caregiver shall be permitted to operate at any one parcel located with the Caregiver Marihuana Grow Overlay District.
- (d) The cultivation of medical marihuana by a primary caregiver shall be conducted entirely within an "enclosed, locked facility" (as that phrase is defined by the MMMA), up to 12 marihuana plants for each registered qualifying patient with whom the registered primary caregiver is connected through the registration process established by the Department of Licensing and Regulatory Affairs, and up to 12 additional marihuana plants for personal use, if the primary caregiver is also registered as a qualifying patient under the MMMA. The number of marihuana plants shall not exceed the number of marihuana plants permitted by the MMMA in total aggregate at any location or multiple locations whether located in the city or outside of the city.
- (e) No sign identifying the location by word, image or otherwise, or indicating that the cultivation of medical marihuana is taking place on the premises, shall be permitted; nor shall any vehicle having such a sign be parked anywhere on the premises.
- (f) Distribution of marihuana or use of items in the administration of marihuana shall not occur at or on the parcel where medical marihuana is cultivated. A qualifying patient shall not visit,

come to, or be present at the parcel where medical marihuana is cultivated to purchase, smoke, consume, obtain or receive possession of any marihuana.

- (g) No on-site consumption or smoking of marihuana shall be permitted within the parcel (or on the property) where medical marihuana is cultivated, except for lawful medical marihuana consumption by the primary caregiver if registered as a qualifying patient under the MMMA.
- (h) Medical marihuana shall not be grown, processed, handled or possessed at the location where medical marihuana is cultivated beyond that which is permitted by law.
- (i) A certificate of occupancy, together with a required site plan review, shall be obtained from the city and all necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of a building or structure in which equipment and devices that support the cultivation, growing or harvesting of marihuana are located or used.
- (j) If marihuana is grown or located in a room with windows, all interior lighting shall be shielded to prevent ambient light from creating a distraction for adjacent properties.
- (k) Related merchandise or products shall not be sold or distributed from the property.
- (l) There shall be no exterior storage or parking of materials or equipment.
- (m) No nuisance shall be generated by any heat, glare, noise, smoke, vibration, noxious fumes, odors, vapors, gases or matters at any time.
- (n) The entire parcel and all enclosed, locked facilities shall be available for inspection upon request by the zoning administrator, building official, fire official or law enforcement official during reasonable business hours.

(Ord. No. 2158 , § 1, 7-13-20)

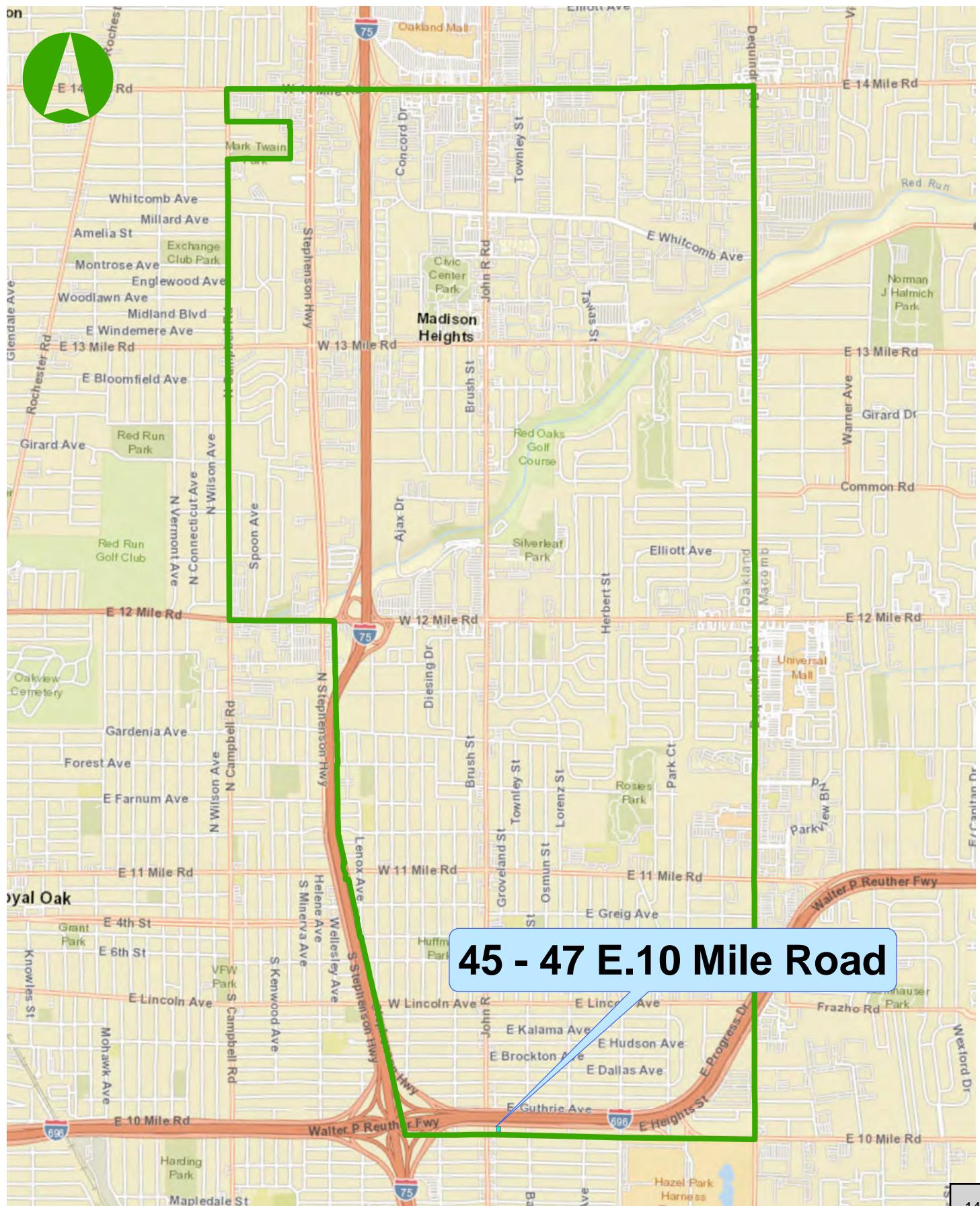
Sec. 10.351. Principal uses permitted.

All principal uses permitted in the Underlying Zoning District(s) are permitted by right in the Overlay Districts, provided they comply with all applicable requirements of the Underlying Zoning District.

(Ord. No. 2158 , § 1, 7-13-20)

ZBA CASE: 22 - 04

Item 2.



Site Address: 45 - 47 E. 10 Mile Road

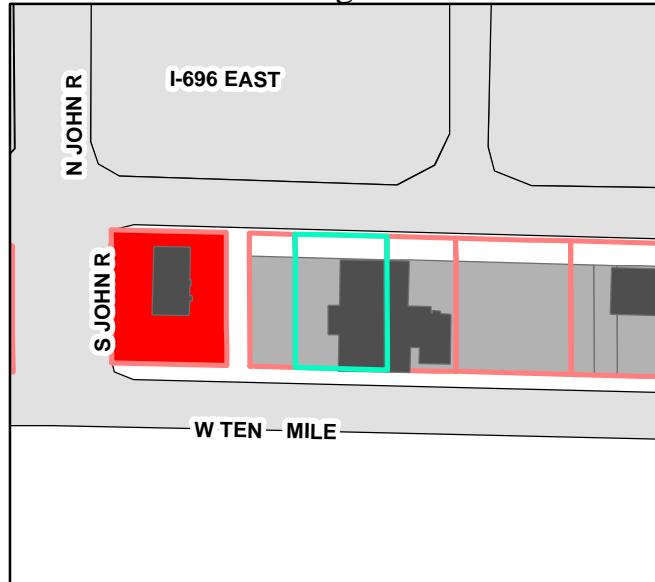


Aerial



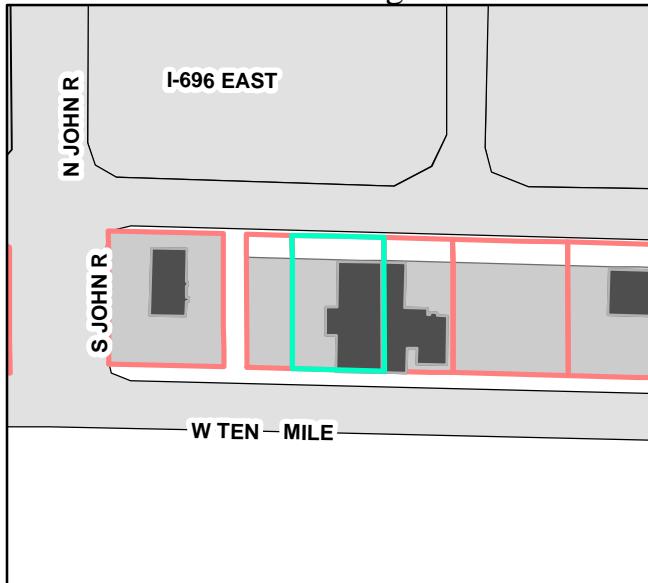
45 - 47 E. 10 Mile Road
 Parcels

Existing Land Use



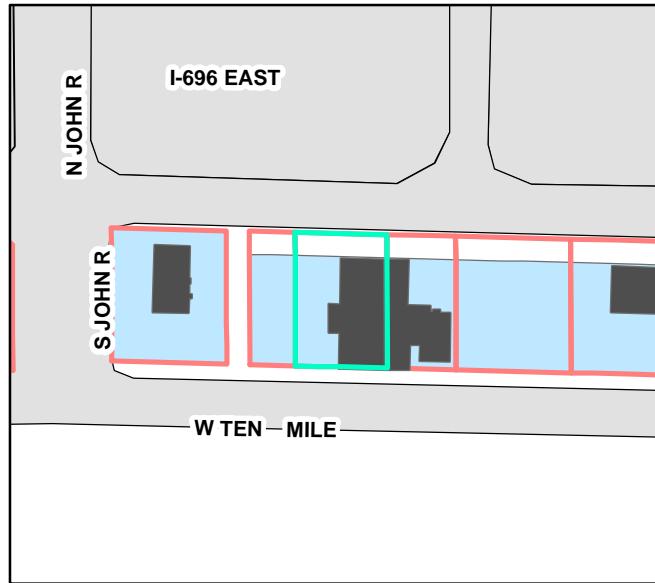
45 - 47 E. 10 Mile Road
 Buildings
 Parcels
 Vacant
 Single And Two Family
 Office
 Commercial
 Industrial
 Public

Zoning



45 - 47 E. 10 Mile Road
 Buildings
 Parcels
 R-3 Residential

Future Land Use

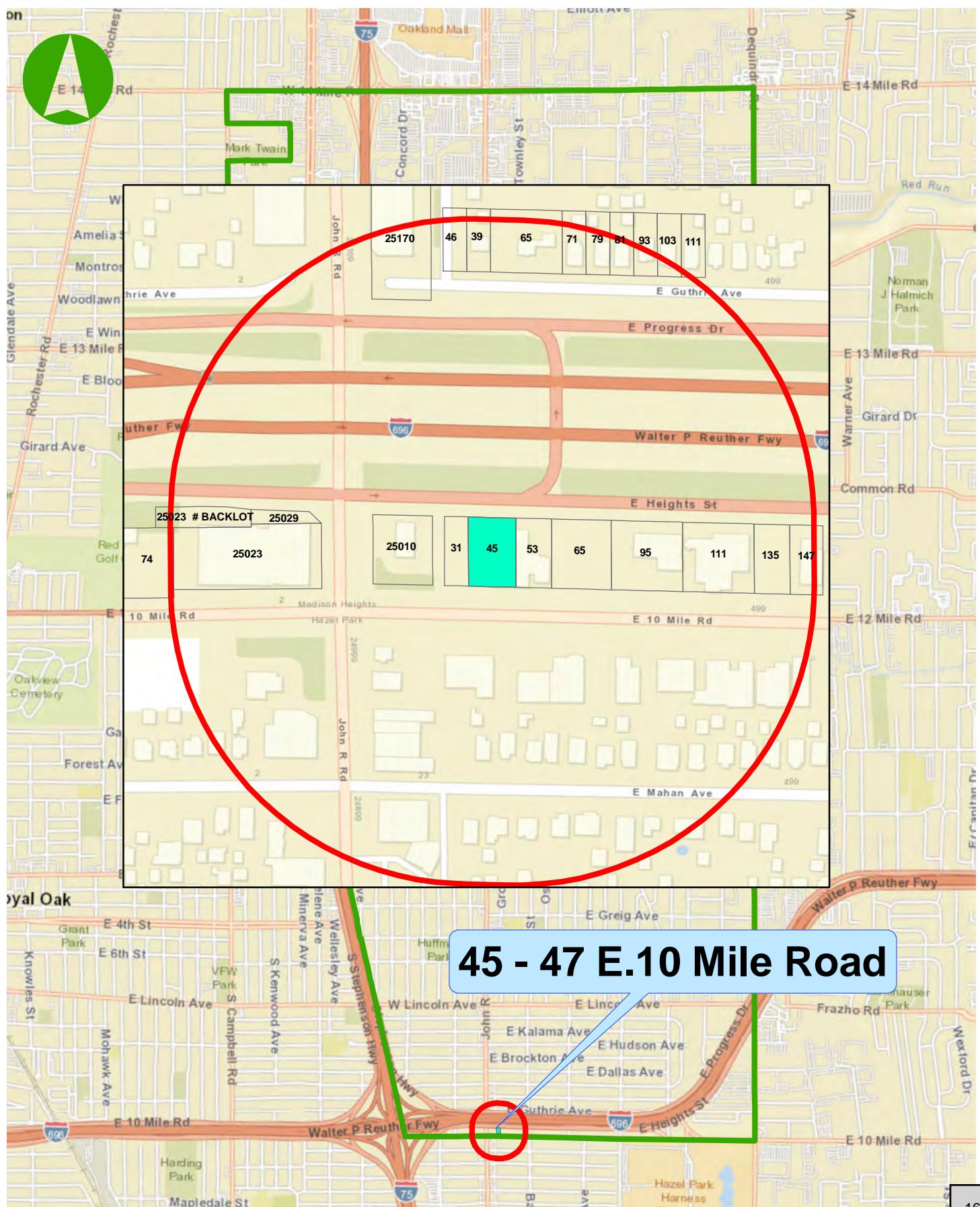


45 - 47 E. 10 Mile Road
 Industrial
 Single Family
 Multiple Family
 Office
 Commercial
 Public and Schools
 Recreation
 Conservation
 Mixed Use Innovation

ZBA CASE: 22 - 04

BUFFER 500 FT

Item 2.



City of Madison Heights
Community Development Department
300 W. Thirteen Mile Road
Madison Heights, MI 48170
(248) 583-0831

ZONING BOARD OF APPEALS CHECKLIST

The following checklist outlines the ZBA application process. Please use this checklist as your guide to applying for a variance or other request permitted by the Zoning Ordinance.

I. APPLICATION ***ALL APPLICATIONS MUST BE TYPED*******

✓ Complete Sections 1, 2, 3, 4 & 5 of the application.

- Item 1: Enter the name of the person requesting the variance. This could be the owner, renter, lessee or buyer.
- Item 2: Enter the interest of the applicant, i.e. owner, renter, lessee, buyer.
- Item 3: List the owner of the property.
- Item 4: The information requested in item 4 can be obtained from your tax bill or in person or on the phone from the Community Development Department (CDD) at (248) 583-0831.
- Item 5: Enter the current zoning classification and the current use i.e. residential, commercial. Contact CDD if you are not sure of the zoning district.

✓ Complete Section 6. First check the box for the type of action you are requesting as follows. Please read all the choices before you select:

Appeal of an Administrative Decision: Select this box if you are appealing an administrative decision. This applies when you disagree with the Zoning Official's interpretation of the ordinance. On a separate sheet fully explain the nature of the problem, your request, and your desired remedy.

Variance: Select this box if you are requesting a variance from a provision of the ordinance. This includes setbacks, lot coverage, number of parking spaces etc. Check the box indicating what type of use or action is taking place and briefly describe the request. (Example: For a porch in the front setback you would check the box for 'erect' and fill in the line with 'a front porch encroaching into the front setback'.) Fill in the ordinance sections that you are requesting the variance from. Again, if you are not sure contact CDD. **On a separate sheet of paper answer the six items (A. through F.)** being sure to fully and completely describe your request and why it is contrary to what the ordinance normally permits in Item A.

Temporary permit: Select this box if you are applying for a temporary use or structure.

Interpretation of Ordinance Language: Select this box if you are requesting the ZBA to interpret or clarify ordinance language. Attach a detailed request including the affected section and why you are requesting the interpretation.

Public Utility Building: Select this box if you are a public utility constructing a building which requires ZBA approval.

✓ Other Action: Select this box if your request does not fit any of the above categories and attach a full explanation of your request

✓ Complete Item 7. Indicate whether you have been denied a building permit or if you have applied for a previous ZBA action on this parcel.

✓ Sign the Application: If you are not the owner you must have the owner sign the application or provide a notarized letter or power of attorney authorizing you to act on his behalf. You must submit two (2) original signed copies of the application. Indicate who the notices are to be sent to.

CONTINUED ON REVERSE SIDE



Attach all the Required Documentation and the Fee: Attach all the applicable items from the checklist on the application (1 – 6). Site plans and building elevations should be drawn to scale and be neat and readable. **Four copies are required of all items.**



II. THE PUBLIC MEETING



Meeting Notice: The person indicated on the application will receive a notice of the public meeting in the mail. Notices are also sent to all property owners within 500 feet of the subject property. If you do not receive your notice 10 days before the proposed meeting contact the Clerk's Office at (248) 583-0286.



Attend the Meeting: The applicant, or a designated representative should attend the meeting. You will be asked to briefly explain your request and may be asked questions by the Board members. The Board will also hold a public hearing at which anyone may speak for or against your request. Speakers are limited to 3 minutes each. After everyone wishing to speak has done so, the hearing will be closed and the Board will act on the request. The request may be tabled to the next meeting if you or your representative do not attend.



Obtain any Required Permits: If your request is approved you may apply for any required permits the next day.



Additional Information:

ZBA meeting dates.

The ZBA normally meets at 7:30 p.m., the first Thursday of each month in Council Chambers at City Hall, 300 W. Thirteen Mile Road, Madison Heights, MI.

Application deadlines.

Application deadlines are normally three weeks and three days prior to the meeting. Application forms are available at the Community Development Department or online at www.madison-heights.org under the Online Forms tab on the home page.

Questions?

Contact the Community Development Department at (248) 583-0831.



CITY OF MADISON HEIGHTS ZONING BOARD OF APPEALS APPLICATION

Application No.:

Date Filed:

(This application must be typed)

SUBMIT TWO ORIGINAL COPIES

1. **Petitioner:** Name: Walid Abbod
 Address: 45 & 47 E 10 Mile Road
 City: Madison Heights State: MI Zip: 48071
 Direct Contact to Attorney for Applicant, Jan Rubinstein Telephone: (248) 220-1415 Fax: (248) 213-6394
 Email: jjr@therubinsteinfirm.com

2. **Petitioner's Interest in Property:** Tenant

3. **Property Owner:** (Attach list if more than one owner)
 Name: Stuart Weinstock
 Address (Street): 45 & 47 E 10 Mile Road
 City: Madison Heights State: MI Zip: 48071
 Telephone: _____
 Email: salsamkt@sbcglobal.net

4. **Property Description:**
 Address: 45 & 47 E 10 Mile Road
 Tax Parcel #: 44 - 25 - 24 - 355 - 018 & 44-99-00-016-002
 Legal Description - Attach if metes and bounds description.
 If in a subdivision: Lot #: See Exhibit "A"
 Subdivision name: See Exhibit "A"
 Lot size: See Exhibit "A"
 Size of proposed building or addition: N/A

5. **Present Zoning of Property:** M-1 **Present Use:** N/A

6. **Action Requested:** (Check the appropriate section and attach response on separate sheets)

APPEAL OF AN ADMINISTRATIVE DECISION (Administrative Review)

The applicant requests the Board of Appeals to reverse/modify the _____ decision/interpretation of Article _____, Section _____. The decision should be reversed/modified because: (On a separate sheet describe in detail the nature of the problem, the reason for the request and the desired remedy)

PAGE 2

**ZONING BOARD OF APPEALS
APPLICATION**

6. **Action Requested:** (Continued) (Check the appropriate section and attach response on separate sheets)

VARIANCE

Request is hereby made for permission to erect alter convert or use a
Partition Buildings Located at 45 and 47 E 10 Mile Road into Suites to have multiple Caregivers

The following questions must be answered fully on a separate sheet of paper: See Exhibit "B"

- A. Clearly explain the variance desired and how the proposed building and/or use is contrary to the Zoning Ordinance.
- B. Explain the special conditions and circumstances that exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district. (Note: Your district includes all areas of the City sharing a zoning designation with your property. If your zoning classification were B-1 (Local Business) your district would include all City lands zoned B-1.)
- C. Explain why the literal interpretation of the provisions of this ordinance deprives you of rights commonly enjoyed by others in the same zoning district.
- D. Did the special conditions and/or circumstances result from your actions?
- E. Can you use the property in a manner permitted by the Ordinance if a variance is not granted? Is this the minimum variance you need to use the property in the way you want?
- F. Will granting the variance change the essential character of the area?

TEMPORARY PERMIT

Applicant is requesting a Temporary Use and/or a Temporary Structure

Describe in detail the proposed use or structure and the length of time requested

INTERPRETATION OF ORDINANCE LANGUAGE IN SECTION _____
Describe in detail the nature of the requested interpretation.

PUBLIC UTILITY BUILDING

OTHER ACTION

7 CASE HISTORY

CASE HISTORY
Have you been denied a permit for a building, sign or use on this property? Yes No
Has there been any previous appeal involving these premises? Yes No
(If yes, provide character and disposition of previous appeals.)

PAGE 3

ZONING BOARD OF APPEALS APPLICATION

Application No.:

Applicant(s) and property owner(s) hereby consent to city staff, board and commission members, and contractors to access the property for purposes of evaluating the site for the requested action(s).

FOR THE OWNER:

DocuSigned by:

Signature Stuart Weinstock
 Printed Name Stuart Weinstock
 Date 3/24/2022

FOR THE APPLICANT IF NOT THE

DocuSigned by:

Signature Walid Abbod
 Printed Name Walid Abbod
 Date 3/24/2022

Note: A notarized letter of authority or a power of attorney may be substituted for the original signature of the owner.

Notices are to be sent to the Applicant Owner Attorney for Applicant, Jan J. Rubinstein

ATTACHED HERETO, AND MADE PART OF THIS APPLICATION, ARE THE FOLLOWING: (All required items must be submitted with this application)

- 1. Two copies of drawings of Site Plan (no larger than 11"x 17") drawn to scale and containing all necessary dimensions and all features involved in this appeal, including measurements showing open space on abutting properties.
- 2. Dimensioned elevations of all buildings involved in the requested variance.
- 3. All required responses to above items.
- 4. Building permit application if applicable.
- 5. Letter of authority if applicable
- 6. Applicable fees:

A. Variance Review (Single Family)	\$300.00
B. Variance Review (Dimensional)	\$400.00 plus \$300 per variance
C. Use Variance Review	\$1,000.00

OFFICE USE ONLY

APPROVALS

Approved for hearing by City Attorney _____

Approved for hearing by C.D.D. _____

Reviewed by Site Plan Committee _____

INTER-DEPARTMENTAL NOTIFICATION

Community Development Department _____

Fire Department _____

Department of Public Services _____

ZONING BOARD OF APPEALS FEE: \$ _____

APPROVED: _____ PAID: _____

DENIED: _____ RECEIPT NO. _____

EXHIBIT "A"

Legal Description of Property for
Which Variances Are Sought

T1N, R11E, SEC 24 JOHN R PARK LOTS 50 TO 53 INCL, ALSO ALL OF VAC ALLEY
ADJ TO SAME 5-26-09 CORR

EXHIBIT "B"

STATE OF MICHIGAN
IN THE ZONING BOARD OF APPEALS FOR MADISON HEIGHTS

IN RE: 45 AND 47 E. 10 MILE ROAD,
 MADISON HEIGHTS, MI 48071,
 M-1 Light Industrial Zoned Properties.

Case No.: 22-04

THE RUBINSTEIN LAW FIRM
 Jan Jeffrey Rubinstein (P57937)
 Ryan P. Richardville (P77335)
 Attorney for Property Owner
 30665 Northwestern Hwy., Ste. 165
 Farmington Hills, MI 48334
 (248) 220-1415

APPLICANT'S REVISED BRIEF IN SUPPORT OF REQUEST FOR VARIANCE
FROM ORDINANCE 10.350(C)

NOW COMES Applicant WALID ABBOD, by and through his attorneys, THE RUBINSTEIN LAW FIRM, and for his Brief in Support of his Application for Variance, states the following in support:

INTRODUCTION AND BACKGROUND FACTS

Applicant brings this variance request before the Zoning Board of Appeals, seeking review of his properties in light of the newly effective Zoning Ordinances, Ordinance No. 2158 (an amendment to Ordinance No. 252, attached hereto as Exhibit "C".) By way of background, Applicant's landlord, Stuart Weinstock purchased the subject properties about 2 ½ years ago. Mr. Weinstock and Applicant began inquiries to the city as to whether it was "Green-Zoned" for cannabis use. There appears to be a dispute as to whether or not, this property falls into the "Green-Zone¹." Apparently, it is the City Planner's position that the property does not, however, the City granted Applicant Permits *for a new all-in existing warehouse area to create two (2) separate*

¹ Also known as the Medical Marihuana Caregiver Grower Overlay District.

grow rooms, as well as new MEP work to support the grow operation. – see Exhibit “D”, in support. Needless to say, the Applicant had already had a site plan approved for marijuana growth.

Applicant followed this inquiry up with inquiries as to whether he could open a Retail Adult-Use facility on the premises. Applicant was informed that the property was zoned correctly, but informed that at the time of inquiry, Madison Heights was not issuing these licenses or signing off on the necessary State-Level Approvals. Applicant also inquired as to opening a processing facility and potentially a Class “C” grow facility, with the same response. Upon information and belief, the City has now granted two (2) of the three (3) available licenses for Class “C” grow operations to larger corporations, leaving small business owners, such as Applicant, to bid for the last remaining license when (and if) it becomes available before the City Council.

At the time, Applicant was informed that the only license he could procure was caregiver licenses. *At the time of this inquiry, the Ordinance Attached hereto as Exhibit “C” was not in effect.* Applicant inquired about this with the City and was told that he could have several licenses at one address. Based on these representations, Mr. Weinstock made the decision to purchase the 4,200sqft Building that takes up 45 and 47 E 10 Mile Road with an attached parking lot, and began getting the necessary documentation together for necessary approvals immediately thereafter.

By way of corroborating example, Exhibit “E” is the proposed site plan² that Applicant Submitted, and Exhibit “F” is the CFOs³ that were obtained. While Applicant was making these efforts the City of Madison Heights passed its new Ordinance, No. 2158, attached hereto as Exhibit

² The only adjustment Applicant has made to this site plan is that the Reservoir Room has been relocated from the garage to the front office area, which was approved by the City.

³ Currently, the back half of the building (47 E 10 Mile Road) is operating as a caregiver with a CFO, and the Front Area (45 E 10 Mile Road) is empty, however it has a CFO for use as a reservoir feeding area for cannabis. Applicant obtained approval from the City to use the front for Cannabis growing, but now they are only allowing them to add a water feeding system, not the plants themselves.

“C”, restricting Applicant to **not more than one registered primary caregiver operat[ing] at any one parcel located with[in] the Caregiver Marijuana Grow Overlay District.**

It is undisputed that Applicant otherwise meets all of the requirements in order to achieve local licensure for a caregiver operation. Applicant’s plan was to partition the building into individual suites so as to comply with local ordinances and keep the registered primary caregivers separate from one another. This is a practice that several other businesses in Applicant’s area are currently engaging in due to starting before the 2158 Ordinance was passed. *Essentially, the gravamen of Applicant’s issue before this Zoning Board is that he spent over \$600,000.00 purchasing the property, making preparations for this business venture, procured all of the necessary requirements for the city, only for the City to move the goalpost and massively restrict Applicant’s ability to operate. Most notably, Mr. Weinstock would not have purchased this property and spent all of these efforts procuring site plans and making the necessary arrangements if they had known these changes to the ordinance would be enacted and completely sink their proposal to the City, which was already ratified prior to the ordinance change.*

STANDARD OF REVIEW

The City of Madison Heights’ Variance Application outlines the following standard of review for the Board of Appeals to consider:

- a. Clearly explain the variance desired and how the proposed building and/or use is contrary to the Zoning Ordinance;
- b. Explain the special conditions and circumstances that exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district;

- c. Explain why the literal interpretation of the provisions of this ordinance deprives you of rights commonly enjoyed by others in the same zoning district;
- d. Did the special conditions and/or circumstances result from your actions?
- e. Can you use the property in a manner permitted by the Ordinance if a variance is not granted? Is this the minimum variance you need to use the property in the way you want?
- f. Will granting the variance change the essential character of the area?

LAW AND ARGUMENT

- a. Clearly Explain the Variance Desired and How the Proposed Building and/or Use is contrary to the Zoning Ordinance.

The variance applicant desires is one that permits him to partition his 4,200sqft building into suites and allow multiple licensed caregivers to co-habit the same parcel ID. This is in contrary to Ordinance 10.350(c), which permits only one (1) licensed caregiver per parcel ID. This was enacted while Mr. Weinstock (and Applicant) were spending well over \$600,000.00 to purchase the property, and to set the property up in compliance with an ordinance that was at the time, valid.

- b. Explain the special conditions and circumstances that exist which are peculiar to the Land, and which are not applicable to other land in the same district.

One unique and/or special condition of Applicant's property is that it is one (large) building that lies on one of the two parcels, with a parking lot taking up the other parcel. Further, what is unique about this situation is that while working on building the property out to comply with the ordinance at the time, the ordinance was changed restricting Applicant to only one (1) caregiver per parcel ID. This unreasonably would limit him to one (1) caregiver in a massive building. This situation is unique in that other individuals within the same zoning district are currently carrying out the same practice, likely as a vested non-conforming use.

c. Explain why the Literal Interpretation of the Ordinance Deprives you of Rights Commonly Enjoyed by Others in the Same Zoning District.

As mentioned above, the literal interpretation of 10.350(c) restricts Applicant to only one caregiver in a massive building. Those who sought out local approvals for caregiver licenses prior to the enactment of the 2158 Ordinance are currently operating in the same district, ***and even on the same street*** as Applicant. However, because the law changed, unbeknownst to Applicant, he has now been deprived of that right and is out the \$600,000.00+ that he has spent on renovating his building. Surely, Applicant could still make use of the building for an Adult-Use space, such as a Commercial Grow (Class “C”), Processing Facility, or Retail space, however the City has indicated no intention or plan to place any license up for grabs, including the still available third Class “C” Grow License that remains out there.

It has been established that the total plant count for a caregiver is 72 plants total – 12 per patient, with 6 maximum patients, for a total of ⁷²⁴ Plants. Obviously, a massive portion of space is going to be wasted in that only a small fraction of the 4,200sqft building will be occupied

d. Did the special conditions and/or circumstances result from your actions?

As the ZBA Panel would surely agree – the documentation supports that Applicant’s “own actions” consisted of working very hard to jump through every hoop and comply with every requirement placed by the city. Unfortunately, while doing so, the city changed its ordinances, moving the goalpost for Applicant, and Applicant had absolutely no way of knowing that was ongoing.

e. Can you use the property in a manner permitted by the Ordinance if a variance is not granted? Is this the minimum variance you need to use the property in the way you want?

⁴ More concerning, the State is contemplating a law that would reduce this total plant count to 24, as it would reduce a caregiver’s patient count from 6 to 2.

Applicant could certainly use the property for an Adult-Use Facility; however the City has not relayed any plans to offer up its third Class “C” grow license, or any other license for that matter. Thus, Applicant has no other use for his facility as it stands. It was being built in compliance with the old ordinance, and the requested variance is the minimum requested to allow Applicant to use his property consistent with the Ordinance predating 2158. Note, **Applicant is not requesting to make the footprint of his building any bigger – he is simply trying to divide what he has into suites and have multiple licensed caregivers under one roof.** The property has two parcels total with three addresses, the parking lot is one parcel, and has an address of 31 E 10 mile Road, and the building lies on one parcel, having an address of 45 and 47 E 10 Mile Road.

f. Will granting the variance change the essential character of the area?

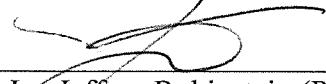
As indicated above, Applicant avers that this property is situated in the M-1 zoning district on the south side of a major highway. There are several other properties partitioned into suites that have multiple caregivers on one parcel ID – even in the same area. Thus, the essential character of this area would not change. Applicant has spoken with his neighbors, Madison Quick Lube at the corner of 10 Mile and John R. Road, and McGinnis Construction, who his property is sandwiched between – and they have both ratified Applicant’s intended use.

CONCLUSION

WHEREFORE, Applicant, WALID ABBOD (TENANT), and STUART WEINSTOCK (LANDLORD) respectfully request that this Zoning Board of Appeals grant him a variance from Ordinance 10.350 (c) that permits him to partition his building into suites and permit multiple licensed marijuana caregivers, permit him to be considered for future adult-use applications that open up with the City, and further request that this Zoning Board of Appeals grant any other such additional relief that this Zoning Board of Appeals deems necessary and just based upon the circumstances herein.

Dated: April 6, 2022

Respectfully submitted,
THE RUBINSTEIN LAW FIRM

By: 

Jan Jeffrey Rubinstein (P57937)
Attorney for Applicant

EXHIBIT "C"

ORDINANCE NO. 2158**CITY OF MADISON HEIGHTS,
OAKLAND COUNTY, MICHIGAN****AMENDMENT TO THE ZONING ORDINANCE**

An Ordinance to amend Ordinance No. 252, being an Ordinance codifying and adopting a Zoning Ordinance for the City of Madison Heights by adding a new Article XII to the Zoning Ordinance of the Code of Ordinances, City of Madison Heights, Michigan, to create an overlay zoning district to establish location requirements for the cultivation of medical marihuana by primary caregivers, under the Michigan Medical Marihuana Act (MMMA), Initiated Law 1 of 2008, MCL 333.26421 et seq., as amended, to protect the health, safety and welfare of the public.

THE CITY OF MADISON HEIGHTS ORDAINS:**SECTION 1. Amendment.**

That a new Article XII is added to the Zoning Ordinance of the Code of Ordinances, City of Madison Heights, Michigan, to read as follows:

ARTICLE XII. – Primary Caregiver Marihuana Grow Overlay District**Sec. 10.346. – Findings, Purpose and Intent.**

The Michigan Medical Marihuana Act (MMMA), Initiated Law 1 of 2008, MCL 333.26421 et seq., as amended, does not nullify a municipality's inherent authority to regulate land use under the Michigan Zoning Enabling Act (MZEA), MCL 125.3101 et seq. as long as (1) the municipality does not prohibit or penalize the cultivation of medical marihuana and (2) the municipality does not impose regulations that are unreasonable and inconsistent with regulations established by state law. MCL 333.26424(b)(2) states that primary caregivers and qualifying patients must keep their plants in an enclosed, locked facility in order for those individuals to be entitled to the MMMA protections in MCL 333.26424(a) and (b). Because an enclosed, locked facility may be found in various locations on various types of property, this ordinance, limiting where a primary caregiver can cultivate medical marihuana within the City, does not directly conflict with the MMMA's requirement that marihuana plants be kept in an enclosed, locked facility. The City finds that the average residence in the City is not aptly suited to the safe and favorable cultivation of 72 marihuana plants that a primary caregiver is permitted to grow under the MMMA. The City further finds that the cultivation of 72 marihuana plants by primary caregivers in residential districts creates potential hazards and potential adverse and detrimental effects on the neighboring properties that endanger the public health, safety and welfare. The purpose and intent of this ordinance is to identify suitable locations for primary caregivers to cultivate medical marihuana, in compliance with the MMMA and this Article, to mitigate the potential adverse and detrimental effects on neighboring properties to protect the public health, safety and welfare.

Sec. 10.347. - Definitions.

For the purpose of the provisions of this Article, all words and phrases herein shall be construed to have the meanings as provided for in the Michigan Medical Marihuana Act (MMMA), Initiated Law 1 of 2008, MCL 333.26421, et. seq., as amended.

Sec. 10.348. – No effect on patients.

This Article does not apply to or regulate any qualifying MMMA patient activities or conduct that is in compliance with the MMMA. A qualifying patient, operating in compliance with the MMMA, shall be permitted to cultivate, at the patient's primary residence, who shall also be full-time resident of the dwelling, no more than the 12 allowed marihuana plants as permitted by the MMMA for the patient's personal use to treat their debilitating medical condition.

Sec. 10.349. – Caregiver Marihuana Grow Overlay District.

The Caregiver Marihuana Grow Overlay District boundaries shall be the parcels indicated as established in the following overlay district map:

Sec. 10.350. – Caregiver Marihuana Grow Overlay District Requirements.

The following standards and requirements shall apply to any location at which the cultivation of medical marihuana is conducted by a primary caregiver.

- (a) A registered primary caregiver shall not cultivate medical marihuana at a parcel that is not located within the Caregiver Marihuana Grow Overlay District.
- (b) The cultivation of medical marihuana by a caregiver shall comply at all times with the MMMA and the MMMA General Rules, as amended.
- (c) Not more than one registered primary caregiver shall be permitted to operate at any one parcel located with the Caregiver Marihuana Grow Overlay District.
- (d) The cultivation of medical marihuana by a primary caregiver shall be conducted entirely within an "enclosed, locked facility" (as that phrase is defined by the MMMA), up to 12 marihuana plants for each registered qualifying patient with whom the registered primary caregiver is connected through the registration process established by the Department of Licensing and Regulatory Affairs, and up to 12 additional marihuana plants for personal use, if the primary caregiver is also registered as a qualifying patient under the MMMA. The number of marihuana plants shall not exceed the number of marihuana plants permitted by the MMMA in total aggregate at any location or multiple locations whether located in the city or outside of the city.
- (e) No sign identifying the location by word, image or otherwise, or indicating that the cultivation of medical marihuana is taking place on the premises, shall be permitted; nor shall any vehicle having such a sign be parked anywhere on the premises.
- (f) Distribution of marihuana or use of items in the administration of marihuana shall not occur at or on the parcel where medical marihuana is cultivated. A qualifying patient shall not visit, come to, or be present at the parcel where medical marihuana is cultivated to purchase, smoke, consume, obtain or receive possession of any marihuana.
- (g) No on-site consumption or smoking of marihuana shall be permitted within the parcel (or on the property) where medical marihuana is cultivated, except for lawful medical marihuana consumption by the primary caregiver if registered as a qualifying patient under the MMMA.
- (h) Medical marihuana shall not be grown, processed, handled or possessed at the location where medical marihuana is cultivated beyond that which is permitted by law.
- (i) A certificate of occupancy, together with a required site plan review, shall be obtained from the city and all necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of a building or structure in which equipment and devices that support the cultivation, growing or harvesting of marihuana are located or used.

- (j) If marihuana is grown or located in a room with windows, all interior lighting shall be shielded to prevent ambient light from creating a distraction for adjacent properties.
- (k) Related merchandise or products shall not be sold or distributed from the property.
- (l) There shall be no exterior storage or parking of materials or equipment.
- (m) No nuisance shall be generated by any heat, glare, noise, smoke, vibration, noxious fumes, odors, vapors, gases or matters at any time.
- (n) The entire parcel and all enclosed, locked facilities shall be available for inspection upon request by the zoning administrator, building official, fire official or law enforcement official during reasonable business hours.

Sec. 10.351. – Principal uses permitted.

All principal uses permitted in the Underlying Zoning District(s) are permitted by right in the Overlay Districts, provided they comply with all applicable requirements of the Underlying Zoning District.

SECTION 2. Repealer.

All ordinances, or parts of ordinances, in conflict with this ordinance are repealed only to the extent necessary to give this ordinance full force and effect.

SECTION 3. Severability.

Should any section, subdivision, clause, or phrase of this ordinance be declared by the courts to be invalid, the validity of the ordinance as a whole, or in part, shall not be affected other than the part invalidated.

SECTION 4. Savings.

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect, are saved and may be consummated according to the law in force when they were commenced.

SECTION 5. Effective Date.

This ordinance as ordered shall take effect ten (10) days after its adoption and upon

First Reading – June 22, 2020

Public Hearing and Second Reading – July 13, 2020

Effective – July 23, 2020

publication.

SECTION 6. Inspection.

A copy of this ordinance may be inspected or purchased at the City Clerk's office between the hours of 8:00 a.m. and 11:30 a.m. and between the hours of 12:30 p.m. and 4:30 p.m. on regular business days.

EXHIBIT "D"



City of Madison Heights

BUILDING

Permit No: **PB 20-0323**

CDD - Building Division
Phone: (248) 583-0831

300 W. Thirteen Mile
Fax: (248) 588-4143

Madison Heights, Michigan 48071
Hours: M-F 8-11:30 am - 12:30-4:30 pm

47 E 10 MILE RD 44-25-24-355-018	Location	47 EAST 10 MILE LLC 1150 MARY LANE CT ESCONDIDO	Owner	CA 92025-7714
	Contractor	Issued: 07/15/20 Code: M.H. ZONING ORDINANCE 24 HOURS NOTICE REQUIRED FOR INSPECTION PERMIT HOLDER MUST REQUEST INSPECTION.	Expire Date: 01/11/21	

Work Description:
NEW ALL IN EXISTING WAREHOUSE AREA TO CREATE
TWO SEPERATE GROW ROOMS. NEW MEP WORK TO
SUPPORT GROW OPERATION. ALL EXISTING OFFICE
AREAS TO REMAIN

Stipulations:
BUILDING APPROVED WITH NOTES

Permit Item	Work Type	Value	Item Total
Administrative Fee	Admin. Fee	1.00	\$25.00
Commercial Construction	Commercial	35,000.00	\$455.00
Commercial Plan Review	Plan Review	35,000.00	\$200.00

NOTICE - ALL PERMIT HOLDERS ARE REQUIRED TO HAVE OR INSTALL A CARBON MONOXIDE DETECTOR IF THE
BUILDING HAS FUEL FIRED APPLIANCES. Fee Total: \$630.00

CALL (248) 583-0831 FOR INSPECTIONS 24 HOURS AHEAD.

I agree this permit is only for the work described, and does not grant permission for additional or related work which requires separate permits. I understand that this permit will expire and will become null and void if work is not started within 90 days, or if work is suspended or abandoned for a period of 180 days at any time after work has commenced and that I am responsible for assuring all required inspections are requested in conformance with the applicable code and that I will provide access to all building areas and tools as required.

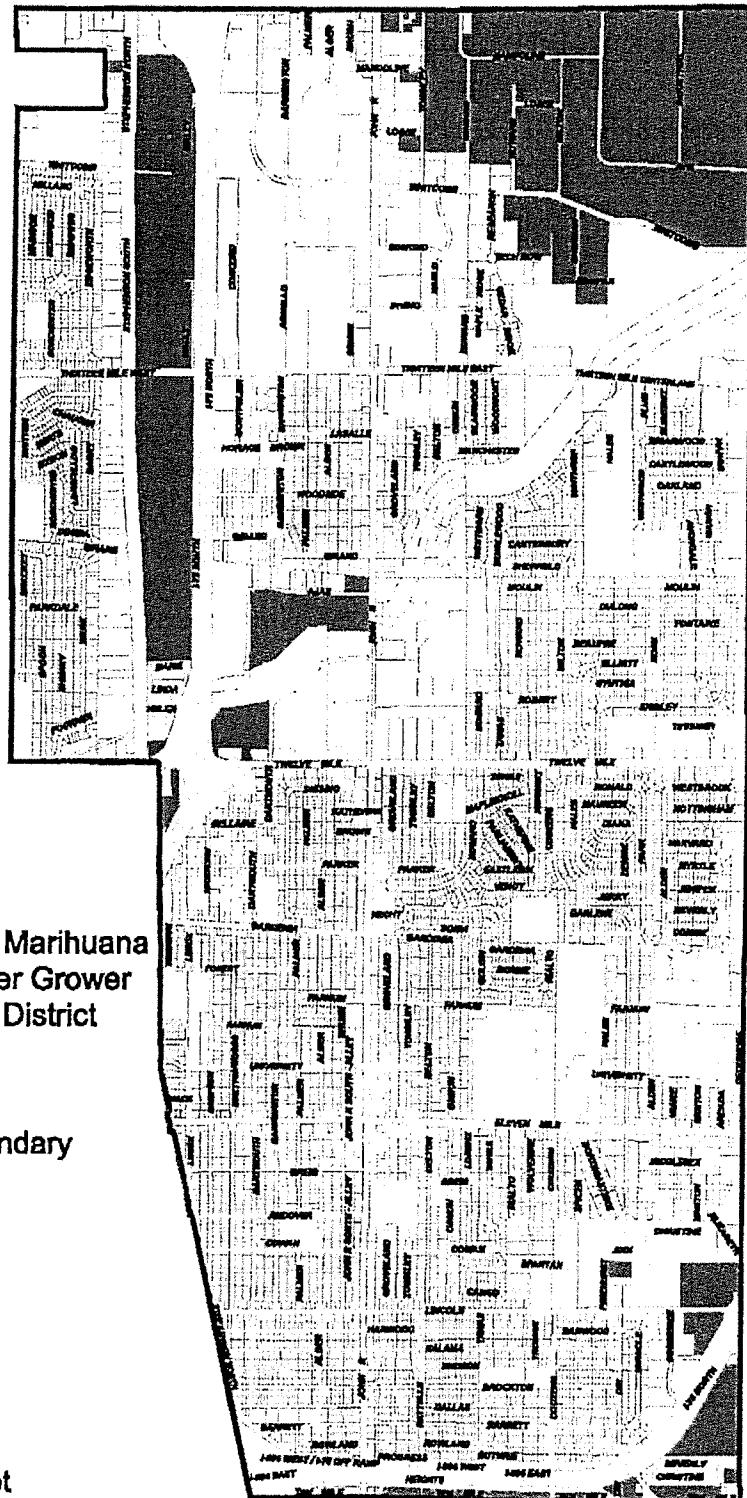
I hereby certify that the proposed work is authorized by the owner, and that I am the owner or that I am authorized by the owner to make this application as his authorized agent. I agree to conform to all applicable laws of the State of Michigan and the local jurisdiction. All information on the permit application is accurate to the best of my knowledge.

I hereby certify that I have read and understand the above information.

Owner's or Authorized Agent's Signature:

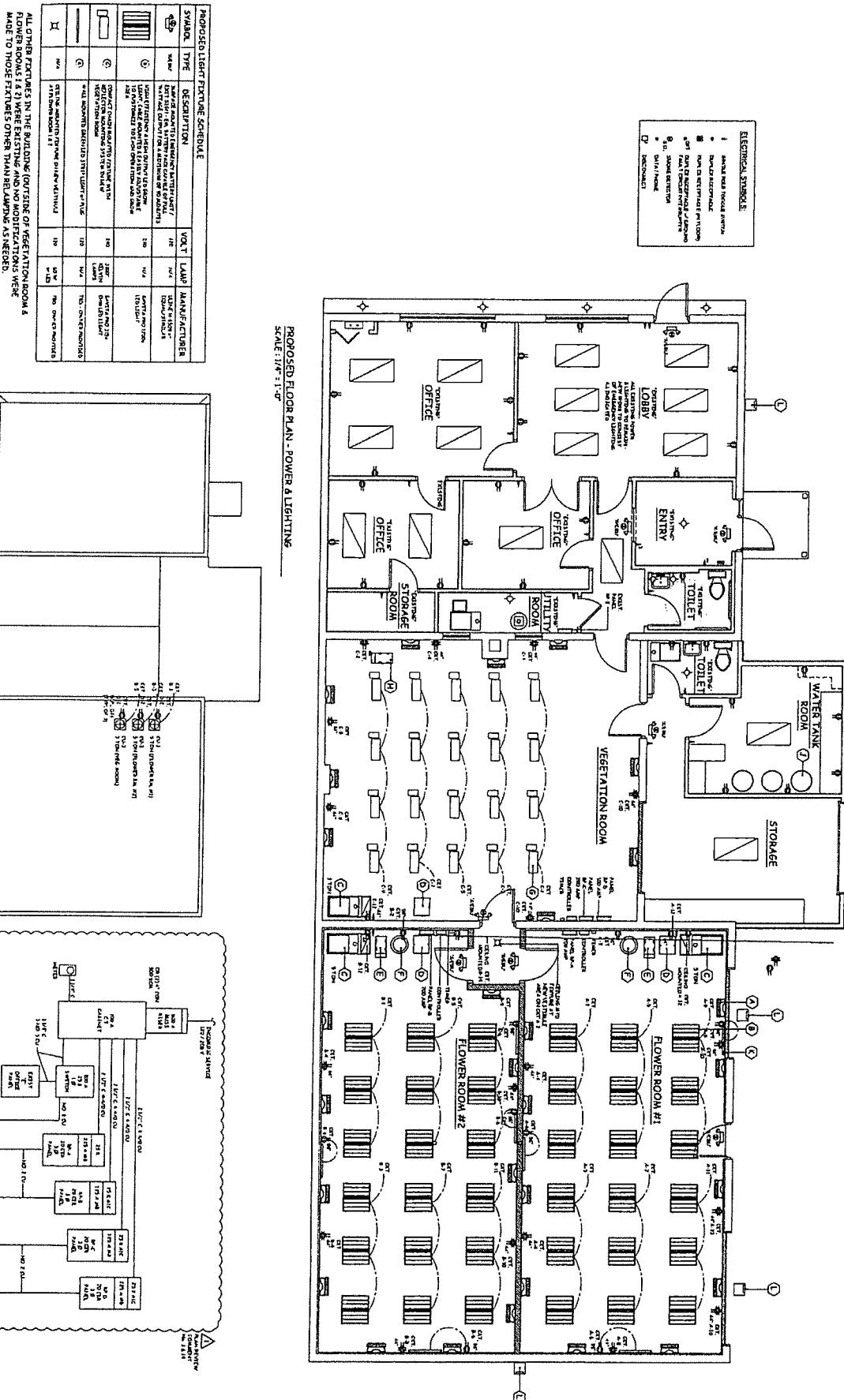
Date:

Medical Marihuana Caregiver Grower Overlay District



1 inch = 1,450 feet

EXHIBIT "E"



E2.102 ELECTRICAL SPECIFICATIONS

11. *Leucosia* *leucostoma* (Fabricius) (Fig. 11)

CONSTRUCTION BY DESIGN

brodowski@gmail.com | 248.930.5260

EXHIBIT "F"



**City of Madison Heights
300 W. Thirteen Mile Road
Madison Heights, Michigan 48071**

CERTIFICATE OF OCCUPANCY

Certificate No. 021-141

10/29/21

Permission is hereby granted to occupy the structure known as:

45 E 10 MILE RD

Permission to occupy the above described structure is granted on the express condition that said building is, or shall be, in all respects and at all times, in conformance with the Code of Ordinances of the City of Madison Heights, regulating the construction, occupancy, use and maintenance of buildings.

This Certificate expires immediately upon any change in use, ownership or occupancy and may be revoked at any time, without prior notice, upon violation of any provision of the above ordinances.

Issued to:

BETTER MEDICINE LLC

Authorized by:

Date:

10/29/2021



**City of Madison Heights
300 W. Thirteen Mile Road
Madison Heights, Michigan 48071**

CERTIFICATE OF OCCUPANCY

Certificate No. 020-063

08/10/20

Permission is hereby granted to occupy the structure known as:

47 E 10 MILE RD

Permission to occupy the above described structure is granted on the express condition that said building is, or shall be, in all respects and at all times, in conformance with the Code of Ordinances of the City of Madison Heights, regulating the construction, occupancy, use and maintenance of buildings.

This Certificate expires immediately upon any change in use, ownership or occupancy and may be revoked at any time, without prior notice, upon violation of any provision of the above ordinances.

Issued to:

47 E 10 MILE RD LLC

Date:

8-10-2020

CITY OF MADISON HEIGHTS
ZONING BOARD OF APPEALS
RULES OF PROCEDURE FOR USE VARIANCE APPLICATIONS

1. Intent and Purpose

It is the intent of these rules to provide a procedure for the review and disposition of applications made to the Zoning Board of Appeals for use variance relief, in connection with which the Zoning Board of Appeals is authorized to grant a remedy to allow reasonable use of property in those limited instances in which a property owner demonstrates that (1) the applicant's property cannot be used for the purposes permitted in the zoning district, (2) the plight is due to unique circumstances peculiar to the property and not to the general neighborhood conditions, (3) the proposed development and use would not alter the essential character of the area, and (4) the applicant's problem has not been self-created.

2. Application Requirements

An application for a use variance shall include the name, address, and phone number of the owner of the property, as well as the applicant, a description of the property, a plan drawn to scale detailing the specific use and improvements proposed by the applicant, and a summary of the facts which support each of the following conclusions:

- a. Applicant's property cannot be used for the purposes permitted in the zoning district.
- b. Applicant's plight is due to unique circumstances peculiar to his property and not to general neighborhood conditions.
- c. Applicant's suggested use would not alter the essential character of the area.
- d. Applicant's problem has not been self-created.

At the end of each statement (a through d), the applicant shall identify all persons who will appear at the hearing with respect to each of the facts, and, separately, identify all persons who will appear at the hearing relative to each respective conclusion (and if any person is to be offered as an expert witness, include with the application a resume which shows the education and experience of such person within the particular area of expertise).

3. Pre-hearing Conference

- a. Prior to the scheduling of a hearing, the applicant shall contact the City manager for the purpose of scheduling a pre-hearing conference.

- b. The purposes of the pre-hearing conference shall be to:
 - 1. Review the procedure for the hearing and identify all persons who will appear (directly or through affidavit) and the evidence to be offered on behalf of the applicant.
 - 2. Attempt to secure a statement of agreed upon facts to be used to narrow the matters of dispute and shorten the hearing.
 - 3. Explore a means of providing relief to the applicant by way of non-use variance, or more compatible use variance from the zoning board of appeals.
 - 4. Discuss the need, desirability, and the terms of providing, a verbatim record of the hearing.
- c. The City Manager shall determine who should be present at the pre-hearing conference based upon the application submitted. The determination on who to invite, e.g., Planner, Engineer, Attorney, other consultant, etc., shall be made taking into consideration the issues likely to arise at the conference.
- d. The pre-hearing conference shall be scheduled and conducted on a expeditious basis so as to avoid unreasonable delay to the applicant. Sufficient time shall be taken, however, to achieve the purposes of the pre-hearing conference, stated above.

4. Hearing Procedure

- a. The applicant shall have the burden of proof. In order to be entitled to relief, the applicant must demonstrate each of the four factors set forth in paragraphs a through d of paragraph 2, above.
- b. Prior to the hearing before the City Zoning Board of Appeals, the application may be referred to the Planning Commission for study and recommendation on the proposed use and the plan for such use if such a review had not previously been conducted.

c. Manner of Presentation at the Zoning Board of Appeals:

1. The Zoning Board of Appeals shall conduct a hearing, utilizing the procedures below.
2. City representatives shall present an overview of the zoning regulations involved. This may include an indication of the objectives sought to be achieved in the zoning district, and any planning, engineering, financial, environmental or other considerations which are generally relevant within the zoning district and/or in the general area of the property at issue. The applicant may present witnesses, including the applicant, or may submit affidavits, for the purpose of attempting to prove facts or conclusions. The applicant shall be provided with the opportunity to present all testimony and evidence proposed to be presented at the pre-hearing conference, either through witnesses or affidavits, however, the chairperson of the Zoning Board of Appeals may restrict testimony and evidence which would result in unreasonable duplication. In addition, by motion made on its own or at the request of a person at the hearing, the Zoning Board of Appeals may require the presence of any witness who has offered testimony, either live or by affidavit on a material question of fact or testimony of an expert nature, with the view of permitting members of the Zoning Board of Appeals to ask questions of such witnesses.
3. At the conclusion of the applicant's presentation, interested persons attending the hearing shall be provided with the opportunity to present testimony and evidence in the same manner and subject to requiring the presence and questioning of witnesses, as provided above for the applicant.
4. When interested persons have completed their presentations, at the same meeting and/or at an adjourned meeting date, testimony and evidence may be presented on behalf of the City in the same manner, and subject to requiring the presence and questioning of witnesses, as provided above for the applicant. The purpose of such presentation shall be to ensure that a full picture, including all relevant information, is before the Zoning Board of Appeals for consideration as it relates to the specific application presented.

5. If testimony or evidence has been offered by or on behalf of interested persons and/or the City, the applicant shall have the opportunity to make a responsive presentation, restricted to answering the points raised by interested persons and City representatives. The manner of presenting witnesses, and requirement of their presence and questioning, shall be the same as provided above for the applicant's principal presentation.
6. At the hearing, the Zoning Board of Appeals may determine to establish other rules of procedure, such as meeting hours on any given day, procedure for presentations by interested persons and/or on behalf of the City, or other rules found to be necessary or appropriate by the Zoning Board of Appeals. When questions of procedure arise during the hearing, the chairperson may solicit the recommendation of the representatives of both the applicant and the City.
7. If a hearing is not completed at a given meeting within the time period allowed by the Zoning Board of Appeals, the Zoning Board of Appeals shall adjourn the hearing to a date certain for continuation.

5. Decision of the Zoning Board of Appeals

- a. The Zoning Board of Appeals may deem it appropriate in any given case to provide an opportunity for anyone presenting testimony or evidence to submit proposed findings of fact and conclusions.
- b. At the conclusion of the hearing, the Zoning Board of Appeals may make its decision at that meeting, or it may adjourn the hearing to a new date for the purpose of reviewing the testimony and evidence, and reviewing proposed findings and conclusions submitted by hearing participants, in preparation for making its decision.
- c. If the Zoning Board of Appeals determines to grant variance relief under these rules, it shall be the minimum relief required to allow reasonable use of the property, while maintaining the essential character of the area, including a use or uses requested by the applicant and/or a use offered into evidence by an interested party of the City which is found to be a basis for reasonable use but less offensive to the master plan, the character of the area and/or surrounding uses. The motion may include conditions that are authorized by law.

- d. If the Zoning Board of Appeals adopts a final motion to grant variance relief under these rules, such motion may be made as a tentative grant of relief, subject to review and recommendation by the planning commission, planning director, engineer or other person or official with expertise, with a view of obtaining recommendations on any conditions that may be relevant and authorized by law, and for the purpose of ensuring that the grant of relief would not violate applicable law. If a motion authorizing such a tentative grant of relief is made, the Zoning Board of Appeals, in the same motion, shall request the completion of all reviews by other boards or persons by a specific date, so that relief may be expeditiously finalized.
- e. If the Zoning Board of Appeals adopts a motion to grant variance relief under these rules, the relief granted shall be in the form of a site specific plan and use, subject to all specifications, terms and conditions included on the plan and in the decision.
- f. Effect of Approval:
 - 1. Approval of variance relief under these rules shall apply only to the specific plan and use granted, and shall be subject to all specifications, terms and conditions included on the plan and in the decision granting the approval. An approval under these rules shall not be final until such time as the Applicant records an Affidavit at the office of the Register of Deeds in connection with the property. Such Affidavit shall be in a form approved by the City Attorney.
 - 2. An approval under these rules shall be effective for a period of one year, and shall thereafter be void unless actual structural improvements have been commenced on the property pursuant to building permit.

NOTICE OF PUBLIC HEARING

Notice is hereby a Meeting of the Madison Heights **Zoning Board of Appeals** will be held in the **City Council Chambers** of the Municipal Building at **300 W. 13 Mile Road**, Madison Heights, Oakland County, Michigan 48071 on **Thursday, May 5th, 2022 at 7:30 p.m.** to consider the following requests:

Case # PZBA 22-04: 45 & 47 E. Ten Mile Rd.

REQUEST: The applicant, Walid Abbod, requests a variance from Section 10.350(c) of the Zoning Ordinance which states, *“not more than one registered primary caregiver shall be permitted to operate at any one parcel located within the Caregiver Marihuana Grow Overlay District.”*

The subject property is located at 45 & 47 E. Ten Mile Road (tax parcel # 44-25-24-355-018) and is zoned M-1, Light Industrial.

The application and any supporting documents can be viewed during regular business hours at the Community & Economic Development Department. In addition, the agenda item can be viewed online at www.madison-heights.org in the Agenda Center after 4:00 p.m. on the Friday before the meeting.

If you are unable to attend the meeting, you can send your comments via email to: MattLonnerstater@madison-heights.org and your comment will be read into the record at the meeting. Written comments may also be mailed prior to the meeting to 300 West Thirteen Mile Road, Madison Heights, Michigan, 48071. All comments will be heard at the meeting.

CITY CLERK'S OFFICE
(248) 583-0826



MEMORANDUM

Date: April 26th, 2022
 To: City of Madison Heights Zoning Board of Appeals
 From: Matt Lonnerstater, AICP – City Planner
 Subject: Sign Area Variance (sign displayed through glass)
 PZBA 22-05; 1900 E. 14 Mile Road

REQUEST

The applicant, *Joe Ricci*, requests a variance from the maximum sign area requirement for signs displayed through or on glass, Section 10.511(IV)(C)(4)(c). The subject property is located at 1900 E. 14 Mile Road and is zoned M-1, Light Industrial.

STAFF ANALYSIS

Per Section 10.511(IV)(C)(4)(c), total signage placed on the interior window glass of a building shall not cover more than 25% of the total glass area, excluding doors, for that side of the building. The applicant, Joe Ricci, owns an automobile dealership at the subject site and requests a variance to cover 100% of the existing window area on the north façade of the building. The proposed window signage consists of vinyl overlays featuring the images of vehicles for sale.

Based on the renderings provided within the application, the north building façade features seven (7) windows measuring approximately 17.5 square feet each, or a total window area of approximately 122.5 square feet. Per the 25% requirement, the applicant may display a maximum window sign area of approximately 30.5 square feet by right. **The applicant requests 100% window coverage for signage, equating to a variance request of approximately 92 square feet.**

VARIANCE FINDINGS

Section 10.804(2) outlines criteria for reviewing variance requests, summarized below with staff 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 does not find exceptional conditions pertaining to the subject property. The property contains an area of approximately 4 acres, which is generally consistent with industrially-zoned properties along 14 Mile Road. The building is set back approximately 50 feet from the 14 Mile Road right-of-way, which is generally consistent with adjacent buildings along this stretch 14 Mile Road. Staff notes that the 25% maximum window coverage standard applies to all commercially-zoned properties within Madison Heights, including the B-1, B-2, B-3, O-1, M-1 and M-2 districts.

- *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 signage regulations would not result in practical difficulties for the owner of this property. The applicant is afforded opportunities for ground signs, wall signs, and window signs per the Zoning Ordinance consistent with other businesses within commercially-zoned properties in the City.

In addition to the findings listed above, staff finds that the requested variance is not the minimum variance necessary and is a direct result of the actions of the applicant.

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

The SPRC considered the variance request at their April 20th, 2022 meeting. The SPRC recommends denial of the variance due to a lack of a practical difficulty and a finding that the variance request is due to an action made by the applicant.

ZBA ACTION

Any ZBA motion should include findings of fact relating to the variance criteria listed in Sections 10.804(2) and 10.805. If the ZBA so moves to approve the variance request, conditions may be attached regarding the location, character and other features of the proposed use(s) as deemed reasonable in furthering the purpose of the Zoning Ordinance.

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

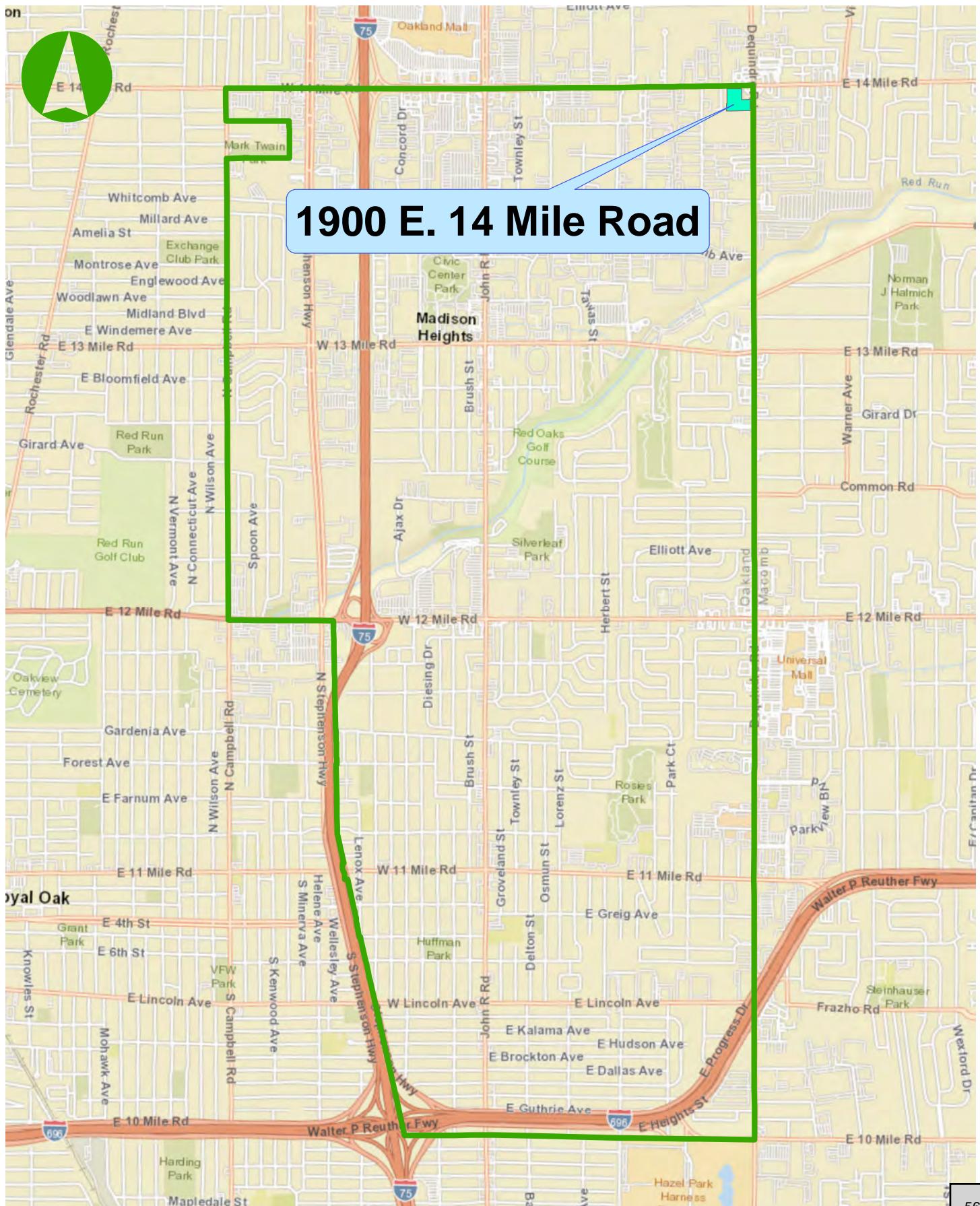
appropriate to the particular circumstances of such case. All uses as listed in any district requiring approval for a permit shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is situated and will 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.*

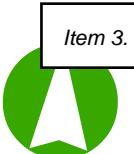
Sec. 10.511(IV)(C)(4), - Regulations For Permitted Signs, M-1/M-2 Districts

- (c) *Business sign displayed through or on glass:* Total signage placed on interior window glass of a building, whether or not carrying a message, shall not cover more than 25 percent of the total glass area, excluding doors, for that side of the building. Signs located inside a building that are visible from the front lot line shall be included in the total allowable sign area of this provision. No signage shall be placed on exterior window glass.

ZBA CASE: 22 - 05



Site Address: 1900 E. 14 Mile Road



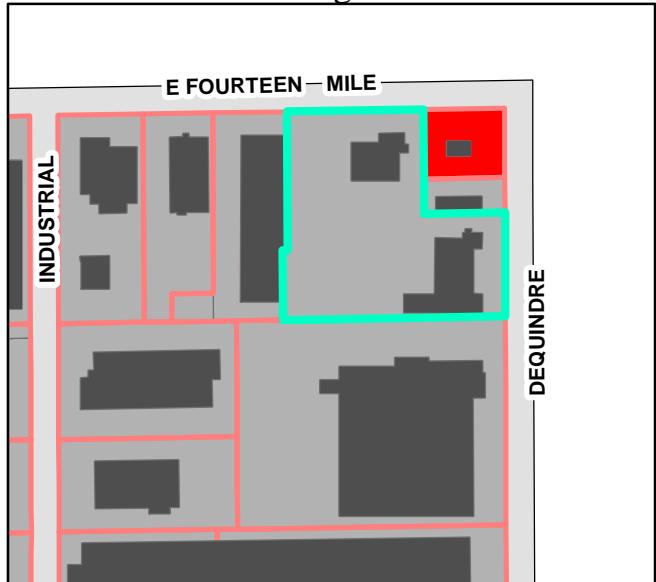
[Click For Map](#)

Aerial



 1900 E. 14 Mile Road
 Parcels

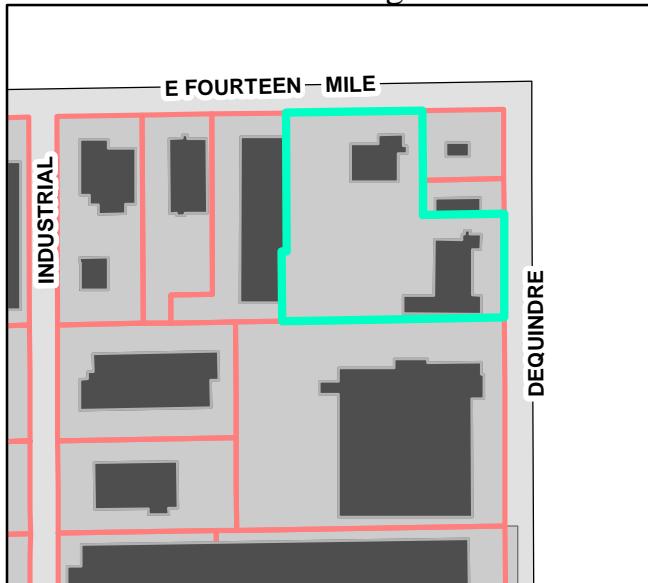
Existing Land Use



 1900 E. 14 Mile Rd
 Buildings
 Parcels
 Vacant

 Single And Two Family
 Office
 Commercial
 Industrial
 Public

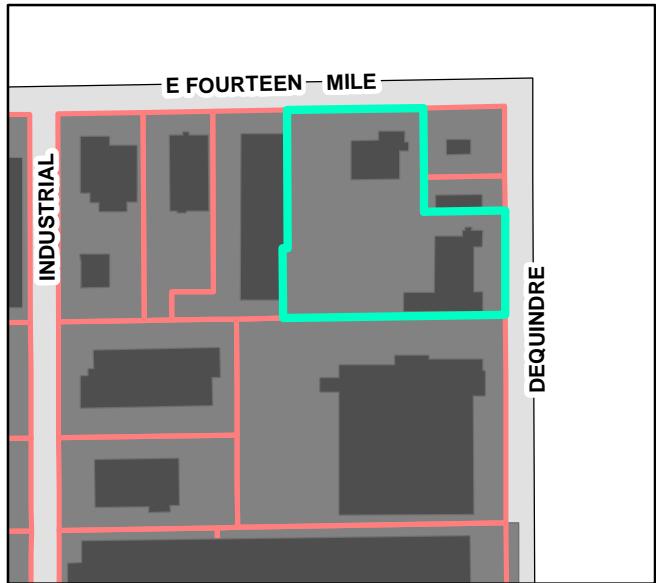
Zoning



 1900 E. 14 Mile Rd
 Buildings
 Parcels
 R-3 Residential

 M-1 Light Industrial
 M-2 Heavy Industrial

Future Land Use



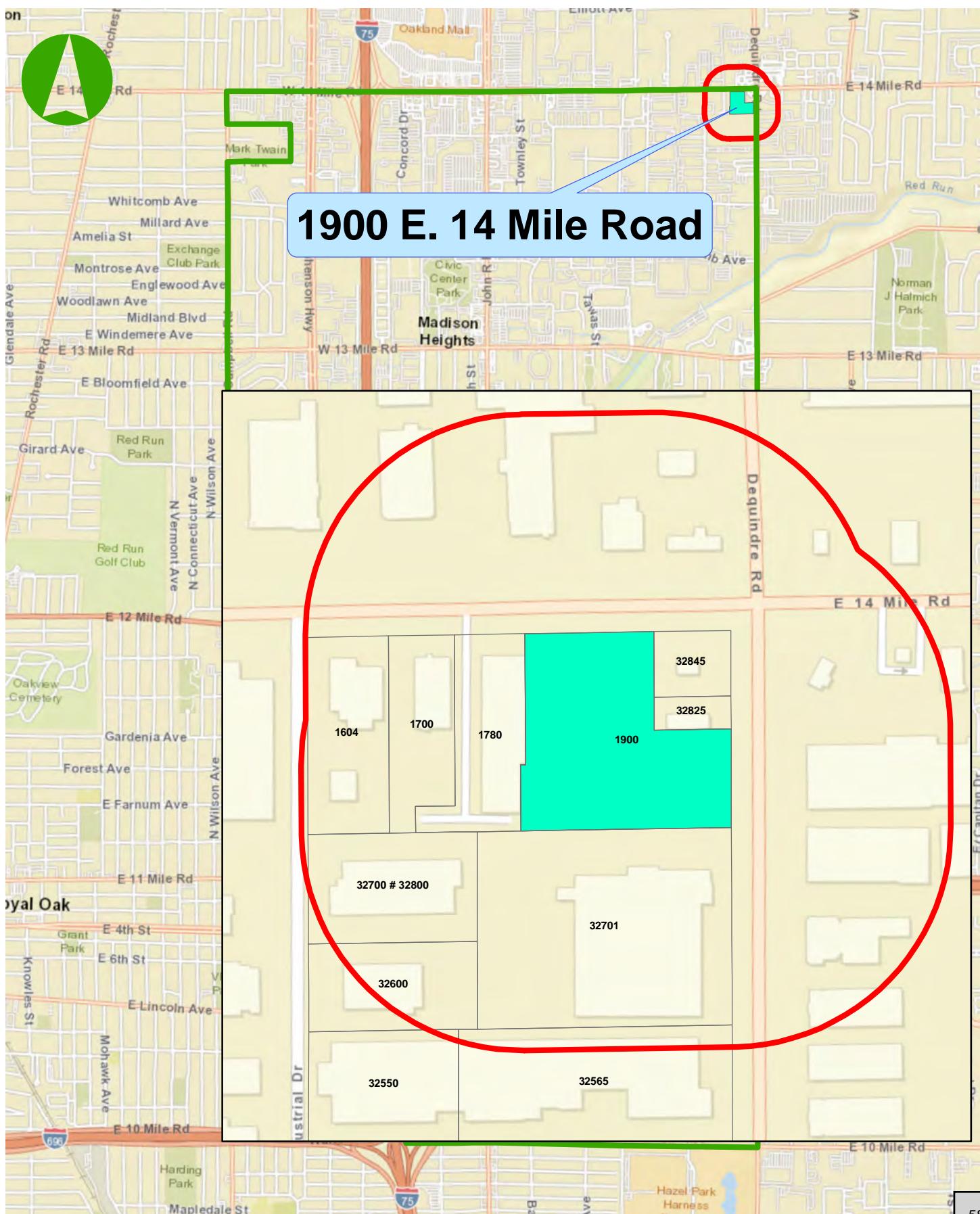
 1900 E. 14 Mile Rd
 Buildings
 Parcels
 R-3 Residential

 Industrial
 Public and Schools
 Multiple Family
 Recreation
 Conservation
 Commercial
 Mixed Use Innovation

ZBA CASE: 22 - 05

BUFFER 500 FT

Item 3.





**CITY OF MADISON HEIGHTS
ZONING BOARD OF APPEALS
APPLICATION**

Application No.:

PZBA22-0005

Date Filed:

4-18-22

(This application must be typed)

SUBMIT TWO ORIGINAL COPIES

1. **Petitioner:** Name: Joe Ricci
 Address: 1900 E 14 mile Rd.
 City: MADISON HTGS State: MI Zip: 48071
 Telephone: 313-364-4268 Fax: _____
 Email: joericci1@aol.com

2. **Petitioner's Interest in Property:** LEASEE

3. **Property Owner:** (Attach list if more than one owner)
 Name: FOURTEEN DEQUINNORE & ASSOC.
 Address (Street): 32801 DEQUINNORE Rd
 City: MADISON HTGS State: MI Zip: 48071
 Telephone: 248-894 5848
 Email: JRC@M12E.US.COM

4. **Property Description:**
 Address: 1900 E. 14 mile Rd.
 Tax Parcel #: 44-25-01-226 038
 Legal Description - Attach if metes and bounds description.
 If in a subdivision: Lot #: _____
 Subdivision name: _____
 Lot size: 205 x 425
 Size of proposed building or addition: N/A

5. **Present Zoning of Property:** M1 **Present Use:** Light INDUSTRIAL

6. **Action Requested:** (Check the appropriate section and attach response on separate sheets)

APPEAL OF AN ADMINISTRATIVE DECISION (Administrative Review)

The applicant requests the Board of Appeals to reverse/modify the _____ decision/interpretation of Article _____, Section _____. The decision should be reversed/modified because: (On a separate sheet describe in detail the nature of the problem, the reason for the request and the desired remedy)

PAGE 2

**ZONING BOARD OF APPEALS
APPLICATION**

6. Action Requested: (Continued) (Check the appropriate section and attach response on separate sheets)

VARIANCE

Request is hereby made for permission to erect alter convert or use a

use 100% of the glass instead of the account

Contrary to the requirements of Section(s) *See 10.511* of the Zoning Ordinance

of the Zoning Ordinance

____ of the Zoning Ordinance

The following questions must be answered fully on a separate sheet of paper:

- A. Clearly explain the variance desired and how the proposed building and/or use is contrary to the Zoning Ordinance.
- B. Explain the special conditions and circumstances that exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district. (Note: Your district includes all areas of the City sharing a zoning designation with your property. If your zoning classification were B-1 (Local Business) your district would include all City lands zoned B-1.)
- C. Explain why the literal interpretation of the provisions of this ordinance deprives you of rights commonly enjoyed by others in the same zoning district.
- D. Did the special conditions and/or circumstances result from your actions?
- E. Can you use the property in a manner permitted by the Ordinance if a variance is not granted? Is this the minimum variance you need to use the property in the way you want?
- F. Will granting the variance change the essential character of the area?

TEMPORARY PERMIT

Applicant is requesting a Temporary Use and/or a Temporary Structure

Describe in detail the proposed use or structure and the length of time requested.

INTERPRETATION OF ORDINANCE LANGUAGE IN SECTION

INTERPRETATION OF CHARTS AND TABLES
Describe in detail the nature of the requested interpretation.

PUBLIC UTILITY BUILDING

Describe in detail the proposed use or structure.

OTHER ACTION

Describe in detail action requested.

7. CASE HISTORY

Have you been denied a permit for a building, sign or use on this property? Yes No

Has there been any previous appeal involving these premises? Yes No

(If yes, provide character and disposition of previous appeals.)

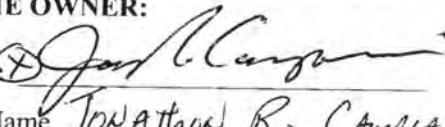
PAGE 3

ZONING BOARD OF APPEALS APPLICATION

Application No.:

PZBA 22-0025

Applicant(s) and property owner(s) hereby consent to city staff, board and commission members, and contractors to access the property for purposes of evaluating the site for the requested action(s).

FOR THE OWNER:Signature Printed Name JONATHAN R. CARGIANDate 4/11/22**FOR THE APPLICANT IF NOT THE OWNER:**Signature Printed Name JOE RICCIDate 3/17/22

Note: A notarized letter of authority or a power of attorney may be substituted for the original signature of the owner.

Notices are to be sent to the Applicant Owner

ATTACHED HERETO, AND MADE PART OF THIS APPLICATION, ARE THE FOLLOWING: (All required items must be submitted with this application)

- 1. Two copies of drawings of Site Plan (no larger than 11"x 17") drawn to scale and containing all necessary dimensions and all features involved in this appeal, including measurements showing open space on abutting properties.
- 2. Dimensioned elevations of all buildings involved in the requested variance.
- 3. All required responses to above items.
- 4. Building permit application if applicable.
- 5. Letter of authority if applicable
- 6. Applicable fees:

A. Variance Review (Single Family)	\$300.00
B. Variance Review (Dimensional)	\$400.00 plus \$300 per variance
C. Use Variance Review	\$1,000.00

OFFICE USE ONLY

APPROVALS

Approved for hearing by City Attorney _____

Approved for hearing by C.D.D. _____

Reviewed by Site Plan Committee _____

INTER-DEPARTMENTAL NOTIFICATION

Community Development Department _____

Fire Department _____

Department of Public Services _____

ZONING BOARD OF APPEALS FEE: \$ 400APPROVED: 4-13-22

DENIED: _____ RECEIPT NO. _____

ITEM # 6**REQUEST FOR VARIANCE****RE: 1900 E 14 MILE RD.**

A) I am requesting a variance in regards to Sec. 10.511 (e) of the Zoning Ordinance not allowing signs on exterior glass. This is a "retail" business stuck in the middle of a M1 industrial district.

B) The front of our building has an over 50' feet setback from 14 Mile Rd. Again, other than the gas station on the corner, we are in the middle of a light industrial district. The visibility from 14 Mile is very limited and very poor for retail drive by traffic. In addition, the afternoon sun heats up our inside office / show area which requires "excessive use" of our air conditioning system. We have used these vinyl overlays on two of our other locations and they have greatly reduced our energy consumption.

C) Customers need to know that our business is "retail sales" not another industrial building. The vinyl overlays will add a little color to the exterior facade. The interpretation of the ordinance places an over amount of cost on our business due to excess energy costs required to cool the inside area.

D) No

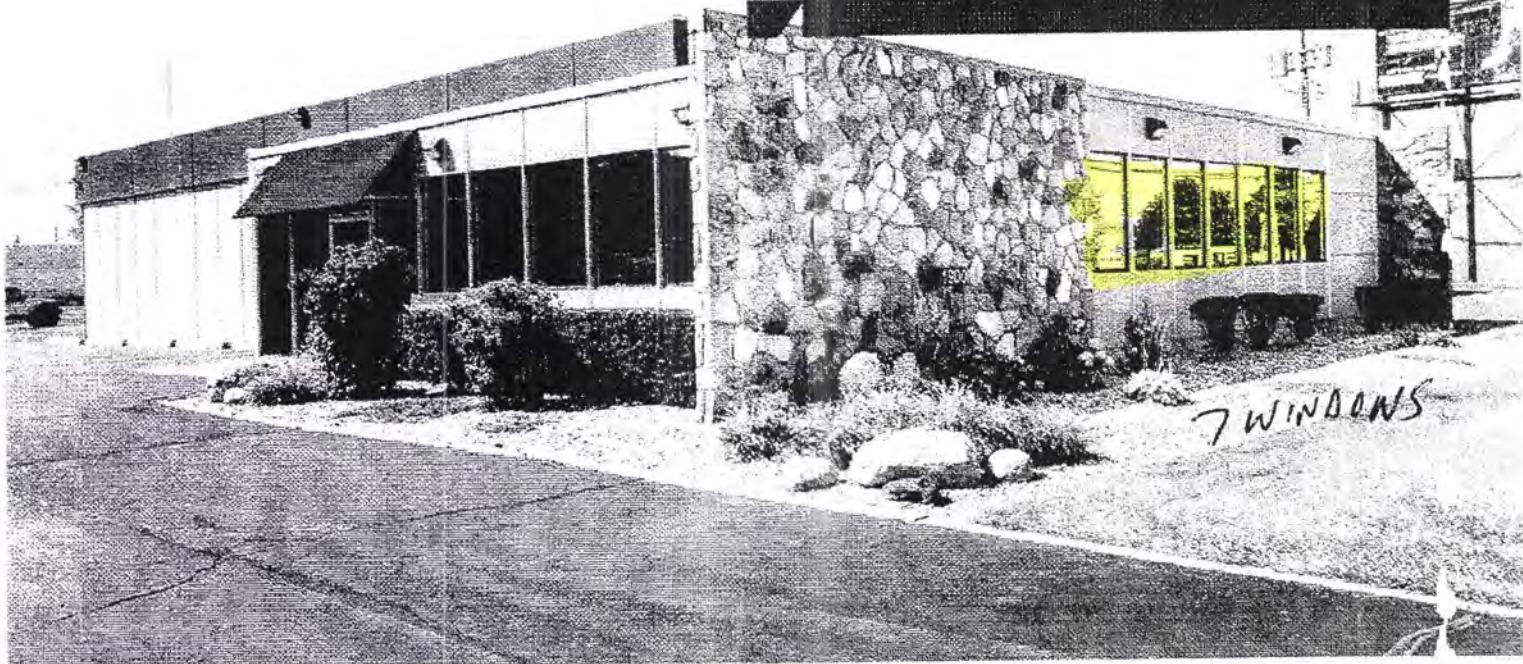
E) No, the Ordinance places an undue hardship on our business by limiting the visibility and nature of our business to the public. The Ordinance also causes our business to use excessive amounts of energy to "cool" our front office area due to the afternoon setting sun. Yes, this is the minimum variance I need to use the building for our intended use. Many other retail businesses in the City have signage on their exterior glass.

F) Granting this Variance will not change the essential character of the area. The proposed graphics are professional and tastefully produced. I have notified my adjacent neighbors of my intentions and have heard zero objections.

For Lease

Photography Studio

\$15.00 SF/NNN

**1900 E 14 Mile**

Madison Heights, Michigan 48071

Property Highlights

- 9,521 SF Photography Studio for Lease
- Excellently Maintained
- Move in Ready
- High Traffic Frontage and Digital Signage
- Multiple Bays Throughout Studio
- Easy Office or Industrial Conversion

**Google**

Map data ©2019

For more information

Doug Fura
 O: 248 351 4397
 fura@farbman.com

NAI Farbman
 Commercial Real Estate Services, Worldwide.



28400 Northwestern Hwy
 Fourth Floor
 Southfield, MI 48034
 248 353 0500 tel
 naifarbman.com

DEALERSHIP WINDOW GRAPHIC - SAMPLE DESIGN

JOB#: 22626 CAP CLIENT: CLIENT NAME

FINISHED SIZE: 43.25" wide by 58.25" tall / (5" gaps in between)

GRG graphicresourcegr
INFINITE IDEAS. ENDLESS SOLUTIONS. ONE RES

528 Robbins Drive • Troy, MI 48083 • 1.248.585.6109 • 1.800.218.9455 • graphicresource.com

Item 3.

INKS: BLACK YELLOW PANTONE XXXXX PANTONE XXXXX
 MAGENTA CYAN PANTONE XXXXX PANTONE XXXXX

Composite of all the windows in a row



CHECK THE FOLLOWING: Spelling and Text
 Color Selection Measurements
 Artwork Layout Orientation

Please contact us immediately if corrections or changes are needed. If the proof is correct, email your approval. Once received, we will authorize the order for production. No responsibility will be taken for mistakes found after final approval. Because of the way light is perceived by the human eye, colors printed on paper, fabric, or other substrates appear different than colors displayed on a monitor, therefore it is essential that the correct colors be defined by using Pantone® or an alternate color matching system. We will match all defined colors as closely as possible. Please be sure to check colors against an updated Pantone® Color Bridge® book, this will give you a better understanding of what your color will look like with CMYK inks. If color accuracy is a concern, please request a hard proof.

BY EMAILING YOUR APPROVAL, YOU ARE CONFIRMING YOU HAVE REVIEWED THIS PROOF, FOUND IT TO BE CORRECT, AND APPROVED THIS PROJECT FOR PRODUCTION.

JOE RICCI AUTOMOTIVE

1900 E. 14 MILE RD. MADISON HEIGHTS, MICHIGAN



job no. sheet no.



NOTICE OF PUBLIC HEARING

Notice is hereby a Meeting of the Madison Heights **Zoning Board of Appeals** will be held in the **City Council Chambers** of the Municipal Building at **300 W. 13 Mile Road**, Madison Heights, Oakland County, Michigan 48071 on **Thursday, May 5th, 2022 at 7:30 p.m.** to consider the following requests:

Case # PZBA 22-05: 1900 E. 14 MILE ROAD

REQUEST: The applicant, Joe Ricci, requests a variance from city sign regulations, section 10.511(IV)(C)(4)(c) of the Zoning Ordinance, which limits business signs displayed through glass to a maximum of 25% of the total glass area.

The subject property is located at 1900 E. Fourteen Mile Road (tax parcel # 44-25-01-226-038) and is zoned M-1, Light Industrial.

The application and any supporting documents can be viewed during regular business hours at the Community & Economic Development Department. In addition, the agenda item can be viewed online at www.madison-heights.org in the Agenda Center after 4:00 p.m. on the Friday before the meeting.

If you are unable to attend the meeting, you can send your comments via email to: MattLonnerstater@madison-heights.org and your comment will be read into the record at the meeting. Written comments may also be mailed prior to the meeting to 300 West Thirteen Mile Road, Madison Heights, Michigan, 48071. All comments will be heard at the meeting.

CITY CLERK'S OFFICE
(248) 583-0826



MEMORANDUM

Date: April 26th, 2022

To: City of Madison Heights Zoning Board of Appeals

From: Matt Lonnerstater, AICP – City Planner

Subject: Draft ZBA Bylaws

The Michigan Zoning Enabling Act (*Public Act 110 of 2006, as amended*) states that a local Zoning Board of Appeals may set their own rules of procedure or “by-laws.” Additionally, Section 10.802 of the Madison Heights Zoning Ordinance (*Procedure of Zoning Board of Appeals*) states that, “*the board shall adopt its own rules or procedures and shall maintain a record of its proceedings which shall be a public record.*”

City staff was unable to locate any active ZBA bylaws on-record. As such, city staff proposes the attached Zoning Board of Appeals Bylaws to assist board members in running ZBA meetings and public hearings. These draft bylaws aim to provide clarification on the following topics:

- Organizational framework of the ZBA;
- Membership;
- Duties of officers;
- Meeting schedule and notification;
- In-meeting procedures; and
- Conflicts of Interest

The ZBA may adopt these bylaws, with any suggested changes, via an affirmative vote of at least five (5) members. After adoption, the ZBA may amend the bylaws at any time under the same procedure.

BYLAWS OF THE CITY OF MADISON HEIGHTS

ZONING BOARD OF APPEALS

ARTICLE I – NAME, PURPOSE, POWERS AND DUTIES

The name of the Board shall be the Madison Heights Zoning Board of Appeals (ZBA). The purpose, objectives, powers, and duties of the Board shall be those as prescribed in the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, and the Zoning Ordinance of the City of Madison Heights.

ARTICLE II – MEMBERSHIP

Section 1. Selection and Composition

- A. The Zoning Board of Appeals shall be composed of nine (9) regular members, as appointed by City Council.
- B. The City Council may appoint not more than two (2) alternate members, with full voting rights, who may serve in the absence of regular members. An alternate member may be called on a rotating basis to sit as regular members of the Board in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made.
- C. One (1) elected councilmember and one (1) member of the Planning Commission may serve on the ZBA as ex-officio regular members.

Section 2. Terms of Office and Compensation of Members.

- A. Unless otherwise noted, the term of each regular ZBA member shall be three (3) years. The term of any ex-officio member shall expire upon the expiration of their term in office, or the expiration of their term upon the ZBA, whichever event is first.
- B. All members of the ZBA shall serve without compensation

Section 3. Attendance; Delinquency; Removal of Members; Filling of Vacancies

- A. With the exception of ex-officio members, ZBA members may, after a public hearing, be removed by the City Council for insufficiency, delinquency, neglect of duty, or malfeasance in office.

B. A ZBA member shall be considered delinquent upon the following:

- i. Unexcused absence from three (3) consecutive meetings; or
- ii. Absence, whether or excused or not, from any four (4) scheduled monthly ZBA meetings throughout the course of one (1) calendar year.

Delinquency shall be grounds for City Council to remove a member of the Zoning Board of Appeals for neglect of duty.

C. A member who is unable to attend a regular or special meeting shall contact the Secretary as far in advance of the scheduled meeting as possible to request an excused absence and so that that an alternate member may be contacted about participating in the meeting. Excused absences shall be limited to those which meet the following requirements:

- i. The absent member must have informed the Secretary of their intended absence prior to the scheduled meeting; and
- ii. The absence is due to one of the following:
 - a. Death in the family
 - b. Personal illness or illness of an immediate family member
 - c. City-related business
 - d. Vacation (limited to one excused absence per year)
 - e. Emergency
 - f. Required employment duties
 - g. Required military service
 - h. Parental responsibilities
 - i. Religious or cultural holiday

Excused absences shall be granted by motion and approved with a majority vote at the meeting in which the member is not present. Alternate members do not need to be present at meetings unless they are standing in for the absence of a regular member.

D. Vacancies occurring otherwise than through the expiration of a term shall be filled for the unexpired term by the City Council.

E. Any member may resign at any time by giving written notice of such resignation to the Chair in accordance with the Ordinance. The Chair shall promptly notify the Secretary of the ZBA, who shall then notify the City Clerk of the resignation.

ARTICLE III – OFFICERS

Section 1. Annual Election

At the first regular meeting of each year, the members of the Zoning Board of Appeals shall elect a Chair and Vice-Chair to serve for one (1) year terms. Existing officers shall be eligible for re-election.

Section 2. Chair; Vice Chair

- A. The Chair shall preside over all meetings of the ZBA, appoint committees, act as the official spokesperson for the ZBA and perform such other duties as ordered by the ZBA or City Council.
- B. The Vice-Chair shall assume the responsibilities and perform the duties of the Chair if the Chair is absent or otherwise unavailable to perform their assigned duty. Ex-officio members shall not serve as Chair or Vice Chair.
- C. Should neither the Chair nor Vice Chair be present at a meeting, a temporary Chair shall be elected by a majority vote of the members present.
- D. In the event the office of Chair becomes vacant, the Vice Chair shall succeed to this office for the unexpired term, and the ZBA shall select a successor to the Vice Chair for the unexpired term.

Section 3. Secretary; Minutes

The City Manager shall designate an employee of the City to serve as Secretary of the ZBA. The Secretary shall provide required administrative, technical and clerical support for the ZBA. The Secretary shall prepare agendas, maintain an attendance record, and maintain a public record of the minutes of each meeting, which shall be filed in the office of the City Clerk.

Minutes shall, at minimum, include a record of attendance, complete restatement of all motions, the record of votes taken, and all conditions or recommendations made on actions taken.

ARTICLE IV – MEETING SCHEDULE AND NOTIFICATION

Section 1. Regular Meetings

- A. The business of the Zoning Board of Appeals shall be conducted at a public meeting held in compliance with the Open Meetings Act. Notice of public meetings shall be given in accordance with all applicable laws. The ZBA may establish reasonable rules and regulations to enable an orderly meeting to minimize the possibility of disruption of the meeting.
- B. The Zoning Board of Appeals shall hold no less than four (4) regular meetings per year. If a regular meeting date falls on a holiday or at a time when a majority of members would be unable to attend, the Board may reschedule the regular meeting to an appropriate date, time, and location.

Section 2. Meeting Schedule Notification

At or before its regular meeting in January, the Board shall adopt its regular meeting schedule for the year, including the time and place the meetings will be held. The meeting schedule shall be publicized through local media or a City publication and shall be posted at City Hall within ten

(10) days of the regular meeting in January. Notification of the date, time and location of any special meeting or any change in the scheduling or location of a regular meeting shall be posted at City Hall at least eighteen (18) hours in advance of the meeting. Notification of all meetings of the ZBA shall comply with the Michigan Open Meetings Act, 1976 PA 267, as amended.

Section 3. Special Meetings

Special meetings of the ZBA may be called by action of the Board. Special meetings may also be called by the Secretary if so directed by the Chair, by any other member of the Board in writing, or at the request of the City Manager. Notice of a special meeting shall be provided to each member of the ZBA at least twenty-four (24) hours in advance of the meeting and shall include the purpose of the meeting. The notice shall also be posted at City Hall at least eighteen (18) hours in advance of the meeting.

Section 4. Notice of Public Hearing

All public hearings held by the ZBA shall be held as part of a regular or special meeting of the ZBA. The ZBA shall fix a reasonable time for the public hearing and shall give due notice thereof in accordance with the City of Madison Heights Zoning Ordinance and Michigan Zoning Enabling Act Public, Act 110 of 2006, as amended.

Section 5. Meeting Cancellation

The Secretary, with the approval of the Chair, may cancel a regular or special meeting of the ZBA if there is no business to conduct or if it is known that a quorum will not be present at the meeting. Notice of such cancellation shall be provided to each member of the Board and shall be posted at City Hall.

Section 6. Continuation of a Public Hearing

The ZBA may grant a continuation of a public hearing to a subsequent meeting if one of the following conditions is met: (1) A quorum is not present to vote on the item; or (2) the applicant affirmatively states on the record the desire to continue the appeal prior to the deliberation and vote.

The public hearing shall be continued to the next regular meeting of the ZBA unless an alternative time is agreed to by the ZBA and applicant. The Notice of Public Hearing shall be sent for the new meeting date in accordance Article IV, Section 4 of these Bylaws.

ARTICLE V – MEETING PROCEDURES

Section 1. Quorum

A quorum for the purposes of conducting any business at a ZBA meeting shall consist of at least fifty percent (50%) of the current membership of the Board.

Section 2. Voting

All proceedings, decisions, and resolutions of the ZBA shall be initiated by motion. To pass or deny any variance, appeal, or other official action required by the Zoning Ordinance, an affirmative vote of at least a majority of a present quorum of the ZBA is required. Voting shall be by a roll call vote. Except in the case of a conflict of interest, all ZBA members, including the Chair, shall vote on all matters. Voting by proxy shall not occur.

All motions to approve, approve with conditions, or disapprove any request shall state the basis of the motion and the findings upon which the motion is made.

Section 3. Parliamentary Procedure

Meetings shall generally be conducted in accordance with parliamentary procedures as defined in *Robert's Rules of Order*.

Section 4. Public Participation

All persons shall be provided the opportunity to address the Board on any issue of interest at each meeting. Such opportunity may be limited to prescribed times on the agenda and, to ensure that equal opportunity is provided to all persons present to address the Board, the Chair may limit the time each person is allowed to speak before the Board on any issue.

Section 5. Public Hearing Procedure

The order of procedure of a public hearing is recommended as follows:

1. The Chair shall state the name of the case and explain the particulars thereof in brief.
2. The City Planner or their designee shall present the official records, staff report, and staff recommendation in regards to the case.
3. The applicant and/or their representative shall be invited to present their case.
4. The Chair shall declare the public hearing open, and shall direct that all persons present in connection therewith identify themselves by name and address.
5. The Chair may invite final comments from the applicant, at the Chair's discretion.
6. The Chair shall declare the public hearing closed.
7. Discussion by the Board members.
8. Deliberation and Action by the Board.

Section 6. Public Records

All meetings, minutes, records, documents, correspondence and other materials of the Zoning Board of Appeals shall be open to public inspection in accordance with the Freedom of Information Act, except as may otherwise be provided by law.

Section 7. Public Records; Filing of Decision and Orders.

The decision of the Zoning Board of Appeals shall be final upon the approval of the meeting minutes. The approved meeting minutes shall serve as the official public record of the ZBA's actions. The Secretary shall maintain the approved meeting minutes and other public records of the ZBA as required.

Decisions and Orders of the ZBA shall be filed in the office of the City Clerk and shall be public record. Copies of final decisions and orders shall also be sent to the applicant and to other interested agencies and departments of the City Government.

ARTICLE VI – CONFLICT OF INTEREST

- A. Before considering an agenda item or casting a vote on a matter which a Zoning Board of Appeals member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the Board. The member shall abstain from discussion and voting. If such abstention results in loss of quorum, the matter shall be postponed to the next regularly-scheduled meeting, and testimony shall not be heard without a quorum.
- B. When a conflict of interest is declared, the member declaring such conflict of interest shall abstain from participating in deliberations and shall leave the room. A conflict of interest is defined as, but not limited to, the following situations:
 1. An immediate family member is involved in any request for which the Zoning Board of Appeals is asked to make a decision.
 2. The Zoning Board of Appeals member has a business or financial interest in the property involved in the request or has a business or financial interest in the applicant's company, agency or association.
 3. The Zoning Board of Appeals member owns or has a financial interest in the neighboring property.
 4. There is a reasonable appearance of a conflict of interest, as determined by the Zoning Board of Appeals member declaring such conflict.

ARTICLE VII – GIFTS

Gifts shall not be accepted by a member of the ZBA from anyone connected with an agenda item before the ZBA. As used here, gifts shall mean cash, any tangible item, or service.

ARTICLE VIII – AMENDMENT OF BYLAWS

These Bylaws may be amended at any regular meeting of the ZBA on an affirmative vote of at least five (5) members, provided that the proposed amendment has first been submitted to the ZBA in writing at the previous regular meeting.

Adopted by the City of Madison Heights Zoning Board of Appeals on this _____ day of _____.

ZBA Chairperson

ZBA Secretary

DRAFT