

TOWNSHIP OF SOLON
COUNTY OF KENT, MICHIGAN

At a regular meeting of the Zoning Board of Appeals of the Township of Solon, held at the Township Hall, 15185 Algoma Avenue, Cedar Springs, Michigan, on the 17 day of May, 2023, at 4:00 p.m.

PRESENT: Powell, Skelonc, Stout, Tilburt

ABSENT: Blair

The following preamble and resolution were offered by Member Skelonc and supported by Member Stout:

RESOLUTION NO: 23-09

RESOLUTION DENYING PARKING VARIANCE

[Cedar Springs Retail Management – 3584 17 Mile Road (aka 3700 17 Mile Road)]

WHEREAS, Cedar Springs Retail Management (“Applicant”), on March 14, 2023 applied for a second variance for property formally known as 3700 17 Mile Road and now known as 3584 17 Mile Road;

WHEREAS, the current request for a variance is in addition to the driveway variance granted by the Zoning Board of Appeals on October 20, 2022;

WHEREAS, the current request is for a variance from Section 10.04(C)(3) which prohibits parking areas in the minimum setback area, and that under Section 10.05(B) the minimum front yard setback for all properties in the HC- Highway Commercial District on 17 Mile Road is 75 feet;

WHEREAS, the legal description for the parcel located at 3584 17 Mile is according to the March 15, 2023 site plan legally described as follows:

A parcel of land located in the Northeast Quarter and the Northwest Quarter of Section 35, Town 10 North, Range 11 West, Township of Solon, Kent County, Michigan. Further described as: commencing at the North Quarter post of Section

35, Town 10 North, Range 11 West; thence along the North and South Quarter line of said Section 35, south 00°22'06" east, 60.00 Feet to the South right of way line of 17 Mile Road; thence along said South right of way line, North 89°28'22" East, 52.91 feet; thence along said South right of way line, South 00°31'38" East, 15.00 feet; thence along said South right of way line, north 89°28'22" East, 39.87 feet; thence south 00°05'08" East, 131.34 feet; thence south 89°54'52" West 5.00 feet; thence south 00°05'08" East 11.00 feet; thence North 89°54'52" East 5.00 feet; thence south 00°05'08" East 91.68 feet; thence Southerly 55.68 feet along the arc of a curve to the right with a radius of 50.00 feet, a central angle of 63°48'08", and a chord which bears south 57°39'20" West, 52.85 feet; thence South 89°33'24" west, 74.37 feet; thence westerly 41.99 feet along the arc of a curve to the left with a radius of 233.00 feet, a central angle of 10°19'29", and a chord which bears South 84°23'39" West, 41.93 feet; thence South 79°13'54" West 23.04 feet; thence Northwesterly 82.86 feet along the arc of a curve to the right with a radius of 52.58 feet, a central angle of 90°16'46", and a chord which bears North 54°33'07" West, 74.55 feet; thence Northerly 169.02 feet along the arc of a curve to the right with a radius of 2102.00 feet, a central angle of 04°36'26", and a chord which bears North 04°16'54" West, 168.97 feet; thence North 04°17'46" East, 71.49 feet; thence Northeasterly 23.05 feet along the arc of a curve to the right with a radius of 31.00 feet, a central angle of 42°35'49", and a chord which bears north 20°17'02" East, 22.52 feet; thence North 00°27'44" West, 40.00 feet; thence North 89°31'17" East, 150.24 feet to the point of beginning.

WHEREAS, the Zoning Board of Appeals has held a public hearing on the application for the requested variance, after the giving of notice as required by the Michigan Zoning Enabling Act, and has considered the submission of the applicant and is otherwise advised in the premises.

IT IS, THEREFORE, RESOLVED AS FOLLOWS:

1. **Denial of Requested Variance for Parking in Setback.** The request for a variance to park in the required setback from 17 Mile Road is hereby denied because the information provided by the applicant in support of the request does not comply with each of the standards for the approval of a variance, as stated in Section 17.06 of the Zoning Ordinance, as follows:

(a) Enforcement of the literal requirements of this Ordinance would not cause practical difficulties because:

i. The applicant has not presented evidence that the parcel has unusual topography that would justify the variance. The

reference to a nine foot grade change across the developable area does not justify the parking in the setback

- ii. The reason the additional parking in the setback is requested is because the applicant is proposing two commercial uses on a small lot. For example, if the parcel were developed for only a restaurant or retail store then parking in the setback would not be required. Accordingly, the requested variance is a self created hardship.

(b) That special conditions or circumstances do not exist which are peculiar to the land, structures involved which are not applicable to other lands, structures, or buildings in the same zoning district because:

- i. The Applicant's argument that the lot line along 17 Mile varies across the site and juts south is generally applicable to other properties located along major roads, and the jut in the road only affects six of the requested 18 parking spots.
- ii. The Applicant has not presented any other evidence that there are special conditions or circumstances peculiar to the land which are not applicable to other lands.

(c) That literal interpretation of the provisions of this Ordinance would not deprive the applicant of property rights commonly enjoyed by other properties in the same zoning district because:

- i. The Applicant has not presented complete information regarding the AutoZone and ALDI grocery store sites. The setback encroachments requested by the Applicant are greater encroachments than AutoZone and ALDI and therefore would be inconsistent with the parking setbacks for those properties.
- ii. In addition, the ALDI variance was based on different unique factors not present here, including the presence of two clear vision areas.
- iii. The Planning Commission has not determined that a medical clinic is a permitted use in place of the requested medical

office, nor has the Planning Commission determined that the two uses may be considered a principal use collectively under Section 3.02 such that it is exempt from the requirement that no lot or parcel of land shall contain more than one principal use. Accordingly, the ZBA is being asked to grant a variance based on a use that may not be permitted.

(d) That the authorizing of such variance will be of substantial detriment to the adjacent and nearby properties and will be contrary to the spirit and purpose of this Ordinance because:

- i. The applicant has designed the parking areas within the setback limits to accommodate an excessive amount of parking for two uses on a small lot which is inconsistent with other development in the area.

AYES: 3

NAYS: 1

RESOLUTION DECLARED ADOPTED.



Jon Tilburt, ZBA Chair