



Department of Planning and Economic Development
 1000 Rochester Hills Dr.
 Rochester Hills, MI 48309
 (248) 656-4660
planning@rochesterhills.org
www.rochesterhills.org

Zoning Board of Appeals (ZBA) Application

Request Information

Request Type (as defined in [Article 2 Chapter 4 Variances and Appeals](#) of the City's Zoning Ordinance)

Variance:

- Dimensional (Non-Use)
 Use

- Appeal
 Interpretation

Conditional or Temporary Use Permit:

- Temporary Building or Use
 Excavation or Landfill Permit
 Other (please describe):

Property Information

Street Address **2240 Avon Industrial Drive, Rochester Hills, MI**

Parcel Identification Number (can be obtained on the [Property Tax Look-Up page on the City's website](#))

15-29-251-015

Platted Lot (if applicable)

Subdivision:

Lot No.:

Current Use(s) **Asphalt Manufacturing Plant**

Zoning District **I-Industrial**

Appeal (if applicable)

Regulations (as defined in [Section 138-2.404](#) of the City's Zoning Ordinance)

An appeal may be taken to the ZBA by any person, firm or corporation, or by any officer, department, board or bureau affected by a decision of the Building Department concerning the enforcement of the zoning ordinance.

Requested Appeal(s)

Reason for Appeal

Interpretation (if applicable)

Regulations (as defined in [Section 138-2.405](#) & [Section 138-2.406](#) of the City's Zoning Ordinance)

The ZBA has the power to interpret the ordinance text and map whenever a question arises in the administration of the zoning ordinance as to the meaning and intent of the zoning ordinance.

Requested Article #(s), Section #(s), & Paragraph #(s) for Interpretation

Reason for Interpretation

Conditional or Temporary Use Permit (if applicable)

Regulations (as defined in [Section 138-1-302](#) of the City's Zoning Ordinance)

The ZBA may issue a Temporary or Special Use Permit only when the use is to be in excess of 60 days



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ZBA Application

Dimensional (Non-Use) Variance (if applicable)

Ordinance Section(s) (variance being requested from)
 Sec. 5.100, Table 6 of the City of Rochester Hills Zoning Ordinance (Ordinance)

Review Criteria (as defined in [Section 138-2.407](#) of the City's Zoning Ordinance)
 A non-use variance is a variance granted to provide relief from a specific standard in the ordinance, which usually relates to an area, dimensional or construction requirement or limitation.
 To obtain a non-use variance, an applicant must present proof that a practical difficulty exists, and the practical difficulty must relate to a unique circumstance of the property, as distinguished from a personal circumstance or situation of the applicant.

Practical Difficulty. Describe how compliance with the strict letter of the regulations governing area, setback, frontage, height, bulk, lot coverage, density or other dimensional or construction standards will unreasonably prevent use of the affected property for a permitted purpose, or will render conformity with such restrictions unnecessarily burdensome.
 Application of the Ordinance's 40' height limitation to the three proposed hot mix asphalt (HMA) storage silos would unreasonably prevent the property owner (Ajax) from using the affected property for a permitted purpose because: 1) the five existing silos on the property, all of which are nominally over 49', are the minimum height (200 ton capacity) used in the segment of the HMA production industry in which Ajax competes; and 2) shorter silos would negatively impact Ajax's ability to achieve quality and production efficiency benchmarks and would make Ajax's operations less competitive.

Substantial Justice. Describe how granting the variance will do substantial justice to the applicant as well as to other property owners in the District.
 Application of the 40' height limitation to Ajax's proposed addition of HMA storage silos would: 1) reduce the efficiency of Ajax's production operations and cut its energy efficiency; 2) jeopardize the quality of Ajax's products; and 3) increase Ajax's average daily hours of HMA plant operation, without advancing the goals of the Ordinance or benefiting the community. Grant of this variance, on the other hand, will allow Ajax to make investments that will improve the efficiency of its HMA production operations and will have no effect on other property owners in the District.

Lesser Variance. Describe how granting a lesser variance would not give substantial relief to the applicant and/or be more consistent with justice to other property owners in the District.
 For the reasons stated above, grant of a lesser variance, e.g., permitting the proposed silos to be between 40' and 49' tall, would be meaningless, as Ajax would still be required to install silos that are smaller than the minimum size used in the segment of the industry in which Ajax competes and would result in operational and quality control problems.

Unique Circumstance. Describe how the request results from a special or unique circumstances peculiar to the affected property, that do not apply generally to other properties or uses in the same district or zone.
 Ajax has been lawfully operating for decades with nominally over 49' silos that are the minimum size used in any stationary continuous HMA manufacturing facility in SE Michigan and significantly smaller than the silos it operates elsewhere in SE Michigan. It is impractical for Ajax to install silos shorter than 49' (less than 200 ton capacity) because smaller silos: 1) would negatively impact Ajax's ability to achieve quality and production efficiency benchmarks; 2) make Ajax's operations less competitive; and 3) reduce Ajax's energy efficiency.

Not Self-Created. Describe how the alleged hardship has not been created by the actions of the applicant or any person having a current interest in the property.
 This hardship is not self-created because under Sec. 4.419.G of the Ordinance Ajax's HMA manufacturing operation is a permitted use in the Industrial District and Ajax's use of nominally over 49' HMA storage silos has been allowed by the City for decades without a variance or special use permit. With the addition of the three proposed silos, Ajax is simply seeking to improve the efficiency of an existing permitted use that will be significantly impaired if the 40' height limitation is applied to the proposed silos in the context of this established existing use.

Public Safety and Welfare. Describe how the request would not be materially detrimental to the public welfare or materially injurious to this property or other properties or premises in the zone or district in which the property is located.
 This request would not harm the public welfare or be injurious to the Ajax property or other properties or premises in the Industrial District. The addition of three nominally over 49' HMA storage silos would improve the operational and energy efficiency of Ajax's HMA manufacturing.



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ZBA Application

Use Variance (if applicable)

Ordinance Section(s) (variance being requested from)

Review Criteria (as defined in [Section 138-2.408](#) of the City's Zoning Ordinance)

A use variance is a variance that allows a property to be used in a way for which the ordinance does not otherwise permit in the Zoning District where the property is located.

To obtain a use variance, an applicant must present proof that an unnecessary hardship exists, and the unnecessary hardship must relate to a unique circumstance of the property, which prevents the applicant from reasonably using the property for a permitted purpose. **A use variance may not be applied for without first attempting to rezone the property.**

Reasonable Use. Describe how the affected property cannot be reasonably used or cannot yield a reasonable return on a prudent investment if only used for a purpose allowed in the Zoning District.

Unique Circumstance. Describe how the request results from a special or unique circumstances peculiar to the affected property and not to general neighborhood conditions.

Essential Character. Describe how the use to be authorized by the variance will not alter the essential character of the area and locality.

Not Self-Created. Describe how the alleged hardship has not been created by the actions of the applicant or any person having a current interest in the property.

Public Safety and Welfare. Describe how the request would not be materially detrimental to the public welfare or materially injurious to this property or other properties or premises in the zone or district in which the property is located.



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**ZBA
Application**

Applicant Information

Name Ajax Materials Corporation		
Address 1957 Crooks Road, Suite A		
City Troy	State MI	Zip 48084
Phone 248-244-3327	Email mboden@ajaxpaving.com	
Applicant's Legal Interest in Property		

Property Owner Information Check here if same as above

Name JJC-Rochester Hills, LLC		
Address 1957 Crooks Road, Suite A		
City Troy	State MI	Zip 48084
Phone 248-244-3300	Email jfriel@ajaxpaving.com	

Applicant's/Property Owner's Signature

I (we) do certify that all information contained in this application, accompanying plans and attachments are complete and accurate to the best of my (our) knowledge.

I (we) authorize the employees and representatives of the City of Rochester Hills to enter and conduct an investigation of the above referenced property.

Applicant's Signature 	Applicant's Printed Name MARK E BODEN	Date 10/23/19
Property Owner's Signature 	Property Owner's Printed Name JAMES H. FRIEL	Date 10/23/19

OFFICE USE ONLY

Date Filed	File #	Escrow #
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1. **Completed Applications.** Applications must be submitted on the attached completed application with all information typed or printed in ink along with the following.
 - a. Letter of denial from the Building Department
 - b. 8 copies of the plot plan of the subject property drawn to scale depicting *(if applicable)*:
 - 1) Shape and dimensions of the property
 - 2) All existing and proposed structures to be erected, altered or use changed
 - 3) Building-to-building and building-to-property line relationships
 - 4) Location of any trees in the affected area measuring at least 6" in diameter
 - c. Proof of ownership. If the applicant is not the owner of the land in Fee Simple Title, a document (land contract, purchase agreement, option to purchase, etc.) must be provided that indicates the applicant's interest in the property
 - d. Notarized letter from property owner indicating no objection to request
 - e. Any other information which the applicant feels will aid the City in its review
 - f. PDF files of all of the above submitted information

2. **Review Process.** Prior to submitting an application to the ZBA, an application for a building permit from the Building Department must be submitted. If the proposed construction does not meet the requirements of the zoning ordinance, then the letter of denial will indicate the sections of the ordinance which are not in compliance.

City staff and consultants will review the ZBA application and supporting materials. If it is determined that one or more applicable item(s) are not included or need to be modified, the applicant will be contacted. Incomplete applications will not be placed on a ZBA agenda until all necessary information is submitted and reviewed.

The applicant will be notified of the date and time that the public hearing will be held by the ZBA. A representative for the project must be present at the public hearing. ZBA meetings are generally held the second Wednesday of each month at 7:00 P.M. After the public hearing, if the application is acted upon, the Building Department will be notified of the action taken.

The ZBA application is noticed for public hearing in accordance with Act 110 of the Public Acts of 2006, as amended. Notification is provided to all persons to whom real property is assessed within 300 feet of the property that is the subject of the request, and to the occupants of structures within 300 feet of the subject property. The notice is also published in the local paper (Oakland Press) not less than 15 days prior to the public hearing.

3. **Fees.** Established fees as follows must be provided before the application can be processed. Checks should be made payable to the City of Rochester Hills.

Single Family Residence Requests	\$150
All other Variance, Interpretation, Appeals, Decisions or Approval Requests	\$300

4. **Questions or Clarifications.** Please contact the Department of Planning and Economic Development at the contact information above for questions or clarifications.