



Department of Planning and Economic Development
 Staff Report to the Zoning Board of Appeals

November 6, 2019

Ajax Materials Corp. Height Variance	
REQUEST	A height variance of 7-8 feet from Section 138-5.100 (Schedule of Regulations) to proposed storage silos at a height of 49+ feet
APPLICANT	Ajax Materials Corp. 1957 Crooks Rd., Suite A Troy, MI 48084
LOCATION	2240 Avon Industrial Drive, north of M-59, west of Crooks Rd.
FILE NO.	19-039
PARCEL NO.	15-29-251-015
ZONING	I Industrial
STAFF	Kristen Kapelanski, AICP, Planning Manager

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Requested Variance

The applicant is requesting a seven-foot, 5 and 11/16-inch variance from the Code of Ordinances to construct new, hot mixed asphalt storage silos with a height of 49-feet, 6 and 5/16-inches. Section 138-5.100 requires a 42-foot height in the I district. The applicant has submitted plans showing silos that would match those existing on the site.

Summary

The applicant has operated the property in question as an asphalt plant for several decades. Recently, there has been a need to increase the options of asphalt mix available, which have been limited due to the number of on-site silos available for mixing. The applicant is proposing the addition of three new silos to increase mixing capabilities on the site. Per the applicant, industry standards dictate the smallest size silo available is 49-feet, 6 and 5/16-inches tall, which would be consistent with the silos currently on site. The I District has a maximum height of 42 feet.

Site Context Aerial Photograph



Analysis

In the case of a dimensional variance, the Zoning Ordinance requires the ZBA to make a finding that a practical difficulty exists that precludes the property owner from meeting the requirements of the Ordinance. Section 138-2.407 provides criteria for determining if a practical difficulty exists.

1. *Compliance with the strict letter of the restrictions governing area, setback, frontage, bulk, height, lot coverage, density or other dimensional or construction standards will unreasonably prevent the owner from using the property for a permitted purpose or will render conformity with such restrictions unnecessarily burdensome.* The applicant states that the district's 40-foot height limit would unreasonably prevent Ajax from using the affected property because shorter silos are smaller than the minimum size used in the segment of the industry in which Ajax competes; it would negatively impact Ajax's ability to achieve quality and production efficiency benchmarks and make Ajax's operations less competitive; it would reduce Ajax's energy efficiency; and it would force Ajax to increase its average daily hours of hot mixed asphalt plant operation to produce the same daily output utilizing silos that match the existing silos. Compliance with the requirements of the ordinance would not prevent the owner from using the property but according to the applicant, a silo less than 49 feet is impractical and unjust because of the reasons stated above.
2. *A grant of the variance will do substantial justice to the applicant as well as to other property owners in the district, and a lesser variance will not give substantial relief to the applicant as well as be more consistent with justice to other property owners in the zoning district.* According to the applicant, forcing the use of small silos would impede the efficiency of Ajax's product delivery operations, require Ajax to operate its asphalt plant more hours per day with no corresponding gain in daily output and

unnecessarily increase Ajax's energy consumption. Granting of the variance will allow Ajax to make investments that will improve the efficiency of its production operations while enabling Ajax to compete in the market and contribute to the community of Rochester Hills.

3. *The plight of the applicant is due to the unique circumstances of the property.* The property is the only one in the City with such a heavy industrial use, and the owner has been operating for decades with silos at 49+ feet, which the applicant states is the minimum size used in any stationary, continuous hot mixed asphalt manufacturing facility in southeast Michigan (and smaller than silos it operates in other southeast Michigan locations).
4. *The problem is not self-created.* The problem is not self-created according to the applicant because the City has allowed Ajax to operate with nominally over 49' storage silos for decades without a variance. Ajax states that they are seeking to improve the efficiency of an existing permitted use that would be impaired if the 40' height limitation is applied.
5. *The spirit of this ordinance will be observed, public safety and welfare secured, and substantial justice done.* If the variance is granted it is likely that substantial justice will be done. Adding three silos after receiving a height variance is not likely to have any material impact on any other property or property owner. With smaller storage capacity, Ajax would have to shut down and restart its mixing operations, wasting electricity and natural gas, among other harmful factors. Use of smaller silos would require Ajax to run its plant production operation for more hours each day.

Sample Motions

Motion to Approve

MOTION by _____, seconded by _____, in the matter of City File No. 19-039, that the request for a variance from Section 138-5.100 (Schedule of Regulations) of the Rochester Hills Code of Ordinances to allow new, hot mixed asphalt storage silos at a height of 49-feet, 6 and 5/16-inches, Parcel Identification Number 15-29-351-015, zoned I (Industrial), be **APPROVED** because a practical difficulty does exist on the property as demonstrated in the record of proceedings and based on the following findings:

1. Compliance with the strict letter of the Zoning Ordinance will unreasonably prevent the owner from using the property for a permitted purpose, or will be unnecessarily burdensome.
2. Granting the variance will do substantial justice to the applicant by permitting a use or development of land that is consistent with prevailing conditions onsite.
3. A lesser variance will not provide substantial relief, and would not be more consistent with justice to other property owners in the area.
4. There are unique circumstances of the property that necessitate granting the variance, and that distinguish the subject property from other properties with respect to compliance with the ordinance regulations.
5. Alternatives do not exist that would allow the intended and/or reasonable use of the property that would allow the requirements of the Ordinance to be met.
6. The granting of this variance would not be materially detrimental to the public welfare or existing or future neighboring uses.
7. Approval of the requested variance will not impair the supply of light and air to adjacent properties, increase congestion, increase the danger of fire, or impair established property values in the surrounding area.

Conditions of Approval. Approval of the variance is subject to the following conditions:

1. <Add any applicable conditions, if any>

Motion to Deny

MOTION by _____, seconded by _____, in the matter of City File No. 19-039, that the request for a variance from Section 138-5.100 (Schedule of Regulations) of the Rochester Hills Code of Ordinances to allow new, hot mixed asphalt storage silos at a height of 49-feet, 6 and 5/16-inches, Parcel Identification Number 15-29-351-015, zoned I (Industrial), be **DENIED** because a practical difficulty does not exist on the property as demonstrated in the record of proceedings and based on the following findings:

1. Compliance with the strict letter of the restrictions of the Zoning Ordinance will not prevent the owner from using the property for a permitted purpose in a reasonable manner, and will not be unnecessarily burdensome.
2. Granting the variance will not do substantial justice to nearby property owners as it would confer a special benefit on the applicant that is not enjoyed by neighboring property owners.
3. There are no unique circumstances of the property that necessitate granting the variance.
4. The granting of the variance would be materially detrimental to the public welfare by establishing a precedent that could be cited to support similarly unwarranted variances in the future. The granting of this variance could encourage further incursions upon the Zoning Ordinance which would result in further variances being considered by the Zoning Board of Appeals and could be construed as removing the responsibility of meeting the Zoning Ordinance from applicants and those wishing to build similar structures within the City.