

**WHITLEY COUNTY BOARD OF ZONING APPEALS
STAFF REPORT**

18-W-VAR-12 DEVELOPMENT STANDARDS VARIANCE
Harcharn (Nitu) Garcha
1190 N. State Road 5, Larwill

AUGUST 28, 2018
AGENDA ITEM: 3

SUMMARY OF PROPOSAL

Current zoning: GC, General Commercial; AG, Agricultural
Property area: 0.538± acres

The petitioner is requesting a setback variance to permit the reconstruction of an existing gas station building into a convenience store. The property is located at the northeast corner of SR 5 and US 30 in Larwill, with an address of 1190 North State Road 5.

The property is currently improved with a gas station building, canopy over the gas pumps, shed, pavement area, underground storage tanks, and a dumpster enclosure. The property has apparently been used as a gas station since around the time US 30 was constructed. The current improvements appear to date from the mid-1990s.

As proposed, the petitioner would demolish the existing station structure and shed, and would construct a new 2,016 sq. ft. convenience store building in their place. The existing canopy would be extended eastward along the existing setback line to accommodate additional two new pumps, and the freestanding sign relocated. The gas storage tanks, well, and most of the parking lot would be left as is. Per the submitted plans, the new building would be 15'10" from the north property line.

As this is a corner lot, the road frontages have front yard setbacks applied, while the remaining sides have side yard setbacks. The side setback for a GC-zoned property is 10'; however, Section 5.6 requires that where a commercial use is adjacent to an AG, RR, or LR district, as it is here, an additional 10' of setback is required. So a total setback of 20' is required along the north property line, resulting in a variance of 4' 2" being requested.

REVIEW CRITERIA

Indiana Code §36-7-4-918.5 and Section 10.10 of the Zoning Code state the criteria listed below upon which the Board must base its review. Staff's comments/proposed findings of fact under each criterion.

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;

The reduced setback request will likely not be injurious to public health, safety, and morals, as the requested setback is still larger than the normal GC setback requirement. The general welfare could be affected, as the variance could degrade the applicability of the buffering standard. However, the property already enjoys some landscaping along the northern property line to accomplish screening and buffering. Preserving and enhancing this screening could offset the encroachment.

General welfare may also be impacted by allowing a variance for an improvement to a property that may be directly affected by the potential rebuilding of US 30. However, such reconstruction of US 30 is still only conceptual and any realistic plans indicate that rebuilding would be more than a decade in the future.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and

It is not expected that the setback variance would adversely affect the use of the area adjacent to the site,

as the site overall is not changing in a significant way. While the addition of convenience store may create additional customers and visitors to the site, which can create more light and noise from people and vehicles, this could be associated with any convenience store whether a variance is required or not. The encroachment of the building within the required buffer area is unlikely to adversely impact the value of the surrounding area by itself.

3. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction or restriction of economic gain.

The strict application of the Ordinance terms may result in practical difficulties. The site is constrained by the location of the existing well and required setbacks to the west, and the location of the underground storage tanks to the east. While the tanks and well might be relocated to accommodate a larger structure oriented to fit within the setbacks, they do pose “practical difficulties” that were inherited from the previous operation. Further, such relocation and reorientation of the building and tanks could impact the parking, traffic flow, turning movements from and to the roads, etc.

SUGGESTED CONDITIONS

1. That landscaping compliant with the provisions of Section 5.6(A) be installed within the northern 20’ of the property. Existing trees on the property may be counted toward the total landscaping requirement.

Date report prepared: August 22, 2018.

BOARD OF ZONING APPEALS ACTION

Motion:

By:

Second by:

<i>Vote:</i>	Deckard	Denihan	Klein	Wilkinson	Wright
<i>Yes</i>					
<i>No</i>					
<i>Abstain</i>					