



TOWN OF PLAINFIELD BOARD OF ZONING APPEALS REPORT

DATE: January 20, 2022
CASE NUMBER(S): BZA-21-124-A
PETITIONER: RaceTrac, Inc.
REQUESTED ACTION(S): Requesting a Variance of Use to allow a Truck Fueling Station in a GC: General Commercial District.
SITE LOCATION: Southwest corner of the intersection of Ronald Reagan Parkway and Stafford Road.

EXISTING ZONING AND LAND USE		COMPREHENSIVE PLAN		
				
GC AG	General Commercial Agriculture	Site:	LI	Light Industrial
PUD	Metro Air Planned Unit Development	North:	LI	Light Industrial
PUD	Sierra Gateway Planned Unit Development	South:	LI	Light Industrial
GC	General Commercial	East:	LI	Light Industrial
AG	Agriculture	West:	POS	Park/Open Space

BACKGROUND

The applicant has requested a Variance of Use to allow a Truck Fueling Station within a GC: General Commercial District and an AG: Agriculture District. The Plainfield Zoning Ordinance defines a Truck Fueling Station as follows:

TRUCK FUELING STATION.

- (a) A retail sales facility selling fuel for motor vehicles and semi-trailer trucks with at least three axles that are designed to tow trailers.
- (b) Such a facility may have ancillary services such as a convenience store, but ancillary services such as truck scales, weigh stations, showering facility, vehicle service, vehicle repair, or provision of “rest areas” for semi-trailer trucks or their operators are not permitted.

The information submitted with the applicant’s request for a use variance indicates that the development would include a truck scale. This proposed site improvement would require a separate variance which has not been sought by the applicant.

As a part of this project, the applicant has also requested a Special Exception to allow for the sales of alcoholic beverages.

Additionally, the applicant has **applied for eight (8) Development Standard Variances**. Staff has noted an **additional twenty-two (22) Development Standards Variances** that will be required to construct the project as currently shown. This number may rise as more detailed landscaping, lighting, architectural, outdoor storage/dining, and mechanical screening plans are provided.

As currently shown, the Plan Commission will be required to consider at least one (1) Development Incentive and two (2) waivers to the Subdivision Control Ordinance. These numbers may rise as more detailed plans are provided.

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In summation, the applicant is requesting ***at least 31 Variances, 1 Special Exception, 1 Development Incentive, and 2 Subdivision Control Ordinance Waivers*** for a use not permitted by either the GC: General Commercial or the AG: Agriculture Districts.

PLANNING OVERVIEW

In 2016, the Town Council directed Staff to assist them in creating an ordinance that would give direction to the location and composition of future Fueling Stations; and, ensure that Truck Fueling Stations would go through a Planned Unit Development process to allow for the safe, effective, and convenient flow of traffic through the area.

Staff assembled an ordinance team which involved members of the public, Town Council, Plan Commission, Design Review Committee, Redevelopment Commission, and Convention and Visitors Bureau, among other groups, to help craft standards that would create the optimum fueling and truck fueling stations.

These standards ([Article 4.18](#) of the Plainfield Zoning Ordinance) were recommended for adoption by the Plan Commission in a unanimous (7-0) vote and were adopted by the Town Council with a similar unanimous (5-0) vote.

In 2014, prior to the enactment of the revisions, the Plan Commission denied a petition for a smaller fueling station on this site.

The Town Attorney, Mel Daniel, has provided a memorandum regarding the Indiana Statutes as it applies to a Variance of Use to be heard by the Board of Zoning Appeals, including applicable case law. The Indiana Code and the Plainfield Zoning Ordinance state that a variance may be approved only upon a determination in writing that:

- (1) the approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- (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;
- (3) the need for the variance arises from some **condition peculiar to the property** involved;
- (4) the strict application of the terms of the zoning ordinance will constitute an **unnecessary hardship** if applied to the property for which the variances sought; and
- (5) the approval does not interfere substantially with the comprehensive plan adopted under the numerical 500 series of this chapter.

While the petitioner has indicated that site has certain perceived constraints such as multiple street frontages, the lots included in the variance request were property platted under the provisions of the Subdivision Control Ordinance. The frontages do not limit the property's use or value. The Plainfield Zoning Ordinance allows the petitioner to request waivers as well as development incentives to provide flexibility in the development plan approval process. The ordinance also allows the petitioner to request a rezone to Planned Unit Development. Neither process has been pursued by the petitioner.

Instead of seeking the process prescribed by the ordinance (shown below) that was recommended by Staff, which is to file for a Planned Unit Development, the applicant has chosen to apply for multiple variances.

§ 1.14 DETERMINATION OF LAND USES NOT LISTED IN THIS ZONING ORDINANCE.

(A) It is recognized that this ordinance may require interpretation to assign all possible land uses to individual zoning districts. Therefore, any land use which is not specifically set forth in this ordinance shall be reviewed by the Director for consistency with the intent set forth in each zoning district and for compatibility with land use characteristics typical of land uses permitted within those districts and the Director shall determine the appropriate zoning district for any use which is not specifically set forth herein. In case of disagreement with the determination of the Director in assigning a land use to an appropriate zoning district, any aggrieved party may file

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an appeal with the Board of Zoning Appeals pursuant to the provisions of Article X of this ordinance.

(B) If it is:

(1) Determined by the Director and no appeal of the Director's decision is filed with the Board of Zoning Appeals pursuant to the provisions of Article X of this ordinance; or

(2) Determined by the Board of Zoning Appeals that a particular use is not permitted in any agricultural, residential, commercial, industrial or other zoning district provided for in this ordinance, then such use shall be deemed to require the PUD Zoning District and shall be considered to be a permitted use only in a PUD Zoning District in which such use is specifically included and described in a petition for zone map change to the PUD Zoning District.

(Ord. 21-97, passed - -1997; Ord. 6-2001, passed 6-25-2001; Ord. 51-2005, passed 10-10-2005; Ord. 28-2008, passed 11-24-2008)

The petitioner has also failed to demonstrate how the ordinance has created an unnecessary hardship. In its response to the Findings of Fact questionnaire, the petitioner explains how the current zoning does not fit its business operations. However, this argument could be made for any use not currently permitted in the GC: General Commercial district and is not a valid case for hardship.

MOTION

I move that the Board of Zoning Appeals **approve / deny / continue** BZA-21-124-A for a Variance of Use to allow a Truck Fueling Station in a GC: General Commercial District and AG: Agriculture. located at Southwest corner of the intersection of Ronald Reagan Parkway and Stafford Road finding that:

1. the approval **will not / will** not be injurious to the public health, safety, morals, and general welfare of the community;
2. the use and value of the area adjacent to the property included in the variance **will not / will** be affected in a substantially adverse manner;
3. the need for the variance **arises / dose not arise** from conditions peculiar to the property involved;
4. the strict application of the terms of the zoning ordinance **will / will not** constitute an unnecessary hardship if applied to the property for which the variance is sought; and
5. the approval **will not / will** interfere substantially with the comprehensive plan for the Town of Plainfield, Indiana.

Subject to the following condition(s) (if to approve):