

TOWN OF PLAINFIELD BOARD OF ZONING APPEALS

DATE: October 16, 2023

CASE NO.: BZA-23-072 A-G (see below)

PETITIONER: Unicorp National Developments, represented by Brian J. Tuohy

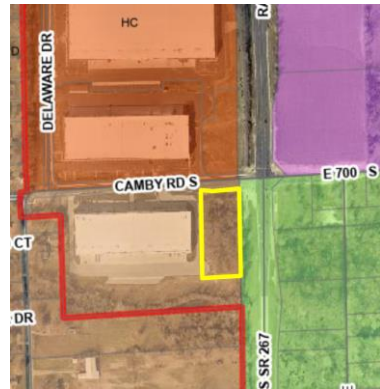
REQUESTED ACTIONS:

- BZA-23-072.A:** Section 4.18A.9.i. to allow for a fueling station to be within 500 lineal feet of residential zoned property.
- BZA-23-072.B:** Section 4.10C.1. to allow for an off-street parking area to be located between the proposed building and Camby Blvd;
- BZA-23-072.C:** Section 3.9B.3.a. to allow for an interior access drive to be located within the minimum front yard along Quaker Blvd;
- BZA-23-072.D:** Section 4.18A.9.n. to allow for sixteen fuel dispensing pumps.
- BZA-23-072.E:** Section 4.1J.1.c. to allow for the gates of the refuse container enclosures to face the front lot line along Quaker Blvd;
- BZA-23-072.F:** Section 4.18A.9.e. to allow for no public entrance along Quaker Blvd;
- BZA-23-072.G:** Section 4.18A.9.c. to allow for a canopy over the fuel dispensing pumps with no connection to the primary building and with no hip or gable roof

LOCATION: Southwest corner of the intersection of Quaker Boulevard and Camy Road

PARCEL SIZE: 3.02 acres +/-

APPLICABLE REGULATIONS: Plainfield Zoning Ordinance
Plainfield Subdivision Control Ordinance
Plainfield Comprehensive Plan



<u>EXISTING ZONING AND LAND USE</u>		<u>COMPREHENSIVE PLAN</u>	
Site:	HB Highway Business	Site:	SFD Single Family Detached
North:	HB Highway Business	North:	HC Highway Commercial
South:	I2 Office/Warehouse Distribution	South:	SFD Single Family Detached
East:	AG Agriculture	East:	POS Park/Open Space
West:	I2 Office/Warehouse Distribution	West:	SFD Single Family Detached

PROJECT DESCRIPTION

The applicant is seeking multiple Variances from Development Standards to construct a fueling station.

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PLANNING OVERVIEW

In 2015, members of the Town Council and Plan Commission approached the Town's planning staff with a desire to create architectural and design standards for fueling stations and truck fueling stations. The consensus was that the Gateway Corridor standards were insufficient to create safe developments of high quality.

Planning Staff helped create a committee involving Councilmembers, Plan Commission members, Design Review Committee members, Town Administration, and members of the Plainfield Chamber of Commerce. This group reviewed the current standards, standards from other communities, and their travel experiences in places around the country and the globe.

They directed the work of Planning Staff in putting their desired outcome to words and sought that this work be vetted by the Design Review Committee, as well as the Town Attorney. After this work was complete, the Commission unanimously recommended approval and the Town Council likewise voted affirmatively and unanimously.

This project has brought forward seven (7) variances to this Board. Based upon other filings, it is likely that there are at least two (2) more that will need to come forward at a later date.

REQUESTS, JUSTIFICATION, AND STAFF COMMENT.

BZA-23-072.A: Section 4.18A.9.i. to allow for a fueling station to be within 500 lineal feet of residential zoned property.

Applicant's justification: "Without the variance, the strict application of the terms will prevent the development of a vacant site with a use that is permitted within the site's zoning classification, which is compatible with directly adjacent districts and/or uses, and which is not directly adjacent to residentially zoned property."

Comments:

1. There are 45 uses in the Land Use Matrix. There are 9 uses that are permitted within the HB: Highway Business district. This will remove one use. Therefore, the development of a vacant site with a use which is permitted within the site's zoning classification has not been prevented.
2. The applicant was made aware of the provisions of the zoning ordinance approximately 17 months ago but chose to move forward at this location.

BZA-23-072.B: Section 4.10C.1. to allow for an off-street parking area to be located between the proposed building and Camby Blvd;

Applicant's justification: "The site is on a corner with two adjacent street frontages to the north and east. The proposed building will have two uses – a restaurant (to be located in the northern part of the building) and a convenience store (to be located in the southern part of the building). Due to the interior layout of the building, the need for a loading area on the west side of the building, and the building's location on a corner lot, there is practical difficulty in providing safe and convenient access for customers to each of the uses without a variance to allow for parking on the north side of the building."

Comments:

IC 36-7-4-918.5 Board of Zoning Appeals; variance from development standards

Sec. 918.5. (a) A board of zoning appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the zoning ordinance. The board may impose reasonable conditions as a part of the board's approval. A variance may be approved under this section 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; and
- (3) the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. *However, the zoning ordinance may establish a stricter standard than the "practical difficulties" standard prescribed by this subdivision.*

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1. The building has not been constructed, so the applicant can design the functions of the building to meet the zoning ordinance. The applicant was made aware of the requirements of the zoning ordinance and has chosen not to follow the ordinance. The applicant has created their own inconvenience, not a practical difficulty.
2. The Plan Commission and Town Council have determined that parking between the building and street is not always desirous.

BZA-23-072.C: Section 3.9B.3.a. to allow for an interior access drive to be located within the minimum front yard along Quaker Blvd;

Applicant's justification: "The site as two front yards and the expected customer and supplier traffic to and from and within the site will flow better with interior access drives around all four sides of the building. Without the variance, a practical difficulty exists in the operation of the proposed business and proposed use and improvement of the site. The customers and suppliers will have less convenient access to and from and within the site. The granting of the variance will permit a superior flow of customers and supplier traffic within the site."

Comments:

1. Reviewing the ordinance back to its origination in 1996, interior access drives have not been allowed within a minimum front yard. Driveways (*which provide access from the public rights-of-way to the site*) have always been allowed and parking was once allowed within the minimum front yard.
2. The applicant ignores the requirement of the Indiana Code that the practical difficulty must be in the use of the site, not the proposed use of the site.
3. As there is no structure on site, the applicant can design the building to meet the requirements of the ordinance without the need for relief.
4. The use of terms like "flow better", "less convenient access", and "superior flow" are merely opinions and not as empirically determined as the applicant states.

BZA-23-072.D: Section 4.18A.9.n. to allow for sixteen fuel dispensing pumps.

Applicant's justification: "Convenience stores within Plainfield and near the site have 16 fuel pumps. The strict application of the terms of the zoning ordinance will prevent the improvement of the site with the same number (or even less) of fuel pumps than currently exist in Plainfield. The orientation and location of the pumps on the site as well as the significant setback of the pumps from Quaker Blvd and Camby Road mitigate the view of the pumps from the site's streetscapes along Camby and Quaker Boulevard."

Comments:

1. The Indiana Code does not state that a reduction in intensity of use is a practical difficulty, instead saying that a practical difficulty would be that the use is not possible based upon the ordinance. The applicant is citing a competitive disadvantage, not an inability to use.
2. The Town Council and Plan Commission members on the committee sought to create a maximum number of pumps, as is their charter as the elected and appointed representatives of the citizens. They observed these fueling stations that are cited by the applicant and sought to limit the number of pumps.
3. The applicant was aware of the requirements approximately 17 months ago but has chosen not to follow the ordinance.

BZA-23-072.E: Section 4.1J.1.c. to allow for the gates of the refuse container enclosures to face the front lot line along Quaker Blvd;

Comments:

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1. As the refuse/reuse containers are largely screened by the building, Staff does not believe that a variance is necessary, but does not oppose such a request.
2. The refuse/reuse container enclosure design does not comply with the ordinance, but no variance has yet been sought. A man door designed to allow access without opening the trash hauler doors is required.

BZA-23-072.F: Section 4.18A.9.e. to allow for no public entrance along Quaker Blvd;

Applicant's justification: "Because there is no practical public pedestrian access to the Quaker Blvd side of the proposed building, installing an entrance on the Quaker Blvd side of the building imposes an unnecessary practical difficulty in the use of the property. Additionally, the design and layout of the interior does not allow for a public entrance on the Quaker Blvd side of the building. Redesigning the interior of the store and changing the location of interior improvements in the building to accommodate an unnecessary entrance along Quaker Blvd results in a practical difficulty in the use of the site for a permitted use.

Comments:

1. Again, the applicant confuses the "practical difficulty" portion of the Indiana Code. The applicant states that the entrance "imposes an unnecessary practical difficulty in the use of the property." This is not correct—it imposes an inconvenience for the applicant in using the design that they wish to use.
2. The applicant was aware of the requirements approximately 17 months ago but has chosen not to follow the ordinance.
3. As there is no structure on site, the applicant can design the building to meet the requirements of the ordinance without the need for relief.

BZA-23-072.G: Section 4.18A.9.c. to allow for a canopy over the fuel dispensing pumps with no connection to the primary building and with no hip or gable roof

Applicant's justification: The primary building and canopy design are an important part of the brand identity of the proposed business. Customers of the proposed use identify the business in part by the largely uniform design of the building and canopy. Without the variance, the proposed building will look significantly different than the business' usual customary building and canopy design, which will result in practical difficulty use of the site. To comply with the Ordinance, a new building and canopy design that are different from any of the business' other proposed buildings and canopies in Central Indiana will be required.

Comments:

1. Compliance with the ordinance will not result in practical difficulty in the use of the site. It may make it inconvenient for the applicant's proposed use, but it will not prevent the multiple uses available within the zoning ordinance.
2. Article 4.18.A.1 states: "*Corporate identity. The intent and purpose of the architectural standards supersede corporate identity designs. When a corporate identity design does not meet the intent and purpose of the architectural standards, the corporate identity design must be limited and/or modified as prescribed by the Board of Zoning Appeals.*" This seems to be a clear indication that the Council and Commission find the "usual customary building and canopy design" a non-compelling argument.
3. The applicant was aware of the requirements approximately 17 months ago but has chosen not to follow the ordinance.
4. The Committee brought forward the connected canopy to provide comfort and safety for the customer in inclement, severe, or unpleasant weather, based upon experiences with similar canopies and lack thereof in Plainfield.

MOTION A

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I move that the Board of Zoning Appeals **approve / deny / continue** BZA-23-072.A to allow for a fueling station to be within 500 lineal feet of residential zoned property, finding that:

1. The approval **will not/will** 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; and
3. The strict application of the terms of this ordinance **will/will not** result in practical difficulties in the use of the property.

Should the Board find for approval, such an approval shall be subject to the following condition(s):

1. Substantial compliance with the plans and document approved by the Board of Zoning Appeals provided October 16, 2023.

MOTION B

I move that the Board of Zoning Appeals **approve / deny / continue** BZA-23-072.B requesting Variance of Development Standards Approval to allow for an off-street parking area to be located between the proposed building and Camby Blvd; , finding that:

1. The approval **will not/will** 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; and
3. The strict application of the terms of this ordinance **will/will not** result in practical difficulties in the use of the property.

Should the Board find for approval, such an approval shall be subject to the following condition(s):

1. Substantial compliance with the plans and document approved by the Board of Zoning Appeals provided October 16, 2023.

MOTION C

I move that the Board of Zoning Appeals **approve / deny / continue** BZA-23-072.C requesting Variance of Development Standards Approval to allow for an interior access drive to be located within the minimum front yard along Quaker Blvd, finding that:

1. The approval **will not/will** 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; and
3. The strict application of the terms of this ordinance **will/will not** result in practical difficulties in the use of the property.

Should the Board find for approval, such an approval shall be subject to the following condition(s):

1. Substantial compliance with the plans and document approved by the Board of Zoning Appeals provided October 16, 2023.
2. No drive-up or drive-through uses shall be permitted on the site.

MOTION D

I move that the Board of Zoning Appeals **approve / deny / continue** BZA-23-072.D to allow for sixteen fuel dispensing pumps, finding that:

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

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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; and
3. The strict application of the terms of this ordinance **will/will not** result in practical difficulties in the use of the property.

Should the Board find for approval, such an approval shall be subject to the following condition(s):

1. Substantial compliance with the plans and document approved by the Board of Zoning Appeals provided October 16, 2023.

MOTION E

I move that the Board of Zoning Appeals **approve / deny / continue** BZA-23-072.E requesting Variance of Development Standards Approval to allow for the gates of the refuse container enclosures to face the front lot line along Quaker Blvd, finding that:

1. The approval **will not/will** 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; and
3. The strict application of the terms of this ordinance **will/will not** result in practical difficulties in the use of the property.

Should the Board find for approval, such an approval shall be subject to the following condition(s):

1. Substantial compliance with the plans and document approved by the Board of Zoning Appeals provided October 16, 2023.

MOTION F

I move that the Board of Zoning Appeals **approve / deny / continue** BZA-23-072.F requesting Variance of Development Standards Approval to allow for no public entrance along Quaker Blvd, finding that:

1. The approval **will not/will** 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; and
3. The strict application of the terms of this ordinance **will/will not** result in practical difficulties in the use of the property.

Should the Board find for approval, such an approval shall be subject to the following condition(s):

1. Substantial compliance with the plans and document approved by the Board of Zoning Appeals provided October 16, 2023.
2. No drive aisle shall be placed between the eastern side of the building and the property line.
3. No drive-up or drive-through uses shall be permitted on the site.

MOTION G

I move that the Board of Zoning Appeals **approve / deny / continue** BZA-23-072.G requesting a Variance of Development Standards Approval to allow for a canopy over the fuel dispensing pumps with no connection to the primary building and with no hip or gable roof, finding that:

1. The approval **will not/will** 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; and

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3. The strict application of the terms of this ordinance **will/will not** result in practical difficulties in the use of the property.

Should the Board find for approval, such an approval shall be subject to the following condition(s):

1. Substantial compliance with the plans and document approved by the Board of Zoning Appeals provided October 16, 2023.