



Petition Number: 1304-VU-01

Subject Site Address: 17777 Commerce Drive (the "Property")

Petitioner: Tim Tomich by Christian Badger of Badger Engineering, LLC

Request: The petitioner is requesting a Variance of Use from the Westfield-Washington Zoning Ordinance (the "Zoning Ordinance") for the property commonly known as 17777 Commerce Drive, Westfield, Indiana 46074. The request is to allow an indoor shooting range and related retail sales in the Enclosed Industrial (EI) District (WC 16.04.060.B.2).

Current Zoning: EI (Enclosed Industrial) District

Current Land Use: Vacant

Approximate Acreage: 1.38 acres

Exhibits:

1. Staff Report
2. Aerial Location Map
3. Petitioner Narrative
4. Preliminary Plans

Staff Reviewer: Jesse M. Pohlman, Senior Planner

Petition History

This petition will receive a public hearing at the April 9, 2013 Board of Zoning Appeals meeting. The petition was reviewed by the Technical Advisory Committee (TAC) at its March 19, 2013, meeting and received no comments. Subsequent to the TAC meeting on March 20, 2013, the Petitioner met with the Police and Fire Departments to preliminarily discuss operational and design aspects of the proposed use. As a result of that meeting, neither Department has concerns at this time regarding the proposed use.

If the Board of Zoning Appeals approves the requested Variance of Use, then the use and site would be required to obtain Development Plan approval by the Plan Commission prior to the issuance of any construction permits.



Analysis

The subject property is 1.38 acres +/- in size and is located on the east side of Commerce Drive; approximately one thousand (1,000) feet north of State Highway 32 (see Exhibit 2). The Property is zoned Enclosed Industrial (“EI”) District and is currently unimproved. The property is located within an existing enclosed industrial park, surrounded by existing structures and businesses to the north, west and south. The property to the east is a large field currently undeveloped, but also currently zoned Enclosed Industrial.

The Petitioner is requesting this Variance of Use to allow an indoor shooting range and related retail sales (collectively, “Shooting Academy”) (see Petitioner’s Narrative at Exhibit 3 and Preliminary Plans at Exhibit 4). The Variance of Use is being requested because: (i) a “shooting range” is not a land use specified within the Zoning Ordinance, thus by default is a prohibited use¹ within any Zoning District in Westfield-Washington Township; and (ii) retail sales, or more specifically characterized by the Zoning Ordinance as [the sale of] “sporting goods”, is not a permitted land use within the EI District.

As shown in Exhibit 4 (floor plan), the Petitioner is proposing a 6,996 square-foot+/- single story building consisting of approximately 2,534 square feet+/- of administrative (e.g., class room, restrooms, offices) and sales areas (e.g., display, storage). The remaining square footage would include the shooting range consisting of twelve (12) range lanes (floor plan shows six (6) rifle lanes and six (6) pistol lanes), range safety officer station and related shooting stalls and bullet traps.

The design of the Shooting Academy will be required to comply with the Zoning Ordinance’s EI District standards (e.g., setbacks, building height, performance standards), Development Plan Review standards (e.g., building materials, building orientation, site circulation) and Indiana Fire and Building Code standards (e.g., access for emergency personnel, site design to accommodate turning around of Fire Department apparatus).

The Zoning Ordinance’s Performance Standards for Industrial Districts² include standards that address performance aspects typically associated with industrial uses, including standards regulating smoke, particulate matter, odor, glare and heat, vibration, and noise. Among others, these standards include maximum sound levels and standards which prohibit the storage and manufacturing of components that could be used to make ammunition on the property (e.g., black powder). The Petitioner is not requesting to vary these standards, thus the Zoning Ordinance’s performance standards would apply.

¹ WC 16.04.180.2 (pg 10 footnote) provides that “Land uses not listed on Figure 2 or in other sections of the zoning ordinance that address “permitted uses” or “special exception uses” in the various zoning districts shall be prohibited.”

² WC 16.04.060.



The Westfield-Washington Township Comprehensive Plan identifies this industrial park within the “Employment Corridor” and “Business Park”³ land use classifications. Among other uses, these classifications encourage office and service uses, research and development, warehousing, manufacturing, and subordinate office, retail and services. The development policies of the Comprehensive Plan for these areas include among other policies:

- Locate industrial uses in areas that are removed from residential neighborhoods and other uses that would be detrimentally affected;
- Encourage building design, height, scale, and mass that is appropriate to the surrounding area;
- Require sufficient off-street parking;
- Encourage building materials and colors that are appropriate to the setting. Metal buildings should be enhanced with other building materials, such as stone or brick, to improve their appearance;
- Promote smaller scale local office and service uses along SR32. Such uses should generally take place along the north side of SR32; and
- Permit land uses other than industrial in designated Business Parks only when they are offices or service businesses that are subordinate or related to the industrial development, such as restaurants, automobile service stations, and day care centers.

The existing industrial park is already generally consistent with the Comprehensive Plan’s policies and objectives. As a result, in determining whether the proposed use interferes substantially with the Comprehensive Plan, the analysis becomes whether or not the proposed use is consistent and compatible with the existing industrial park and business/industrial uses permitted therein.

The Zoning Ordinance simply provides that “[a]n enclosed industrial district is one for industry to conduct their operations entirely within enclosed buildings of any size...”⁴ The EI District currently permits uses that are comparable to or more intense than the proposed Shooting Academy use. Such uses include, but are not limited to: industrial schools and training facilities, testing laboratories, tool and light equipment rental, warehouses, wholesalers, manufacturing and fabrication operations, machine shops, and construction related operations. The proposed Shooting Academy would be conducted entirely within the building and, as presented, should be consistent with the character of the existing industrial park and uses that would otherwise be permitted on the property. As such, the proposed Shooting Academy should also be consistent with the policies of the Comprehensive Plan.

³ Westfield-Washington Township Comprehensive Plan, Land Use Concept Map (pg. 24).

⁴ WC 16.04.060.A.1.



Procedural

The Board of Zoning Appeals shall approve or deny variances of use from the terms of the zoning ordinance. The board may impose reasonable conditions as a part of its approval. A variance may be approved under Indiana Code § 36-7-4-918.4 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:*

Finding: It is unlikely that approving the requested Variance of Use would be injurious to the public health, safety, morals, and general welfare of the community because of the proposed operational and design plan. The use and property will otherwise comply with or exceed the applicable standards of the Enclosed Industrial (EI) District.

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:*

Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed variance(s) should not have a negative impact on surrounding properties because: (i) the proposed improvements will otherwise comply with or exceed the applicable standards of the Enclosed Industrial (EI) District; and (ii) the proposed improvements are consistent with and compatible with the character of the surrounding industrial park; and (iii) the use will only be conducted indoors and shall otherwise comply with the Zoning Ordinance's performance standards.

3. *The need for the variance arises from some condition peculiar to the property involved.*

Finding: The Zoning Ordinance does not permit the shooting range use by right in any zoning district. Thus, a Variance of Use is required in order to allow the shooting range use within the community. The condition of this property is peculiar in that it functions as an infill property surrounded by the existing industrial park and industrially zoned properties. As such, the use is compatible with permitted industrial uses and potential conflicts resulting from other future and adjacent uses should be diminutive.

4. *The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.*

Finding: Strict adherence to the zoning ordinance would not allow the proposed shooting range use within the community. The ancillary retail sales and administrative uses are contemplated



and permitted by the zoning ordinance within the community and the development of the proposed use would otherwise comply with the zoning ordinance and other applicable laws.

5. *The approval does not interfere substantially with the comprehensive plan.*

Finding: The Westfield-Washington Township Comprehensive Plan identifies this property within the “Employment Corridor” and “Business Park” land use classifications as part of the State Highway 32 “Highway Corridor”. As such, the proposed use is consistent with the Comprehensive Plan’s policies and objectives for these land use classifications and does not interfere substantially with the Comprehensive Plan.

Recommendation

The Department acknowledges the sensitivity of the proposed use with regard to individual personal preferences and in terms of design and operational considerations which are warranted for this specific use. In our analysis and in consultation with the Police and Fire Departments, the Department believes the Petitioner has presented an operational and design plan that satisfies the City’s review of the proposed use. The Department believes that of properties within the Township, that this particular site is well suited for the proposed use because: (i) of its close proximity to the City’s Public Safety Building; (ii) its compatibility with the surrounding existing industrial park and adjacently zoned industrial properties; (iii) its lack of contiguity with residentially zoned or used properties; and (iv) the linear layout of the use and resulting building design maximizes the development area of the narrow property.

The Department recommends approving 1304-VU-01 based on the findings of this Department Report with the following conditions:

1. The Petitioner shall record an Acknowledgement of Variance with the Hamilton County Recorder’s Office and return a copy of the recorded instrument to the Economic and Community Development Department prior to the issuance of a building permit for the Property.
2. The “Indoor Shooting Range and related Retail Sales” use (collectively, the “Shooting Academy”) shall be limited in scope and operation to the Petitioner’s Narrative and Preliminary Plans, attached hereto as Exhibits 3 and 4, respectively. Any expansion or substantial alteration to the scope and operation of the Shooting Academy, as determined by the Director, shall require approval by the Board of Zoning Appeals.
3. The Shooting Academy shall be developed and operated in substantial compliance to the Petitioner’s Narrative and Preliminary Plans, subject to review and approval for compliance with applicable ordinances and laws of the development plans and appropriate permits.
4. The Shooting Academy shall comply with the Westfield-Washington Township Zoning Ordinance’s Performance Standards for Industrial Districts (WC 16.04.060), as amended.
5. The Shooting Academy shall comply with Indiana Fire and Building Codes, as amended.