



Petition Number: 1409-VS-11

Subject Site Address: 1950 Greyhound Pass (NWC 146th St & Greyhound Pass)(the "Property")

Petitioner: Village Park Plaza, LLC, by Ice Miller, LLP (the "Petitioner")

Request: The petitioner is requesting Variances of Standard from the Westfield-Washington Zoning Ordinance (the "Zoning Ordinance") for the property commonly known as 1950 Greyhound Pass, Carmel, Indiana 46033. The request is to allow a Monument Sign on the northwest corner of 146th Street and Greyhound Pass with a maximum Sign Height of 30.5 feet and maximum Sign Area of 261.25 square feet (WC § 16.08.010.I.2.a.iii).

Current Zoning: SB-PD (Special Business-Planned Development) District

Current Land Use: Business (regional shopping center)

Approximate Acreage: 46.84 acres

Exhibits:

1. Staff Report
2. Proposed Sign Exhibits
3. Existing Conditions Exhibit
4. 1988 Variance Materials

Staff Reviewer: Jesse M. Pohlman, Senior Planner

Petition History

This petition will receive a public hearing at the September 9, 2014, Board of Zoning Appeals meeting.

Analysis

Location: The Property is located within the Village Park Plaza shopping center, on the northwest corner of 146th Street and Greyhound Pass (see **Exhibit 2**).

Property History: Village Park Plaza is an outdoor regional shopping center that received its original approval in 1988 under the SB-PD (Special Business – Planned Development) District. In 1988, the Board of Zoning Appeals also approved variances of standards for signage (the "1988 Variance"), which



effectively replaced and superseded the City's sign standards by establishing a separate set of standards (see Exhibit 4).

On June 17, 2013, the Petitioner received approval by the Plan Commission of a Development Plan (Petition No. 1306-DP-10) to update the shopping center's building façades. Those improvements have since been completed.

Recent Zoning History: In addition to the building façade improvements last summer, the Petitioner also desired to update the sign standards granted by the 1988 Variance. As a result, the Department recommended to the Petitioner to file a change of zoning petition to a Planned Unit Development (PUD) District, rather than file a petition with the Board of Zoning Appeals to modify the 1988 Variance.

The Department believed the PUD District would create a better structure to accommodate the existing improvements and facilitate future improvements, while at the same time modernize the governing regulations, including sign standards. As a result, the Petitioner filed the change of zoning petition to a PUD District. The proposed PUD Ordinance adopted an underlying zoning district of the General Business (GB) District. The PUD Ordinance also incorporated the Zoning Ordinance's current sign standards, with modifications that addressed the change in circulation patterns through and around the shopping center, which have evolved as a result of improvements to 146th Street and Greyhound Pass, the construction of the new Cool Creek Road, and the ongoing and planned improvements to US31.

On June 17, 2013, the Plan Commission forwarded the proposed PUD Ordinance to the City Council with a favorable recommendation; however, after revisiting the Zoning Ordinance's sign standards pertaining to individual ground signs for outlots, the Petitioner chose to withdraw the change of zoning petition. The 1988 Variance permits an outlot to have an individual ground sign; however, the City's sign standards do not. As a result, the applicable sign standards are as granted by the 1988 Variance, except as the 1988 Variance is silent, and then the applicable standards are those set forth by the Zoning Ordinance's sign standards.

Variance Request: The Petitioner has filed this variance request to allow a Monument Sign on the northwest corner of 146th Street and Greyhound Pass with a maximum Sign Height of 30.5 feet and maximum Sign Area of 261.25 square feet (see Exhibit 2).

The City's current sign standards (as noted below) only allow one (1) Monument Sign for the Property; however, the 1988 Variance allowed two (2) Monument Signs for the Property. There are currently two (2) existing Monument Signs along US 31 that will remain. As a result, a variance is required in order to allow a third Monument Sign for the shopping center.



1988 Variance Standards: The minutes and supporting documents from the 1988 Variance are attached hereto as **Exhibit 4**, for reference. With regard to pylon (or monument) signs, the granted 1988 Variance permitted one (1) Monument Sign for the motion picture theater and two (2) Monument Signs along U.S. Highway 31 for the shopping center, "as per plans filed" (see **Exhibit 4**).

Nonresidential Center Signs; Monument Signs (Center Only)(WC § 16.08.010.1.2.a.iii): The City's current sign standards states that "Monument Sign¹ for Nonresidential Centers² greater than one hundred thousand (100,000) building square feet shall be permitted one (1) monument sign per nonresidential center, which shall be no greater than twenty-five (25) feet in height and have no more than two hundred and fifty (250) square feet of sign area per face."

In addition to allowing the Monument Sign (as a third Monument Sign for the Nonresidential Center), the requested variance petition includes a request to allow increases in the Maximum Sign Height, at 30.5 feet tall, and Maximum Sign Area, at 261.25 square feet.

Existing Sign: There is currently a Monument Sign at the northwest corner of 146th Street and Greyhound Pass (see **Exhibit 3**) that the Petitioner would be replacing if the requested variance is granted. The existing Monument Sign³ is a legally existing non-conforming sign installed in 2007.

Comprehensive Plan: The Future Land Use Plan in the Westfield-Washington Township Comprehensive Plan (the "Comprehensive Plan") identifies the properties as "Regional Commercial". The existing commercial center and proposed PUD District meets many of Comprehensive Plan's development policies for this area, including, but not limited to: (i) Reserve exclusively for regional commercial development; (ii) Permit regional commercial uses only in planned centers with consistent design and architectural style for each center; (iii) require that buildings be designed to enhance the community character; and (iv) required the size, materials, color, and design of buildings to be unique to Westfield. "Franchise" architecture that represents no effort to create a unique design that fits Westfield-Washington Township is not acceptable. The Comprehensive Plan is not law; rather, it is intended to serve as a guide in making land use decisions.

¹ The Zoning Ordinance defines "Sign, Monument" as "[a] Sign which is permanently fixed to the ground."

² The Zoning Ordinance defines "Nonresidential Center" as "any building or combination of buildings with more than one occupant or business. A nonresidential center may include one or more outlots."

³ Sign Permit No. 07-S-006 issued January 5, 2007.



Procedural

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Development Standards. This petition is scheduled to receive its public hearing at the September 9, 2014, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

Variance of Development Standard: The Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the underlying zoning ordinance. A variance may be approved under Indiana Code § 36-7-4-918.5 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 subject property.

Recommendation

If the Board of Zoning Appeals is inclined to APPROVE the Variance, then the Department recommends approval of the findings set forth below, with the following conditions:

Recommended Conditions for Approval:

1. The variance is limited to allowing the additional Monument Sign; however, the Monument Sign shall otherwise comply with all applicable sign standards of the Zoning Ordinance, as amended, for a Nonresidential Center Monument Sign (i.e. maximum sign height, sign area, etc.).
2. The Monument Sign shall be substantially similar to, or exceed, the quality, character and materials illustrated on the Proposed Sign Exhibit, attached hereto as **Exhibit 2.**
3. 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 any subsequent sign permit for the Property.



Recommended Findings for Approval:

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 would be injurious to the public health, safety, morals, and general welfare of the community because monument signs are a permitted and contemplated use for a nonresidential center, and the monument sign will otherwise comply with the Zoning Ordinance's sign standards.

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) monument signs are permitted and the property will be used for its current commercial use; (ii) the parcel will otherwise comply with or exceed the applicable standards; and (iii) the approval of the variance(s) will facilitate the viable and continued use of the property in a manner substantially consistent with the quality and character of the surrounding area and Comprehensive Plan.

3. *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.*

Finding: Strict adherence to the zoning ordinance would result in the inability to improve the existing sign, as proposed. The use is permitted by the zoning ordinance and the proposed improvements and parcel would otherwise be permitted and comply with the zoning ordinance.

If the Board of Zoning Appeals is inclined to DENY the Variance, then the Department recommends approval of the findings set forth below:

Recommended Findings for Approval:

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

Finding: It is likely that approving the requested variance(s) would be injurious to the public health, safety, morals, and general welfare of the community because the requested sign exceeds the size and quantity of monument signs otherwise permitted by the Zoning Ordinance.



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) monument signs are permitted and the property will be used for its current commercial use; (ii) the parcel will otherwise comply with or exceed the applicable standards; and (iii) the approval of the variance(s) will facilitate the viable and continued use of the property in a manner substantially consistent with the quality and character of the surrounding area and Comprehensive Plan.

3. *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.*

Finding: Strict adherence to the zoning ordinance would not result in the inability to use the property or otherwise use the property for signs permitted by the Zoning Ordinance and previously granted variances.