



WESTFIELD-WASHINGTON  
BOARD OF ZONING APPEALS

January 10, 2012

1201-VU-01

Exhibit 1

**Petition Number:** 1201-VU-01

**Subject Site Address:** 3246 East State Road 32

**Petitioner:** Brad Barnes / Westfield Crossing Co.

**Request:** The petitioner is requesting a Variance of Use from the Westfield-Washington Zoning Ordinance (WC 16.04.050, D2) to allow auto parts sales in the Local Business (LB) District.

**Current Zoning:** Local Business

**Current Land Use:** Commercial

**Approximate Acreage:** 6 acres

**Exhibits:**

1. Staff Report
2. Aerial Location Map
3. Petitioner's Application

**Staff Reviewer:** Sarah L. Reed, AICP

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**Petition History**

This petition will receive a public hearing at the January 10, 2012 Board of Zoning Appeals meeting.

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**Property History**

On April 27, 1998 the Westfield Crossing site development plan was approved by the Plan Commission (98-AP-14).

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### Analysis

The subject property is approximately six (6) acres in size and is located at 3246 East State Road 32 (the "Property"). The Property is zoned Local Business. The petitioner would like to fill the tenant space at the east end of the strip center with a new auto parts sales business (the "Proposed Use"). The Proposed Use would not include an auto repair or maintenance component. "Auto Parts Sales" is permitted in the General Business District, but it is not a permitted use within Local Business District.

Two (2) auto parts sales businesses are currently located nearby along the State Road 32 corridor. AutoZone is located at 3550 East State Road 32 in the Oak Manor North PUD, just east of the Property. The AutoZone is a permitted use in the PUD. Napa Auto Parts is located at 700 East Main Street, just west of the Property.

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### Procedural

A 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 Ind. 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 allowing an auto parts sales business on the Property would be injurious to the public health, safety, morals, and general welfare of the community. The Property is currently being used in a similar manner (retail center).

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 that the use and value of adjacent property will be affected in a substantially adverse manner. The Proposed Use is retail in nature and is consistent with neighboring uses.



3. *The need for the variance of use arises from some condition particular to the property involved:*

**Finding:** The Property is zoned for local business and currently includes four (4) vacant tenant spaces (including one anchor) and the following existing tenants: floor covering store, paint store, two (2) restaurants, salon, window coverings store, tanning salon, consignment store, and an eye doctor. Local Business does not permit Auto Parts Sales. The Proposed Use is purely retail in nature and is consistent with neighboring uses.

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 of use is sought:*

**Finding:** Strictly applying the zoning ordinance would not permit the requested use. The Property is currently zoned Local Business, which does not permit Auto Parts Sales. The Proposed Use is a retail use and would be located in a retail center. The BZA should determine whether or not the inability to use the property for Auto Parts Sales constitutes an unnecessary hardship in the use of the Property.

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

**Finding:** The Westfield-Washington Comprehensive Plan (the "Comprehensive Plan") recommends that this area is local commercial. Local commercial areas, according to the Comprehensive Plan, are intended to provide goods and services used by nearby residents on a day-to-day basis. Examples listed in the Comprehensive Plan include: drug stores, convenience stores, automobile service stations, restaurants, etc. The proposed use of auto parts sales would be consistent with the Comprehensive Plan.

**Recommendations**

1. If the BZA determines that there is 1) some condition particular to the Property warranting a variance and 2) an unnecessary hardship created by the zoning ordinance, then approve this request with the following condition:
  - That the approved Auto Parts Sales use be limited to retail sales only. No auto service bays, repair, maintenance, or installation shall be permitted.
2. If the BZA determines that there is not 1) some condition particular to the Property warranting a variance or 2) an unnecessary hardship created by the zoning ordinance, then deny this request.