



CITY OF WESTFIELD, IN
BoardofZoningAppeals_Meeting_Agenda_02_09_2021

Tuesday, February 09, 2021 at 07:00 PM

BOARD OR COMMISSION: Board of Zoning Appeals (BZA)

MEETING DATE: Tuesday, February 09, 2021 at 07:00 PM

MEETING PLACE: Westfield City Hall- Assembly Room

THE FOLLOWING AGENDA IS SUBJECT TO CHANGE AT THE DISCRETION OF THE BOARD OF ZONING APPEALS

Viewable online at: <https://www.youtube.com/user/CityofWestfieldIN>

To submit a comment for the record on any Public Hearing item, please email planners@westfield.in.gov

OPENING OF REGULAR MEETING

Note the presence of a quorum

Election of 2021 Officers

- Chairperson
- Vice-Chairperson
- Pro-Tempore

Approval of Minutes

- November 10, 2020
- December 8, 2020

Documents: [BZA Minutes - November 10, 2020](#) | [BZA Minutes - December 8, 2020](#)

Review Rules & Procedures

ITEMS OF BUSINESS:

2101-VU-01 & 2101-VS-02 [PUBLIC HEARING]

16915 Westfield Park Road

TM Crowley & Associates

TM Crowley & Associates requests Variances of Use and Development Standard to permit a Very High Intensity Retail Use (Tool and Equipment Rental) with Outside Storage on 2.63 acres +/- in the EI: Enclosed Industrial District and US Highway 31

Overlay District (Articles 13.2 & 6.12(D)).

(Planner: Pam Howard – phoward@westfield.in.gov)

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Proposed Site Plan](#) | [Exhibit 4: Petitioner's Application](#) | [Exhibit 5: UDO Article 6.12\(D\)](#)

ITEMS CONTINUED TO A FUTURE MEETING:

None

REPORTS/COMMENTS:

ADJOURNMENT



Westfield–Washington Township Board of Zoning Appeals

Minutes of the November 10, 2020 BZA Meeting

Presented for approval: February 9, 2021

The Westfield-Washington Township Board of Zoning Appeals (BZA) met at 7:00 p.m. on Tuesday, November 10, 2020 at Westfield City Hall and online via Skype.

OPENING OF MEETING: 7:00 PM

ROLL CALL

Members Present: Jeannine Fortier, Ken Kingshill, Victor McCarty, and Dave Schmitz (virtually).

Members Absent: All present.

City staff present: Daine Crabtree, Associate Planner; Caleb Ernest, Associate Planner; Corey Harris, Associate Planner; and Brian Zaiger, City Attorney.

APPROVAL OF MINUTES

October 13, 2020 BZA Minutes

Jeannine: typo for 2010-VS-33 Motion passed 4-0.

Kingshill: His Motion to reconsider, all the motions need to have “reconsider” deleted on the three following the first motion.

Kingshill motioned to approve the October 13, 2020 Minutes as amended.

McCarty seconded. Motion passed. Vote 4-0.

APPROVAL OF 2021 BZA Schedule of Meetings and Filing Dates

Fortier motioned to approve the 2021 BZA Schedule of Meetings and Filing Dates.

Schmitz seconded. Motion passed. Vote 4-0.

REVIEW RULES AND PROCEDURES

Crabtree reviewed BZA rules and procedures.

ITEMS OF BUSINESS:

2011-VS-34

[PUBLIC HEARING]

2753 Maple Creek Drive

Clark Byrum

The Petitioner requests a Variance of Development Standard to encroach eight (8) feet into the thirty (30) foot Minimum Rear Yard Setback on 0.34 acres +/- in the SF2: Single-Family Low-Density District to accommodate a swimming pool and deck (Article 4.5(E)(3)(a)).

(Planner: Corey Harris – charris@westfield.in.gov)

Harris overviewed this request for a Variance of Development Standard. He said one public comment had been received and he read that letter of support.

Public Hearing for 2011-VS-34 opened at 7:09 p.m.

No public comments.

Public Hearing for 2011-VS-34 closed at 7:10 p.m.

Schmitz asked the Petitioner about the area located behind the project.

The Petitioner, Clark Byrum, responded that the area behind his property is floodplain.

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Website: <http://www.westfield.in.gov> | Economic and Community Development Department E-mail: community@westfield.in.gov

McCarty motioned to approve 2011-VS-34 with the following staff conditions:

- Approval shall only be valid for the building noted on the Site Plan.

Schmitz seconded. Motion passed. Vote 4-0.

Kingshill motioned to adopt Staff's Findings of Fact for 2011-VS-34.

Schmitz seconded. Motion passed. Vote 4-0.

2011-VS-35
[PUBLIC HEARING]

19501 Ethan Allen Lane

Michelle Hernandez by Webster & Garino, LLC

The Petitioner requests a Variance of Development Standard to permit residential development on a 0.50 acre +/- Property in the AG-SF1: Agriculture/Single-Family Residential District that is deemed to be Legal Nonconforming in nature (Article 9.4(C)).

(Planner: Daine Crabtree – dcrabtree@westfield.in.gov)

Crabtree overviewed this Variance of Development Standard request. He said no public comments had been received by Staff.

Public Hearing for 2011-VS-35 opened at 7:17 p.m.

No public comments.

Public Hearing for 2011-VS-35 closed at 7:18 p.m.

Schmitz asked Staff for clarification on this non-conforming status and about removing the compliance with Article 9.4(C) developmental standards.

Crabtree explained the need for a variance, and that setbacks would align with others within the neighborhood.

McCarty motioned to approve 2011-VS-35 with the following modified Staff conditions:

- The only development permitted on the property shall be single family residential and development that could be constructed as accessory to a residential single-family use.
- Record acknowledgement of this approval with the Hamilton County Recorder's Office and return a copy of the recorded instrument to Staff.

Fortier seconded. Motion passed. Vote 4-0.

Kingshill motioned to adopt Staff's Findings of Fact for 2011-VS-35.

Fortier seconded. Motion passed. Vote 4-0.

2011-VS-36
[PUBLIC HEARING]

540 N. Union Street

Edwin and Jennifer Skelton by Church, Church, Hittle + Antrim

The Petitioner requests a Variance of Development Standard to encroach five (5) feet into the ten (10) foot Side Yard Setback on 0.50 +/- acres in the SF3: Single-family Medium Density District in order to accommodate a garage addition (Article 4.6(E)(2)).

(Planner: Caleb Ernest – cernest@westfield.in.gov)

Ernest overviewed this Variance of Development Standard request. He said no public comments had been received by Staff.

Justin Hays and Matthew Skelton with Church, Church, Hittle + Antrim, on behalf of the Petitioners, summarized this request. He said that the Petitioners had no objections from the property to the south.

Public Hearing for 2011-VS-36 opened at 7:25 p.m.

No public comments.

Public Hearing for 2011-VS-36 closed at 7:26 p.m.

Fortier motioned to approve 2011-VS-36 with the following Staff conditions:

- Record acknowledgement of this approval with the Hamilton County Recorder's Office and return a copy of the recorded instrument to Staff.

McCarty seconded. Motion passed. Vote 4-0.

Kingshill motioned to adopt Staff's Findings of Fact for 2011-VS-36.

Schmitz seconded. Motion passed. Vote 4-0.

2011-VS-38
[PUBLIC HEARING]

15702 Hidden Oaks Court

Patrick and Beth Mcilvenna

The Petitioners requests a Variance of Development Standard to encroach twenty-five (25) feet into the fifty-five (55) foot Minimum Rear Yard Setback on 0.69 acres +/- in the Bridgewater PUD District to accommodate a swimming pool and deck.

(Planner: Corey Harris – charris@westfield.in.gov)

Harris overviewed this request for a Variance of Development Standard. He said 13 positive public comments had been received by Staff.

Jon Dobosiewicz, with Nelson & Frankenberger LLC, on behalf the Petitioners summarized this request. He addressed the suggested additional outreach and said the Petitioner reached out to all who received the notice of the Public Hearing. Those who responded, all did so favorably.

Public Hearing for 2011-VS-38 opened at 7:40 p.m.

No public comments.

Public Hearing for 2011-VS-38 closed at 7:41 p.m.

McCarty motioned to approve 2011-VS-38 with the following Staff conditions.

- That the variance is applicable to the swimming pool and hardscape as generally illustrated on the Site Plan. The swimming pool shall be installed in general conformance with the Site Plan as determined by the Director of the Westfield Department of Community Development.
- The landscaping and screening be provided, at a minimum, as generally illustrated on the Site Plan.

Fortier seconded. Motion passed. Vote 4-0.

Kingshill motioned to adopt Staff's Findings of Fact for 2011-VS-38.

Fortier seconded. Motion passed. Vote 4-0.

ITEMS CONTINUED TO A FUTURE MEETING

None

REPORTS

- Plan Commission Liaison
- Community Development Department

ADJOURNMENT

Fortier motioned to adjourn the meeting.

Motion passed. Vote 4-0.

The meeting adjourned at 7:44 p.m.

Chairperson
Dave Schmitz

Secretary
Kevin M. Todd, AICP
Director



Westfield–Washington Township Board of Zoning Appeals
Minutes of the December 8, 2020 BZA Meeting
Presented for approval: February 9, 2021

The Westfield-Washington Township Board of Zoning Appeals (BZA)
met at 7:00 p.m. on Tuesday, December 8, 2020 online.

OPENING OF MEETING: 7:00 PM

ROLL CALL

Members Present: Jeannine Fortier, Ken Kingshill, Victor McCarty, and Dave Schmitz.

Members Absent: All present.

City staff present: Daine Crabtree, Associate Planner; Corey Harris, Associate Planner; and Brian Zaiger, City Attorney.

APPROVAL OF MINUTES

November 10, 2020 BZA Minutes tabled.

REVIEW RULES AND PROCEDURES

Crabtree reviewed BZA rules and procedures.

ITEMS OF BUSINESS:

2012-VS-39

[PUBLIC HEARING]

15367 Maple Ridge Drive

Natalie Maybee

The Petitioner requests a Variance of Development Standard to encroach sixteen (16) feet and six (6) inches into the thirty (30) foot Minimum Rear Yard Setback on 0.38 acres +/- in the Maple Ridge PUD District
(Planner: Corey Harris – charris@westfield.in.gov)

Harris overviewed this request for a Variance of Development Standard. He said three public comments had been received and forwarded to the board members.

Rob Shea with Oasis Outdoor, on behalf of the Petitioner, presented a summary of the project.

Public Hearing for 2012-VS-39 opened at 7:06 p.m.

No public comments.

Public Hearing for 2012-VS-39 closed at 7:08 p.m.

Kingshill asked the Petitioner about the location of a creek behind the house with mature trees. He asked about visibility by the neighbors and sound barrier by trees.

The Petitioner, Scott Maybee, responded yes and that the yard is fenced and the tree stand behind this home could provide a sound shield.

McCarty motioned to approve 2012-VS-39 with the following staff conditions:

- The approval is valid for the swimming pool and hardscape as generally illustrated on the Site Plan.
- Construction shall be substantially compliant with the Site Plan.

Kingshill seconded. Motion passed. Vote 4-0.

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Website: <http://www.westfield.in.gov> | Economic and Community Development Department E-mail: community@westfield.in.gov

Schmitz motioned to adopt Staff's Findings of Fact for 2012-VS-39.
Kingshill seconded. Motion passed. Vote 4-0.

ITEMS CONTINUED TO A FUTURE MEETING

None

REPORTS

- Plan Commission Liaison
- Community Development Department

ADJOURNMENT

Schmitz motioned to adjourn the meeting. Kingshill seconded.
Motion passed. Vote 4-0.

The meeting adjourned at 7:15 p.m.

Chairperson
Dave Schmitz

Secretary
Kevin M. Todd, AICP
Director



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

February 9, 2021
2101-VU-01 & 2101-VS-02
Exhibit 1

Petition Number: 2101-VU-01 & 2101-VS-02

Subject Site Address: 16915 Westfield Park Road (the “Property”)

Petitioner: TM Crowley & Associates (the “Petitioner”)

Request: The petitioner is requesting Variances of Use and Development Standard to permit a Very High Intensity Retail Use (Tool and Equipment Rental) with Outside Storage on 2.63 acres +/- in the EI: Enclosed Industrial District and US Highway 31 Overlay District (Articles 13.2 & 6.12(D)).

Current Zoning: EI: Enclosed Industrial District

Current Land Use: Commercial

Approximate Acreage: 2.63 acre +/-

Exhibits:

1. Staff Report
2. Location Map
3. Proposed Site Plan
4. Petitioner’s Application
5. UDO Article 6.12(D)

Staff Reviewer: Pam Howard, Senior Planner

OVERVIEW

Property Location: The subject property is approximately 2.63 acres +/- in size and is located at 16915 Westfield Park Road (see **Exhibit 2**). The Property is zoned EI: Enclosed Industrial District. All adjacent properties are also zoned EI: Enclosed Industrial.

Property History: In 1995, the APC approved a Detailed Development Plan for an Auto Repair Garage on the Property. The building was constructed in 1995. An addition was approved by the APC and constructed in 1997. Auto Repair Garages were a permitted use in the EI District at the time so no variances were required. The Property is currently considered Legal Nonconforming.

Variance Request: The petitioner is requesting Variances of Use and Development Standard to permit a Very High Intensity Retail Use (Tool and Equipment Rental) with Outside Storage on 2.63 acres +/- in the EI: Enclosed Industrial District and US Highway 31 Overlay District (Articles 13.2 & 6.12(D)). The petitioner held a virtual neighbor meeting on January 26, 2021, and will provide a summary of that meeting during their presentation.



SUMMARY OF VARIANCES

Variance of Use: As described in the Statement of Intent (see **Exhibit 4**, page 1), Sunbelt Rentals intends to purchase the Property and use the existing building for a Tool and Equipment Rental Business. A portion of the existing gravel area is planned to be converted to an Outside Storage Area. The Property is zoned EI: Enclosed Industrial District. Tool and Equipment Rental is categorized as a Very High Intensity Retail¹ use in the Unified Development Ordinance. As such, the use is only permitted by Special Exception in the General Business District and is an Excluded Use in the US 31 Highway Overlay District². For this reason, a Variance of Use is required from both the EI and US 31 Overlay Districts. Given the zoning of the property and the surrounding uses, the department is not suggesting a time limit on this Variance of Use.

Variance of Development Standard: Additionally, Outside Storage and Display is not permitted in the EI District.

Article 6.12(D) Outside Storage and Display; Industrial Districts: Outside Storage may be permitted in the OI: Open Industrial District...

The Petitioner has noted that they intend to comply with the standards set forth in Article 6.12(D) (see **Exhibit 5**).

COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan identifies this Property within the “Employment Corridor”³ land use classification. The Employment Corridor is discussed in the Highway Corridors chapter of the Comprehensive Plan; and contemplates uses that would encourage employment growth in Westfield, including but not limited to: “office and service uses, research and development, and retail and institutional uses that are subordinate to and supportive of the office and service uses.”⁴

¹ The UDO defines Retail, Very High Intensity as “[r]etail businesses that have a very high impact on neighboring properties, traffic generation, and public safety and that inherently operates in whole or part outdoors through sale, display or other general activities. Example businesses include, but are not limited to: vehicle and motorcycle sales (new or used), construction vehicle and trailer sales, farm equipment sales, farm implement sales and service, feed sales, heavy equipment sales, tool and light equipment rental, manufactured or mobile home sales, boat and trailer sales and service, travel trailer sales and rental, and semi tractor-trailer cleaning, service, rental, repair and sales.”

² Article 13.2 Use Table of the UDO.

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

⁴ Pages 53-55 of the Westfield and Washington Township Comprehensive Plan.



PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of this petition. This petition is scheduled to receive its public hearing at the February 9, 2021, 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.

Conditions: The UDO⁵ and Indiana Code § 36-7-4-918.4 provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

Acknowledgement of Variance: If the Board of Zoning Appeals approves this petition, then the UDO⁶ requires that the approval of the variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgement shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

Variance of Use: The Board of Zoning Appeals shall approve or deny variances of land use from the terms of the UDO. A variance of land use 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;
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 variance is sought; and
5. The approval does not interfere substantially with the Comprehensive Plan.

⁵ Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.

⁶ Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



Variances 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.

DEPARTMENT COMMENTS

Approval: If the Board is inclined to approve the petition, the Department recommends the following condition and findings:

Recommended Condition (Variance of Development Standard):

1. That the petitioner comply with the standards of Article 6.12(D) of the UDO.

Recommended Findings for APPROVAL (Variance of Use):

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. There will be no emission of smoke, odors, or noise from the Property and the use is not inconsistent with the existing uses of the area.

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 surrounding properties are Industrially Zoned, the proposed use is not inconsistent with the existing uses of the area.

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

Finding: The Variance of Use is required in order to establish the Property for a more intense use of Very High Intensity Retail, which includes the rentals of tools and equipment, otherwise not allowed in the EI: Enclosed Industrial District.



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: The proposed use is similar to many uses permitted in industrial districts, and tool and equipment rental blends with the existing surrounding industrial uses

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

Finding: This use does not substantially alter the characteristics of the Property and will maintain the current industrial feel of the Property.

Recommended Findings for Approval (Variance of Development Standard):

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. There will be no emission of smoke, odors, or noise from the Property and the use is not inconsistent with the existing uses of the area.

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 should not have a negative impact on surrounding properties because the proposed Outside Storage area will comply with the standards of the Unified Development Ordinance.

2. **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 utilize the Property as proposed by the Petitioner.

Denial: If the Board is inclined to deny either of the requested variances, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings consistent with the public hearing evidence and Board discussion.



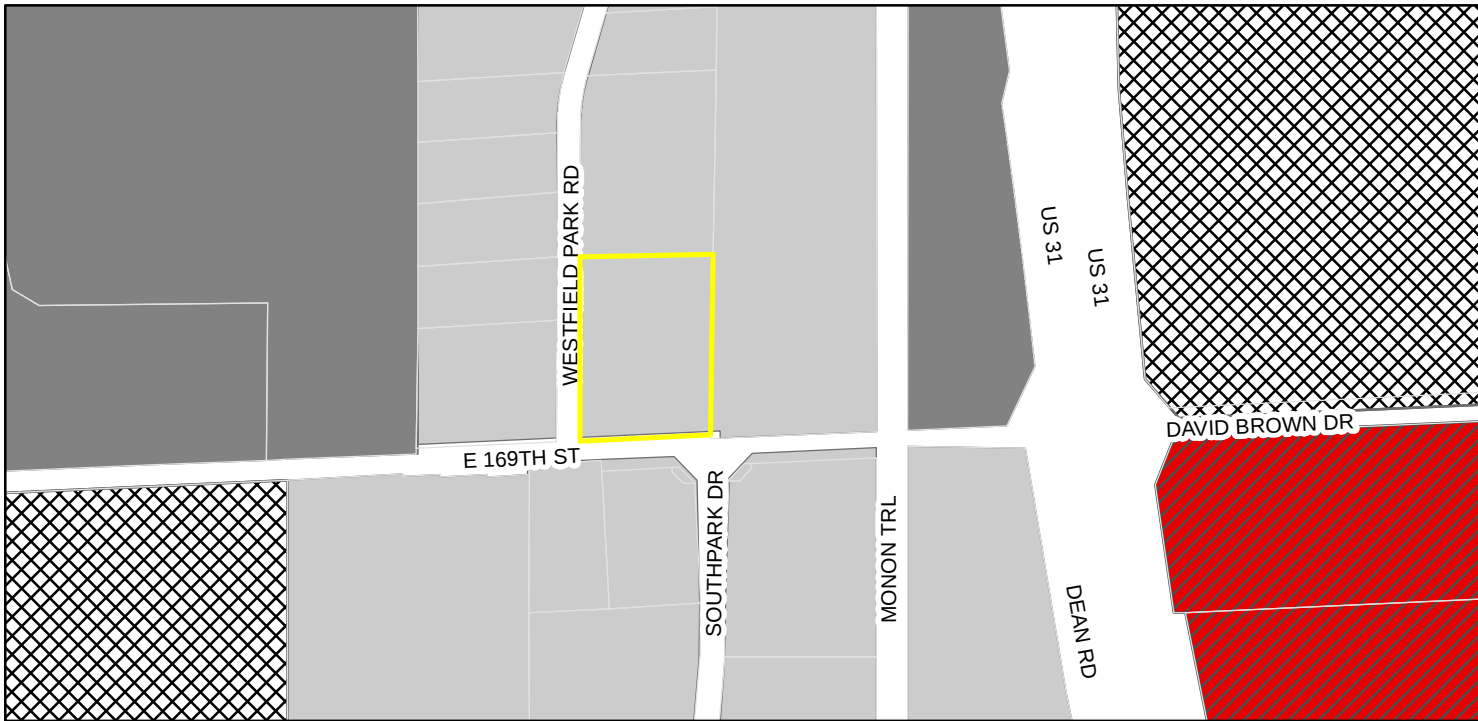
Property Location Map
Sunbelt Rentals
2101-VU-01 & 2101-VS-02



Aerial Location Map



Zoning Map



- Zoning**
- OI (Open Industrial)
 - EI (Enclosed Industrial)
 - GB-PD (General Business - Planned Development)
 - ▨ PUD (Planned Unit Development)

VARIANCE APPLICATION

OFFICE USE ONLY

DOCKET #: _____ FILING DATE: _____
FILING FEE: \$ _____ FEE PLUS \$ _____ PER ADDITIONAL VARIANCE (@ _____) = \$ _____

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Pamela Howard (STAFF NAME) DATE: 11/02/2020

PRIOR OR RELATED DOCKET NUMBERS

CHANGE OF ZONING: _____ AMENDMENTS: _____ DEVELOPMENT PLAN: _____
PRIMARY PLAT: _____ SECONDARY PLAT: _____ VARIANCE(S): Use and Outdoor Storage

APPLICANT INFORMATION

APPLICANT'S NAME: <u>Bryan Moll - TM Crowley & Associates</u>	TELEPHONE: <u>317-517-4722</u>
ADDRESS: <u>501 Pennsylvania Parkway Suite 160 Indianapolis IN 46280</u>	EMAIL: <u>bmoll@tmcrowley.com</u>
PROPERTY OWNER'S NAME: <u>Harvey's Collision Center Inc</u>	TELEPHONE: _____
ADDRESS: <u>16915 Westfield Park Road Westfield IN 46074</u>	EMAIL: _____
REPRESENTATIVE'S NAME: <u>Bryan Moll</u>	TELEPHONE: <u>317-517-4722</u>
COMPANY: <u>TM Crowley & Associates</u>	EMAIL: <u>bmoll@tmcrowley.com</u>
ADDRESS: <u>501 Pennsylvania Parkway Suite 160 Indianapolis IN 46280</u>	

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 16915 Westfield Park Road Westfield IN 46074
COUNTY PARCEL ID #(S): 09-09-01-00-00-018.901
EXISTING ZONING DISTRICT(S): EI (Enclosed Industrial) EXISTING LAND USE(S): Industrial

PROPERTY AND PROJECT INFORMATION

☐ VARIANCE OF LAND USE CODE CITATION: _____
☐ VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION: _____

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

STATEMENT OF INTENT (EXPLANATION OF REQUEST - ATTACH SEPARATE SHEET IF NECESSARY): TM Crowley on behalf of Sunbelt Rentals intends to purchase the existing Harvey's Collision Center and renovate and retrofit the Building to open a Sunbelt Rentals Store. Said store will include retail sales, rentals and outdoor storage for rental equipment storage screened by fencing. Also the addition of a 3rd curb cut along the northern end of the property for ease of egress from the storage yard.

APPLICANT AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says that above information is true and correct as he/she is informed and believes and that Applicant owns or controls the property involved in this application.

Bryan Moll

Digitally signed by Bryan Moll
DN: cn=Bryan Moll, email=bmoll@westfield.in.gov, c=US
Date: 2020.11.20 15:55:34 -0500

Applicant/Representative (signature)

Applicant/Representative (printed)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the above party, who having been duly sworn acknowledged the execution of the foregoing Application.

Witness my hand and Notarial Seal this 1st day of December, 2020

State of Indiana, County of Hamilton, SS: _____

Brenda S. Bryant

Brenda S. Bryant

Notary Public (signature)

Notary Public (printed)

PROPERTY OWNER AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says they are the owners of the property involved in this application and that they hereby acknowledge and consent to the foregoing Application.

Property Owner (signature)*

Property Owner (printed)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the Property Owner, who having been duly sworn acknowledged and consents to the execution of the foregoing Application.

Witness my hand and Notarial Seal this 15 day of November, 2020
State of Indiana, County of Hamilton, SS: _____

Notary Public (signature)

Notary Public (printed)



ABIGAIL HARTMAN
HAMILTON COUNTY
My Commission Expires
SEPTEMBER 15, 2028
NP0728766

*A signature from each party having interest in the property involved in this application is required. If the Property Owner's signature cannot be obtained on the application, then a notarized statement by each Property Owner acknowledging and consenting to the filing of this application is required with the application.

FINDINGS OF FACT (VARIANCE OF USE)

APPLICANT: TM Crowley & Associates on behalf of Sunbelt Rentals

DOCKET #:

In taking action on a variance request, the Board of Zoning Appeals uses the following decision criteria to approve or deny a variance, as established by Indiana Code, and the Board may impose reasonable conditions as part of its approval. The applicant must address the criteria below. A variance of land use may be approved by the Board of Zoning Appeals only upon a determination that the Board finds all of the following to be true:

- A. The use will not be injurious to the public health, safety, morals, and general welfare of the community because: THE USE IS
consistent with other uses in the area, the building will remain the same with moderate changes to the interior of the space
TO ASSIST IN TRANSFORMING THE SPACE FOR RETAIL SALES AND RENTAL OF MACHINERY IN THE OUTDOOR STORAGE YARD. THIS WILL NOT BE INJURIOUS TO THE PUBLIC HEALTH OR SAFETY OR MORALS OF
THE COMMUNITY.
- B. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because: THE PROPOSED USE OF THE PROPERTY WILL NOT ADVERSELY AFFECT THE NEIGHBORING PROPERTY AS WE ARE PROPOSING SOME SITE ENHANCEMENTS WITH A NEW FENCE
AND ENTRANCE ALONG WITH BUILDING INTERIOR UPGRADES TO
SUIT THE NEEDS OF THE NEW TENANT AS WELL AS SIGNAGE UPGRADES
- C. The need for the variance arises from some condition particular to the property involved because: THE PROPOSED USE REQUIRES OUTDOOR STORAGE
WHICH IS NOT CURRENTLY A PERMITTED USE.
- D. The strict application of the terms of the Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought because: THE STRICT APPLICATION OF THE TERMS OF THE ORDINANCE DOES NOT ALLOW FOR OUTDOOR STORAGE WHICH POSES A HARDSHIP TO THE NEW OWNER BASED ON THE FACT
THAT OUTDOOR STORAGE IS REQUIRED FOR THEIR EQUIPMENT RENTAL BUSINESS. STORAGE ALLOWS FOR CUSTOMERS TO COME TO THE FACILITY, LOOK AT THE INVENTORY ON-SITE AND RENT AND TAKE THE EQUIPMENT WITH THEM WHEN THEY HAVE CHECKED OUT
- E. The variance of use does not interfere substantially with the Comprehensive Plan because: THE VARIANCE OF USE DOES NOT INTERFERE WITH THE COMP PLAN
BECAUSE SAID PROPOSED PLAN DOES NOT INTERFERE WITH NEIGHBORING BUSINESS IN ANY WAY SHAPE OR FORM AND DOES NOT REQUIRE ANY SIGNIFICANT CHANGES TO THE EXISTING SITE PLAN OR BUILDING PLAN

FINDINGS OF FACT (VARIANCE OF DEVELOPMENT STANDARD)

APPLICANT: TM CROWLEY & ASSOCIATES

DOCKET #: _____

In taking action on a variance request, the Board of Zoning Appeals uses the following decision criteria to approve or deny a variance, as established by Indiana Code, and the Board may impose reasonable conditions as part of its approval. The applicant must address the criteria below (if multiple variances of development standard are being requested, then this sheet should be completed separately for each requested variance). A variance of land use may be approved by the Board of Zoning Appeals only upon a determination that the Board finds all of the following to be true:

- A. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because: THE USE IS
consistent with other uses in the area, the building will remain the same with moderate changes to the interior of the space

TO ASSIST IN TRANSFORMING THE SPACE FOR RETAIL SALES AND RENTAL OF MACHINERY IN THE OUTDOOR STORAGE YARD. THIS WILL NOT BE INJURIOUS TO THE PUBLIC HEALTH OR SAFETY OR MORALS OF
THE COMMUNITY

- B. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because: THE PROPOSED USE OF THE PROPERTY WILL NOT ADVERSELY AFFECT THE NEIGHBORING PROPERTY AS WE ARE PROPOSING SOME SITE ENHANCEMENTS WITH A NEW FENCE AND
AND ENTRANCE ALONG WITH BUILDING INTERIOR UPGRADES TO SUIT THE NEEDS OF THE NEW TENANT AS WELL AS SIGNAGE UPGRADES

- C. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property because: _____
THE STRICT APPLICATION OF THE TERMS OF THE ORDINANCE DOES NOT ALLOW FOR OUTDOOR STORAGE WHICH POSES A HARDSHIP TO THE NEW OWNER
THAT OUTDOOR STORAGE IS REQUIRED FOR THEIR EQUIPMENT RENTAL BUSINESS. STORAGE ALLOWS FOR CUSTOMERS TO COME TO THE FACILITY, LOOK AT THE
INVENTORY ONSITE AND RENT AND TAKE THE EQUIPMENT WITH THEM WHEN THEY HAVE CHECKED OUT

GENERAL INSTRUCTIONS

- A. **Pre-Filing Conference:** A pre-filing conference is required for all petitions. An appointment must be made with the Community Development Department (the "Department") to discuss a petition prior to filing. An application will not be considered filed until a pre-filing conference has occurred. Applicants are encouraged to incorporate the Department's comments into the application prior to filing.
- B. **Filing Petition:** A petition shall be filed with the Department by the filing deadline in accordance with the Schedule of Meeting and Filing Dates. In order to be deemed a complete petition, a petition shall include the following:
- | | |
|---|--|
| ☐ Completed Application | ☐ Legal Description |
| ☐ Draft Public Notice | ☐ List of Adjoining Property Owners (as provided by County) |
| ☐ Property Owner Consent | ☐ TAC Delivery Affidavit (if TAC is determined to be necessary) |
| ☐ Site Plan (to scale) | ☐ Copy of Property Deed |
| ☐ Statement of Intent | Elevations, photographs or other supporting information necessary to explain the nature of the requested variance(s) |
- C. **Filing Fee Check:** After the filing of an application, the Department will advise the applicant of the applicable filing fee amount, which is due and payable (checks made out to "City of Westfield") within two (2) weeks of filing.
- D. **Technical Advisory Committee (TAC):** The applicant is responsible for submitting a copy of the application and related information to Technical Advisory Committee members prior to filing, if determined by the Department to be necessary. An affidavit confirming delivery of information is required to be completed and signed by the applicant and submitted with the petition. Technical Advisory Committee meetings are held in the City Services Building (2728 East 171st Street, Westfield, IN 46074) in accordance with the Schedule of Meeting and Filing Dates. A representative must be present at this meeting.
- E. **Public Hearing and Notice:** All variance petitions require a public hearing by the Board of Zoning Appeals. The public hearing is held at City Hall, 130 Penn Street, Westfield, Indiana, in accordance with the Schedule of Meeting and Filing Dates. Notice of the hearing is required in accordance with the Board's Rules of Procedure:
1. **Newspaper Publication:** Notice of the hearing will be published in the Hamilton County Reporter and The Times. The Department will handle the newspaper publication requirement.
 2. **Mailed Public Notice:** The applicant is responsible to send public notice by certified mail with proof of mailing (certificate of mailing) to all interested parties, postmarked at least ten (10) days prior to the hearing. A list of adjacent property owners may be obtained from the **Hamilton County Auditor, Office of Transfers and Mapping** (33 North 9th Street, Noblesville, IN 46060, (317) 776-9624), and shall include all owners of property to a depth of two (2) ownerships of no direct or indirect financial or other interest to the applicant or property owner or one eighth of a mile (1/8), whichever is less.
 3. **Public Notice Sign:** The applicant is responsible to post a public notice sign(s) on the property at least ten (10) days prior to the public hearing. The Department will determine sign locations and will make signs available for the applicant to obtain in the office of the Department.
 4. **Affidavit of Notice of Public Hearing:** The applicant shall deliver a copy of the mailed notice and a signed affidavit, verifying that the notices were mailed and the public notice sign(s) was posted on the subject property, to the Department at least four (4) calendar days prior to the public hearing.
- F. **Ex-parte Communication:** In no event shall applicants or other interested parties contact or attempt to communicate with members of the Board in regard to a filed variance petition prior to the public hearing.
- G. **Revised Materials:** If the applicant wishes to submit additional or revised information than what is filed, then the applicant shall submit those to the Department no later than ten (10) days prior to the public hearing.
- H. **Board's Consideration:** Following the public hearing, the Board may either approve, approve with conditions, deny or continue the petition.
- I. **Resource:** Please see the Board's Rules of Procedure for more detailed procedural information.



wall, not less than seven (7) feet in height, consisting of Masonry Materials that compliment the Principal Building.

- iii. Perimeter access into Outside Storage areas shall not be oriented toward a Front Yard. Gates shall be required for such access and shall be opaque and architecturally compatible with the materials used on the Principal Building. A chain link fence or a variation of a chain link fence combination shall not constitute an acceptable gate material.

- d. Storage Restrictions: All materials, product or merchandise stored in an Outside Storage area shall be stacked no higher than one (1) foot below the top of the wall.

2. Outside Sales Display:

- a. Permitted Use: Outside Sales Displays, including vending machines, kiosks, and outdoor point of sale items (e.g., flowers, propane, salt, firewood), shall be prohibited, except for the following:
 - i. Automobile dealerships, and other similar uses as determined by the Director or Plan Commission.
 - ii. Outside Sales Displays that otherwise comply with the Outside Storage standards set forth in this Article.
 - iii. Merchandise associated with a temporary use or event conducted pursuant to [Article 6.18 Temporary Uses and Events](#).
- b. Approval: Any proposed Outside Sales Display shall be delineated on an approved Development Plan and subject to approval by the Plan Commission, except as otherwise permitted by [Article 6.18 Temporary Uses and Events](#), and subject to the following:
 - i. The Development Plan shall include the types of merchandise and/or finished products, location, landscaping and other improvement of the Outside Sales Display area.
 - ii. Pedestrian circulation areas shall not be obstructed and enhancements may be required by the Director or Plan Commission to ensure safe pedestrian movements.
 - iii. The Director or Plan Commission may require enhanced site design features to ensure that Outside Sales Display areas are delineated and that such areas are compatible with the design of the building and site context.
 - iv. In addition to the standards of the Zoning District, the Plan Commission or Director may require enhanced screening or landscaping to ensure the compatibility of the proposed use with adjoining areas.
 - v. Once approved, the Outside Sales Display area shall not be materially or substantially changed or altered without the approval of an amendment to a Development Plan.

- D. Industrial Districts: Outside Storage may be permitted in the *Ol: Open Industrial District*, subject to the following standards:

- 1. Yards: No Outside Storage shall be permitted in the Established Front

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Yard or in a Yard adjoining a Residential District.

2. Screening: Outside Storage areas shall be screened as follows:
 - a. A wall shall extend perpendicular from the building, and then extending a minimum twenty-five (25) feet down each Side Yard. The wall shall be:
 - i. A minimum of eight (8) feet in height, but shall not extend beyond the eave of the building's roofline.
 - ii. Constructed with architectural block, brick or decorative tilt up concrete to be consistent with and compatible with the architectural character and materials of the building.
 - b. At the termination of the wall, a fence, consistent with and compatible with the architectural character and materials of the building, shall encompass the remainder of the Outside Storage area and shall be a minimum of eight (8) feet in height and opaque.
 - c. Materials stored outside shall not be stacked higher than one (1) foot below the top of the wall or fence. Equipment and vehicles shall be stored at their lowest state.
3. Storage Surface:
 - a. An area fifty (50) feet in depth adjacent to the building and high-volume travel lanes in Outside Storage areas shall be hard surfaced with asphalt or concrete.
 - b. The balance of areas used for Outside Storage shall, at a minimum, be finished with stone and have dust control measures implemented by the business during operation.
 - c. Curbing shall not be required around Outside Storage areas.

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