

The regular meeting of the Board of Zoning Appeals of the City of Hammond was held on Tuesday, February 28, 2023 at 6:00 p.m., Council Chambers, 2nd Floor, Hammond City Hall, 5925 Calumet Avenue, Hammond, IN 46320, and via www.Zoom.us

Kathleen Hill called the meeting to order at 6:02 p.m. Ms. Hill led the reciting of the Pledge of Allegiance.

PRESENT

Roger Brock (IP)
William Hutton (IP)
Dennis Radowski (IP)
Nancy Ragin (IP)
Kathleen Hill (IP)

ABSENT

ALSO PRESENT

Brian L. Poland, AICP
Director of City Planner

Tom Novak
Assistant City Planner

Shannon Morris-Smith
BZA Secretary

PRESENT: FIVE (5)

ABSENT: ZERO

QUORUM

APPROVAL OF MINUTES

Chairperson Hill called for a motion to approve the minutes of December 6, 2022. Mr. Hutton so moved, seconded by Mr. Radowski. Roll call vote. Roger Brock/yes; William Hutton/yes; Dennis Radowski/yes; Nancy Ragin/yes; Kathleen Hill/yes. 5 "Ayes", 0 "Nays", 0 "Abstentions, 0 "Absent". Motion carried.

Chairperson Hill called for a table to table the minutes of January 31, 2023. Mr. Hutton so moved, seconded by Ms. Ragin. Roll call vote. Roger Brock/yes; William Hutton/yes; Dennis Radowski; Nancy Ragin; Kathleen Hill/yes. 5 "Ayes", 0 "Nays", 0 "Abstentions, 0 "Absent". Motion carried.

OLD BUSINESS

Mr. Poland reminded the Board that there were petitions tabled to the March 28, 2023 meeting. Staff's current knowledge was that the petitions were still scheduled to be heard at the March BZA meeting.

NEW BUSINESS

Z-23-04 Petition of NH Vegas, LLC for a conditional use regarding Title X, Section 10.11 (3) to allow an automobile fueling station in a C-4 General Commercial District, located at 1051 Indianapolis Boulevard in the City of Hammond

Chairperson Hill asked the secretary if the notification requirements had been met. Ms. Morris-Smith stated "Yes".

Mike Zell, 1658 Stony Creek Court, Valparaiso, IN 46385, represented the petitioner. The petitioner was seeking a conditional use approval of an automotive fueling station in a C-4 General Commercial District at 1051 Indianapolis Boulevard. The petitioner was proposing the demolition of the existing gas station facility, and to construct a new fueling station and convenience store facility. The new fueling station design would reduce the current number of current pumps from twelve (12) to eight (8). There would be new pumps installed at the time of construction. The size of the fuel canopy would be reduced from 135 x 95 feet, to 110 x 50 feet. There would be installation of new fiberglass underground storage tanks, fuel piping, and containment solutions systems. Mr. Zell further stated the new convenience store would include Luke's larger updated three thousand nine hundred sixty (3960) square foot design and full-service food offering. The estimated four million-dollar (\$4,000,000) redevelopment of the property was consistent with NH Vegas and Luke Family Brand continued commercial investment within the Hammond Marina District. The petitioner respectfully requested approval of the petition for the automobile fueling station conditional use permit.

Chairperson Hill asked if there were any questions from the Board. Mr. Hutton asked there would be an enclosed garbage containment area. Mr. Zell handed out an updated site plan to the Board. The updated site plan included the enclosed dumpster on the northeast side of the property.

Mr. Poland asked Mr. Zeller to discuss the parking and cross parking agreement. Mr. Zeller stated there was a draft of a cross-parking agreement that was sent to Mr. Poland for review. Tom Collins, Jr., Managing Member of NH Vegas, LLC, has agreed to sign and execute the document pending approval of the requested entitlements.

Mr. Poland stated the revised site plan incorporated the most recent comments per the City Engineer. The moving of the pumps closer together by one (1) foot, and how the traffic would be directed around the building. Mr. Poland further stated the Tenant A,

Tenant B building was a separate lot, and was a proposed development that was not before the Board. The gas station on Lot 1 was before the Board, and the cross-parking agreement that was reference with five (5) parking lot spaces that were on Lot 2 that would benefit Lot 1.

Chairperson Hill asked there was only one (1) entrance and exit. Mr. Zell stated there was a right-in, right-out, on the west side of the property. An entrance, and ingress/egress at the stop light, on the east side of the property. There was also access to the gas station from Lot 2 that was not before the Board. This would be a right-in, right-out, with a raised "dog bone" that was requested by the City Engineer. Mr. Poland further stated there was a median in the Indiana bound traffic direction. There was a left-turn lane at the "dog bone" into another entrance on the southerly side of Indianapolis Boulevard. All of the Illinois traffic would have to come through the traffic signal, but could exit out and go back to Illinois. Inbound Indiana traffic could enter from the traffic signal into the gas station through the "dog bone", and exit out through the traffic signal back to Robertsdale.

Mr. Hutton asked a question regarding traffic flow and if the City Engineer reviewed and approve the traffic flow. Mr. Zell stated this was part of what Mr. Poland was alluding to. The pump requirements were shrunk down to allow traffic flow to encircle the parking lot to find a new direction without any obstructions. Mr. Poland further stated Mr. Button had the Traffic Engineer review the site plan in accordance with the Engineer's gas station development regulations.

Mr. Hutton asked if vehicles would be on both sides of the pumps. Mr. Zell stated there would be dual pumps.

Chairperson Hill asked if the current gas station would be demolished totally before new construction began. Mr. Zell stated "Yes".

Mr. Poland asked Mr. Novak to address the oil/water separator. Mr. Novak stated the petitioner was discussing this with HDEM. Mr. Zell stated he believed this was under discussion and was a part of construction approval. This would be consistent with other Hammond projects. Mr. Poland asked if the oil/water details of the construction/engineering details have been finalized. Mr. Zell stated he was not positive, but it was under consideration based on notes that he was given. This would be guidelines that the petitioner has adhered to in other Hammond projects.

Chairperson Hill asked if there were anything additional questions from the Board. There were none.

Chairperson Hill opened the floor for public comments.

Councilman Mark Kalwinski, 4037 Johnson Avenue, Hammond, IN 46327

-Luke Oil has rebuilt two (2) gas stations on Indianapolis Boulevard in the Marina District. They have been successful and an upgrade to the area.

-Did not see traffic issues stacking up at this location.

-Luke Oil has been compliant to the City's recommendation

-Looking forward to the project moving forward

Chairperson Hill closed the floor for public comments.

Chairperson Hill asked if there were any additional questions from the Board members. There were none.

Chairperson Hill asked for staff to read the staff report recommendations (Z-23-04), however it is included in its entirety.

Zoning Citation

- **Case No. Z-23-04: Title X C-4 General Commercial District, Section 10.11**
Conditional Uses, **Subsection # 3** Automobile Fueling Station

Background

The subject property, commonly known as 1051 Indianapolis Blvd, is a 1.18-acre, irregularly-shaped, 5-sided parcel located on the east side of Indianapolis Blvd. In this location, Indianapolis Blvd. is designated U.S. Routes 12/20/41 and under INDOT control. The site sits just north of a traffic signal-controlled intersection with Casino Center Dr, and the Casino Center Dr. flyover crosses Indianapolis Blvd. just north of the site. The site hosts an existing automobile fueling station, consisting of a fuel canopy which shelters twelve (12) double-sided fuel pumping islands and a 2,388 SF convenience store. This retail operation is an accessory use.

The subject property and its neighboring property to the east (1053 Indianapolis Blvd, also owned by Luke's) were recently rezoned from I-2 Manufacturing District to C-4 General Commercial District to better suit the intended use of the site. Due to its C-4 designation, a conditional use permit is required for the rebuild of the structures on-

site. The current above-ground structures were constructed in 1998 by Luke Oil, which is still the owner via NH Vegas, LLC, and the petitioner of this case.

To the north and NE (rear) of the site is zoned I-2 Manufacturing District and includes the Norfolk Southern's Chicago District rail yard and their rail lines. Beyond the aforementioned neighboring property to the east is the I-2 zoned Unilever Manufacturing, Inc, factory which runs along Indianapolis Blvd. up to the 5 Corners. Across the street to the southwest is the 140' tall Horseshoe Casino neon sign, a retention pond, and the start of the Casino Center Dr. flyover, zoned S-1 Open Space and Recreational District. Northwest of this flyover is a similarly zoned C-4 District consisting of two parcels on Indianapolis Blvd, also owned by petitioner. Across the street from that is the 5th Ave. entrance to the Marina District PUD, the City's newest shopping center which features a C-4 zoned Wal-Mart Supercenter on its far end as its retail.

Petition

The petitioner, NH Vegas, LLC, which is a subsidiary of Hobart-based Luke Family of Brands, is seeking a conditional use permit, related to T/S 10.11(3), to allow the continued operation of an existing Automobile Fueling Station, a rebuild of its fuel canopy and fuel pump islands, and to allow the expansion of the operation by the construction of a larger convenience store (C-store) (37.3' x 110'; 3,960 SF; 21' 10" peak height) to replace the existing 40' x 60', 2,388 SF C-store.

The existing C-store building is to be demolished in accordance with IDEM and HDEM regulations regarding asbestos inspections, etc. The new C-store building will be located roughly in the same location, set back 163' 8" from the Indianapolis Blvd. ROW. Its design and façade will follow the established model of other C-stores which Luke's has rebuilt in recent years, e.g. 6450 Calumet Ave. This includes a 668 SF commercial kitchen to prepare and serve hot food. The front façade will consist of a mixture of cast stone and brick veneer, composite wood siding, metal coping, and aluminum storefront window frames. The side and rear façades will consist of 4" concrete blocks and feature brick veneer pilasters at the two front corners. The dumpster enclosure will be of concrete blocks and feature a corrugated steel double-wide gate.

The new fuel canopy is to be 50' x 110' (5,500 SF) and will consist of four (4) fewer fuel pump islands – two rows of four (8 total) double-sided pump islands each spaced 30' apart and the two rows spaced 35' apart. The fuel canopy will be set back 40' from Indianapolis Blvd. ROW.

Analysis

While the intensity of the accessory C-store use will increase with more gross floor area and a new commercial kitchen, the intensity of the automobile fueling station use will decrease from twelve (12) fuel pump islands to eight (8.)

The site sits less than 500' from the entrance to the Marina District PUD while also bordered by industrial uses to its rear and side. Thus, this site and building redesign is in line with attempts to make this area of Robertsdale/Roby a more aesthetically-pleasing and customer-friendly commercial corridor/district. Perimeter landscaping requirements are met by this site redesign and will include more green space than currently exists. A 10' x 13' dumpster enclosure is indicated east of building where there was none.

Petitioner plans at this time to employ three (3) people per shift. Per T/S 19.20.31, the parking requirement is at least seventeen (17) off-street parking spaces. The site plan shows twelve (12) off-street parking spaces in a row in front of the C-store building. One of these twelve is the required van accessible ADA-compliant space. The other eleven (11) spaces are 9' 6" x 20'. To meet the minimum requirement, a cross-parking easement has been created by Luke's legal team in order to allow for customers to utilize a row of five (5) parking spaces across parcel boundaries (in Lot 2) to the east of the C-store building; easement still must be recorded.

The City Engineer has worked with Luke's, and as of Thursday, February 23, 2023, is satisfied with the traffic flow pattern on-site and the ingress/egress with Indianapolis Blvd. (aka US Routes 12/20/41) proposed for the site. Tanker trucks will enter at Lot 2 and follow an access road to the rear of buildings along east edge of site to refuel underground storage tanks. Regular site access will be via a "right-in, right-out" only curb cut at the NW corner of the site and will feature a porkchop island center median. Access will also be allowed via formal easements between the fueling station on Lot 1 and the future 2-unit commercial bldg. on Lot 2. Lot 2 has a proposed curb cut at SW corner of the site on the opposite end of this development.

HDEM has been supplied with information regarding the oil-water separator and an updated emergency response plan. Plans call for installation of three (3) new fiberglass underground storage tanks, new updated dispensing and monitoring equipment, and new underground fuel lines with containment systems. The commercial kitchen will feature a grease trap.

Reviews and Approvals

City Planning staff has reviewed materials provided by the petitioner. City Engineer has reviewed and approved a revised site plan dated February 15, 2023.

There were no objections from the Building Commissioner, Chief Fire Inspector, City Engineer, Superintendent of Wastewater Management, nor Director of the Hammond Department of Environmental Management.

Standards for Granting a Conditional Use

- 1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community.
- 2) The use and the value of the area adjacent to the property related to the conditional use will not be affected in a substantially adverse manner.
- 3) The approval will not have an adverse effect on the density of the adjacent area and the area will not be burdened by an excessive number of similar uses in the area.
- 4) The approval will not have an adverse impact on the transportation network, public utilities and educational facilities.
- 5) The approval will not have an adverse impact on the environment or natural resources.
- 6) The approval will not have an adverse impact on historical, architectural, cultural and archaeological resources.
- 7) The approval does not substantially interfere with the comprehensive city zoning plan.
- 8) The approval will be in compliance with applicable provisions established elsewhere in the Zoning Ordinance.
- 9) The approval will provide for reasonable accommodation pursuant to Section 24.53.

Recommendation

Staff has reviewed the petitioner's request and recommends that the BZA grant the conditional use permit should the Board feel the petitioner has met the standards, subject to:

- 1.) Technical review and final approval of site and building plans by City Staff;
- 2.) Submittal and final approval of a photometric plan;
- 3.) Recording with the Recorder's Office the cross-parking easement between Lot 1 and Lot 2 of the Resubdivision of Luke's 267 Addition to the City of Hammond;
- 4.) Bollards installed between the convenience store and the row of parking spaces not inhibiting ADA-compliant access and compliance with all Federal ADA guidelines;

- 5.) No outdoor displays of tires nor any other wares to be allowed;
- 6.) Compliance with Hammond City Code Chapters 94, 97, 98, 101, 132, 150, and 160, and in particular sections enforcing litter, junk, trash receptacles, snow removal, and the harboring of a public nuisance, as to maintain a sanitary, safe, and aesthetically pleasing property.

Mr. Novak concluded the reading of the recommendation section of the staff report.

Chairperson Hill asked if there were any questions from the Board members.

Mr. Poland commented that the oil/water separator would be covered under recommendation #1.

Mr. Hutton asked if there were any particular size bollards required, and if the bollards were shown on the site plan. Mr. Novak stated the bollards were shown on the site plan as black dots at the top of the parking spaces. The bollards would be at least five (5) feet apart for two (2) for ADA accessibility. Mr. Poland further stated there would need to be an adjustment to a bollard in the middle of a stripped area. A discussion would take place to make sure the bollard were not physically impeding ADA accessibility.

Chairperson Hill asked if there were any other additions or amendments to the findings of facts. There were none.

FINDINGS OF FACT

- 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.**
 - a. Rebuilding site allows the installation of three (3) new fiberglass underground storage tanks, new updated dispensing and monitoring equipment, and new underground fuel lines with containment systems.
 - b. Helps minimize the risk to drivers and pedestrians by narrowing ingress/egress curb cut and installing a porkchop island center median to enforce "right in, right out" only access.
 - c. The property will utilize trash receptacles with lids, enclosure of the dumpster, and compliance with other sections of Hammond City Code related to safety, sanitation, and aesthetics.

2. The use and the value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

- a. The type of use of the property will not change except for addition of a commercial kitchen.
- b. This combination automobile fueling station use has existed here since the 1990s.
- c. The intensity of use for the convenience store will increase due to an approximate 65% increase in gross floor area from existing convenience store.
- d. Intensity of use for the automobile fueling station will decrease due to a redesign featuring four (4) less fuel pump islands than existing and a smaller fuel canopy than existing.
- e. The proposed improvements to the paving, landscaping, and dumpster enclosure should improve values.
- f. The development of the neighboring C-4 zoned Lot 2 will be done by petitioner at a future date, and cross-access easements already exist.

3. The approval will not have an adverse effect on the density of the adjacent area and the area will not be burdened by an excessive number of similar uses in the area.

- a. The proposed seventeen (17) parking spaces required by Zoning Ordinance 8514, Title XX will be met via twelve (12) spaces on-site and a cross-parking easement provides access to five (5) more spaces nearby.
- b. While travelling northbound on Indianapolis Blvd. within one-half (½) mile of the site, there are three (3) other combination fuel station-convenience store businesses; two of these are on the opposite side of Indianapolis Blvd. and theoretically would serve southbound traffic entering from Illinois.
- c. The closest fuel station while travelling southbound on Indianapolis Blvd. is over one-half (½) mile from the site and located beyond the major intersection of the "Five Corners."
- d. The proximity of this combination fueling station to the Indiana-Illinois State Line, to the last exit off the Indiana Toll Road (I-90), and to the entrance to the Horseshoe Casino site means there is higher-than-usual demand for fuel station uses along this stretch of road; past traffic studies have confirmed this corridor as one of the busiest for both street-level traffic and consumer fuel consumption in the U.S. Midwest.

4. The approval will not have an adverse impact on the transportation network, public utilities and educational facilities.

- a. Traffic flow and ingress/egress curb cut has been reviewed by the City Engineer.
- b. This is one of the busiest road corridors in the U.S. Midwest and a State-controlled route.
- c. Adequate utilities already exist in area.
- d. No impact on educational facilities, and no educational facilities nearby.

5. The approval will not have an adverse impact on the environment or natural resources.

- a. In accordance with IDEM and HDEM requirements, an asbestos inspection will be conducted and an ensuing asbestos report will be filed with IDEM and HDEM before demolition of existing structures on site.
- b. HDEM has been supplied with information regarding the oil-water separator and an updated emergency response plan.
- c. Rebuilding this site allows for the installation of three (3) new fiberglass underground storage tanks, new updated dispensing and monitoring equipment, and new underground fuel lines with containment systems.
- d. The new commercial kitchen will include a grease trap.
- e. There are no natural areas being affected as site is already developed.

6. The approval will not have an adverse impact on historical, architectural, cultural and archaeological resources.

- a. The property is not identified on the 1996 Lake County Interim Report.
- b. The property is not listed in the National Register of Historic Places.
- c. There are no known historical nor archaeological resources on-site.

7. The approval does not substantially interfere with the comprehensive city zoning plan.

- a. The type of use of property will not change and the conditional use petition is in keeping with the requirements of the C-4 zoning district.
- b. Care has been taken by the petitioner to propose site and building plans that keep the nearby Marina District PUD in mind and aim to match its quality of aesthetics.
- c. The site existed as an automobile fueling station with convenience store accessory use since 1998, and this petition is asking to continue that same use with improvements to site and structures.

8. The approval will be in compliance with applicable provisions established elsewhere in the Zoning Ordinance.

- a. The petitioner will be able to comply with all other applicable Zoning sections and City codes, especially Hammond City Code Chapters 94, 98, 101, 132, and 150.
- b. This site redesign will allow property to meet minimum landscaping requirements.
- c. The site redesign will feature a dumpster enclosure, which current site does not have.

9. The approval will provide for reasonable accommodation pursuant to Section 24.53.

- a. This standard is not applicable to this commercial development.

Chairperson Hill asked for a motion to adopt the staff report subject to the six (6) conditions as presented by staff and to adopt the Finding of Fact into the record (Z-23-04). Ms. Ragin so moved, seconded by Mr. Brock. Roll call vote. Dennis Radowski/yes; Nancy Ragin/yes; Roger Brock/yes; William Hutton/yes; Kathleen Hill/yes. 5 "Ayes", 0 "Nays", 0 "Abstentions", 0 "Absent". Motion carried.

Chairperson Hill asked for a motion to approve the conditional use permit (Z-23-04), subject to the six (6) conditions. Mr. Brock so moved, seconded by Ms. Ragin. Roll call vote. Dennis Radowski/yes; Nancy Ragin/yes; Roger Brock/yes; William Hutton/yes; Kathleen Hill/yes. 5 "Ayes", 0 "Nays", 0 "Abstentions", 0 "Absent". Motion carried.

Z-23-05 Petition of Kube Sports Complex, LLC for a developmental variance regarding Title VII, Section(s) 13.50 and Title XXI, Section(s) 21.21 (c) to allow an increase in exterior signage in terms of square footage and number of signs in a S-1 Open Space and Recreational District located at JF Mahoney Drive in the City of Hammond

Chairperson Hill asked the secretary if the notification requirements had been met. Ms. Morris-Smith stated "Yes".

Frank Buck, 8815 W. 93rd Avenue, St. John, IN, 46307, represented the petitioner. Mr. Buck apologized to the Board for installing the sign before seeking approval before the Board. Mr. Buck stated the sign was an aluminum composite sign that was glued to the building. There were no lights on the sign. The intent was to make the building visible from Kennedy Avenue. The sign was designed by the petitioner. Mr. Buck further stated the sign was installed because visitors would miss the turn and end up in the neighborhood looking for directions.

Mr. Poland asked for the dimensional calculations of the sign for the record. Mr. Novak stated the sign had two (2) components that was measured as one sign. This was done by drawing a box around the sign. The overall sign was 11' 6" tall, 28' 4' wide, for a total of 327 square feet. The petitioner requested 330 square feet. The sign covered 7% of the building wall. The building wall was 23 feet tall, 200 feet long, which was 4600 square feet. The sign was less than 10% of the wall covered by the sign, which was comparatively small in context. Mr. Novak further stated the sign was large and low impact in context. The sign was also mounted 450 feet away from the Kennedy Avenue right-of-way, which was where the sign was meant to be seen from.

Chairperson Hill asked if there were any questions from the Board. Mr. Hutton asked if the sign was illuminated, and if it would be illuminated in the future. Mr. Buck stated "No". Mr. Buck stated parking lot lights give light to the sign.

Chairperson Hill asked if there were anything additional questions from the Board. There were none.

Chairperson Hill opened the floor for public comments.

Councilman Mark Kalwinski, 4037 Johnson Avenue, Hammond, IN 46327

- Grateful the owners and Investors choose Hammond to invest into a product that was catching on in North Lake County
- The sign was not big compared to the building wall.
- Ice Kube was home to the Bishop Noll and Purdue North Central hockey teams
- Requested approval of the sign so visitors would not drift through the neighborhood
- stated this would not be setting a precedent that the sign was installed before the permit was issued

Chairperson Hill closed the floor for public comments.

Chairperson Hill asked if there were any additional questions from the Board members. There were none.

Mr. Poland asked Mr. Buck to clarify if the sign was installed by staff or by a sign contractor. Mr. Buck stated a sign contractor that the petitioner worked with to install the sign. Mr. Poland further stated the City was aware that the sign was already installed. The petitioner stated there was an application submitted, but it has not been approved. Mr. Poland further stated this matter would have to be worked through with Code Enforcement regarding whether or not there would be a penalty.

Chairperson Hill asked if the facility was equipped to bring in major events. Mr. Buck stated "Yes". There was a discussion on the various types of events and programs that are held at the facility.

Chairperson Hill asked for staff to read the staff report recommendations (Z-23-05), however it is included in its entirety.

Zoning Citation

Title XXI Signs; Section 21.21 (C)(1) Signs in S-1 Districts, which reads as follows:

“An identification sign for each use on site up to thirty-two (32) square feet in gross sign area.”

Petition

Petitioner Kube Sports Complex, LLC, (“the Kube”) is seeking a developmental variance to grant relief from the zoning standards to allow an increase in the maximum permitted square footage for a single (1) wall sign at this location in a S-1 District from 32 SF to 330 SF.

The request is based on the dimensions 11’ 6” tall by 28’ 4” wide for a total surface area of 326.3 SF. This wall sign is non-illuminated, aluminum composite, and mounted flush with the wall. Black, white, and blue colors are utilized. It is mounted on the west wall facing towards J.F. Mahoney Dr. and Kennedy Ave. The main entrance of building is on this same wall.

Background

The subject property is zoned S-1 Open Space and Recreational District. The 4.6-acre, irregularly-shaped, 6-sided parcel is located at the west end of the Dowling Park-Jean Shepard Center complex and thus serves as the western edge of this S-1 District.

Dowling Park’s athletic facilities, open space, and community center to the east, the HRC-owned parking lot to its west (which petitioner utilizes), and the I-80/94 freeway cloverleaf exchange to its south are also zoned S-1. East of the park’s baseball field along 175th St. is Faith United Church of Christ and immediately to the Kube’s north across 175th St. is a residential neighborhood, both zoned R-1. Properties along Kennedy Ave, which provides access to J.F. Mahoney Dr. via 174th St, are zoned C-4.

The property was developed as the Kube Sports Complex, and offers indoor ice rinks for ice hockey and ice skating, and trampolines at its Air Kube Trampoline Park. The structure was completed in 2020. The building’s western edge is located approx. 300’ east from the Kennedy Ave. ROW. Kube Sports hosts “home” hockey games for Purdue Northwest University and Bishop Noll High School, as well as “free skate” sessions open to the public. This is the only indoor athletic facility offering a year-round ice rink in North Township. Thus, Kube Sports Complex has a sizable portion of its guests arriving from out-of-town and even out-of-state.

Analysis

While the request for a 10x increase in signage area allowed (32 SF to 330 SF) seems high, there are other factors to consider when putting the request into context. This petition applies to only one (1) exterior wall sign. This wall sign covers only 7% of its 4,600 SF, 23' tall, and 200' long exterior wall. Nearly one-third (1/3rd) of this 7% is empty space between the two components of the sign. The 326.297 sq. ft. figure given for the sign's size is from drawing an 11' 6" tall and 28' 4" wide box around both components. When breaking the sign down into its separate components, the square footage is 53.912 SF for one and 171.02 SF for the other, for a total of 224.932 SF.

Title XXI states "sign(s) shall be legible and shall meet the requirements of the Uniform Traffic Control Devices" and that "no sign shall ... create a traffic hazard." This wall sign is non-illuminated, colored white, black and blue, and set about 450' east from the Kennedy Ave. ROW, and thus does not create issues regarding these traffic-related items.

One of signage's most pertinent functions is to direct traffic to a specific site. As noted earlier, many of Kube's visitors are from out-of-town. Therefore, many of them arrive via I-80/94 and exit heading north on Kennedy Ave. To get to the Kube, one must make the first right turn at the traffic signal at 174th St, then a sharp right turn to get on J.F. Mahoney Dr. This does not provide drivers with much time to locate the building. Any sign identifying the location of this business must be visible and legible from more than 450' away for drivers on Kennedy Ave.

Anecdotal reports from the Kube's owners claim oftentimes visitors end up turning on 173rd St. and travel through the residential neighborhood, while others mistakenly go to the Jean Shepard Center. The sign does not face the residences to the north nor is it illuminated with any new lighting. The existing light poles in the parking lot provide the sign visibility.

Reviews and Approvals

City Planning staff has reviewed materials provided by the petitioner.

There were no objections from the Building Commissioner, Chief Fire Inspector, City Engineer, Superintendent of Wastewater Management, nor Director of the Hammond Department of Environmental Management.

Standards for Granting a Developmental Variance

- 1.) The approval will not be injurious to the public health, safety, morals, and general welfare of the community.
- 2.) The use and the value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
- 3.) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

Recommendation

Staff has reviewed the petitioner's request and recommends that the BZA grant the developmental variance should the Board feel the petitioner has met the standards.

Mr. Novak concluded the reading of the recommendation section of the staff report.

Chairperson Hill asked if there were any questions from the Board members. There were none.

FINDINGS OF FACT

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

- a. Sign is static and does not contain any moving or flashing parts, is legible, and meets the requirements of the FHWA's Manual on Uniform Traffic Control Devices for Streets and Highways, therefore limiting its distractibility for drivers and pedestrians.
- b. Sign does not obstruct free passage over a public right-of-way nor create a traffic hazard.
- c. Helps minimize the risk that drivers will endanger themselves and others by slowing down and driving distracted near a freeway interchange looking for the property.
- d. The new sign will increase total square footage of signage on this property by ten times (10x) but will only account for 7 percent of the total wall space on which it is mounted.
- e. The type and intensity of use of the property will not change, and the site plan of the property and the layout of the parking lot will not change.

2. The use and the value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

- a. Sign will help drivers from accidentally driving through the adjacent residential neighborhood to the north and Dowling Park to the east by helping drivers not miss their turn at 174th St; sign directs visitors from going to unrelated buildings in Dowling Park.

- b. The sign is not backlit and not illuminated by any new lights. Homes to the north and drivers will not be affected by any new lights.
- c. The sign is on a west wall facing Kennedy Ave. and J.F. Mahoney Dr. and thus not visible from the residences nearby nor from other facilities at Dowling Park.
- d. Use of property will not change and still in line with the Comprehensive Land Use Plan's "Recreational" designation and the Hessville Neighborhood Plan's objectives for parks.

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

- a. The Kube Sports Complex's location on an oddly accessed road and set back approx. 300' or more away from the road's main point of access – Kennedy Ave. – means a 32 SF sign is insufficient to be legible from Kennedy Ave. nor to catch drivers' attentions.
- b. The 32 SF limitation on signage is not compatible with this wholly unique use in a S-1 District of an indoor ice rink that regularly receives sports teams and out-of-towners.

Chairperson Hill asked for a motion to adopt the staff report subject to the three (3) conditions as presented by staff and to adopt the Finding of Fact into the record (Z-23-05). Mr. Brock so moved, seconded by Mr. Radowski. Roll call vote. Dennis Radowski/yes; Nancy Ragin/yes; Roger Brock/yes; William Hutton/yes; Kathleen Hill/yes. 5 "Ayes", 0 "Nays", 0 "Abstentions", 0 "Absent". Motion carried.

Chairperson Hill asked for a motion to approve the developmental variance (Z-23-05), subject to the three (3) conditions. Mr. Brock so moved, seconded by Mr. Hutton. Roll call vote. Dennis Radowski/yes; Nancy Ragin/yes; Roger Brock/yes; William Hutton/yes; Kathleen Hill/yes. 5 "Ayes", 0 "Nays", 0 "Abstentions", 0 "Absent". Motion carried.

Z-23-06 Petition of Altom Transport for a developmental variance regarding Title XII, Section 12.31 yard regulations requirements to reduce the 200 foot setback to a 105 foot side yard setback in a I-2 Zoning District located at 1636 Summer Street in the City of Hammond

Chairperson Hill asked the secretary if the notification requirements had been met. Ms. Morris-Smith stated "Yes".

Mr. Hutton recused and excused himself due to a conflict of interest. Mr. Poland further clarified for the record that Mr. Hutton had a conflict of interest.

Ryan Torrenga, Torrenga, Engineering, 2038 Maplewood Circle, Highland, IN 46322. Torrenga Engineering was the designing engineers for the project. Mr. Torrenga stated the requested variance was for a reduction from 200 feet to 100 feet for the building setback from White Oak Avenue. The initial 200 foot setback for industrial areas was to prevent any by products of the industrial area from hampering the neighborhood. The proposed building would not be used for any industrial purposes. The proposed use would be for a training facility and resting area for the truck drivers. There would also be a large parking lot for truck parking. Mr. Torrenga further stated there would not be any issues with reducing the setbacks and constructing the building closer to the residential area on White Oak Avenue.

Mr. Poland asked Mr. Torrenga to address the whole site regarding the parking improvement setbacks and the landscaping plan. Mr. Torrenga stated the parking setback meets the requirement. The parking lot was forty (40) feet away from the right-of-way. There was an existing fence along White Oak Avenue. The proposal would include landscaping along the fence to improve the look of the site. Mr. Poland asked for details of the landscaping.

William Hutton, Hutton & Hutton Architects and Engineers, 6832 Calumet Avenue, Hammond, IN 46320. Mr. Hutton stated the trees would be setback behind a 6-8 foot tall solid metal fence. Mr. Poland asked the owner if the detail of the landscaping was understood and if he was ok with the detail.

Jose Diaz, Owner, 1636 Summer LLC, Hammond, IN 46320. Mr. Diaz stated he was willing to follow any guidelines from the City of Hammond.

Mr. Poland stated that the fence that was identified does encroach into the right-of-way. There was a metal shed that was also encroached into the right-of-way. There was discussion that the metal shed would be removed. Mr. Poland further stated that the petitioner could pursue a right of encroachment through the BOW to allow the fence to remain in the right-of-way. Mr. Poland further stated that it was currently unknown if the fence on Summer Street would require the fence to be moved.

Mr. Diaz stated there was not a problem moving the fence on Summer Street onto their property if needed.

Chairperson Hill asked if there were any questions from the Commissioners. There were none.

Chairperson Hill opened the floor for public comments.

Jose Galvin, 1521 Summer Street, Hammond, IN 46320

- Welcomed the petitioner into the neighborhood and investing in the neighborhood
- Would there be a rain water pond to keep water from going into the neighborhood

Mr. Torrenga stated there would not be a detention area. There was already a storm sewer system servicing the site.

Mr. Poland asked if hard surface calculations have been done on the parking lot and the building for any increases. Mr. Hutton stated there were areas on the site that had buildings with hard roofs where water would run off. Some of the area has been replaced with solid pavement for parking. Mr. Hutton stated the petitioner could get back to staff with more information regarding some type of retention. Mr. Poland suggested a discussion with the City Engineer and the street improvements.

Chairperson Hill closed the floor for public comments.

Mr. Poland stated the Determination of Compliance from the Redevelopment Commission was not completed. This step would need to get started and completed with the Redevelopment Commission.

Chairperson Hill asked if there were any additional questions from the Board members. There were none.

Mr. Poland commented that the provision in the Zoning Ordinance was an additional setback for any building in an industrial zone that abuts a residential zone. The 200 foot setback would be measured by the center line of the adjacent street. Mr. Poland further a compensatory buffer would become important to have a green barrier between residential and industrial.

Chairperson Hill asked for staff to read the staff report recommendations (Z-23-06), however it is included in its entirety.

Zoning Citation

Title XII I-2 Manufacturing District;

Section 12.31(D) Yard Regulations: Lots abutting Residential District

“in no case shall any building or structure be erected closer than 200 feet (60.96m) to any residential district”

Petition

The petitioner, 1636 Summer LLC, is seeking a developmental variance to reduce the setback of a new building from the required 200 feet from a residential district to 105 feet. The petitioner is seeking to construct a new driver’s facility for their existing trucking operation. The new building is approximately 7100 square feet. It is to be located 90’ from the White Oak street right-of-way on the west and 54’ southerly of the Summer Street right-of-way. The properties on the west side of White Oak Avenue are zoned R-1U. Measuring from the centerline of White Oak Avenue, which is the boundary of the residential zoning district, the building is located 105’ from the residential district.

Background

The petitioner, 1636 Summer LLC, is the owner of Altom Transport Company. Altom is a trucking company for a variety of products including chemical and petroleum hauling. The new facility not only includes a new building. It includes a parking area for their truck fleet. The site plan shows that the parking area is being setback 40’ from the residential district per the requirement in T/S 12.31(D). The site plan also shows there are existing fences that encroach into the White Oak Avenue and Summer Street rights-of-way. A shed building also encroaches into the White Oak Avenue ROW at the southwest corner of the Altom property. The petitioner has been informed that they would need to obtain a right-of-encroachment from the Board of Public Works and Safety. The petitioner was informed that more than likely the Board of Public Works will grant the encroachment which will allow the fence to remain. Should the petitioner replace the fence, the petitioner will be required to move the fence out of the public right-of-way.

Analysis

The purpose of the 200’ building setback from residential is to provide for a buffer between residential and industrial. In compensation for the reduction in the setback, the petitioner is proposing to install landscaping along White Oak Avenue. The landscaping will consist of 12 shade trees and a mix of bushes in a serpentine placement around the trees as more particularly describe in the petitioner’s cover letter and site plan. Five additional shade trees are proposed along Summer Street. The specific

varieties of the trees were described as Sun Valley Maples, Greenspire Linden, and White Oak. These meet the minimum requirement of being shade trees. The planting of White Oak trees would be appropriate being adjacent to White Oak Avenue. Smaller Techy Arborvitae are appropriate to provide a more opaque buffer to the residential area. Similar varieties that meet the size, shade tree, and opaque parameters would also be acceptable.

The parking area for the trucks meet the requirement for the 40' setback from the residential district. The parking area is to be paved and drainage per the Zoning Ordinance and the City Engineer's concurrence.

Existing encroachments of the petitioner's fence were identified along White Oak Avenue and Summer street. The White Oak Avenue encroachment also included a metal shed. It has been indicated that the metal shed will be removed from the encroachment into the White Oak right-of-way. The petitioner has been advised to seek a right-of-encroachment for the fence from the Board of Public Works and Safety.

The City is preparing to reconstruct Summer Street in this area. The City Engineer is aware of the fence encroachment into the right-of-way. A detailed review of the street design is pending to determine the impact of this encroachment. Then a determination can be made if the fence needs to be moved or a right-of-encroachment would be granted.

Reviews and Approvals

HDEM has requested a Phase 1 and Phase 2 on the property to assure compliance with appropriate regulations and addressing concerns of potential air pollutants and heavy metals in the ground from the previous owner and any potential concerns regarding dust, tracking offsite, and worker exposure.

As noted above, City Engineer will review the Summer Street design and paving/drainage of the parking area.

There were no objections from the Building Commissioner, Chief Fire Inspector, or Superintendent of Wastewater Management were received.

The petitioner has been advised that the determination of compliance with the Redevelopment Plan for the Hammond Central Redevelopment Area has not been completed.

Standards for Granting a Developmental Variance

- 1.) The approval will not be injurious to the public health, safety, morals, and general welfare of the community.
- 2.) The use and the value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
- 3.) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

Recommendation

Staff has reviewed the petitioner's request and recommends that the BZA grant the developmental variance should the Board feel the petitioner has met the standards, subject to:

- 1.) Final determination from the City Engineer regarding the encroachment on Summer Street and the pavement/drainage of the parking area;
- 2.) Receipt of the application right of encroachment from the Board of Public Works and Safety;
- 3.) Final determination from HDEM regarding the Phase 1 and Phase 2;
- 4.) Confirmation of the varieties of the landscaping to meet the requirements in the Zoning Ordinance;
- 5.) Finalization of the technical requirements of the subdivision plat; and
- 6.) Receipt of the determination of compliance from the Hammond Redevelopment Commission for the plan of the Hammond Central Redevelopment Area.

Mr. Poland concluded the reading of the recommendation section of the staff report.

Chairperson Hill asked if there were any questions from the Board members. There were none.

FINDINGS OF FACT

- 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.**
 - a. Confirmation of the resolution of HDEM's concerns will resolve any public health, safety, and general welfare matters for the community.
 - b. While it has not been acted upon, it is anticipated that the project will be determined to be in compliance with the Hammond Central Redevelopment Plan.
 - c. The granting of the right-of-encroachment will resolve any impacts on the public right-of-way.

2. The use and the value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

- a. The proposed landscaping will provide an appropriate buffer between the industrial use and the residential area.
- b. The building is of an appropriate design conducive to improving the visual appearance of an industrial area.
- c. Meeting the Summer Street setback, parking lot setback, and reduction of the White Oak Avenue setback with the landscape buffer will provide for appropriate balance between the residential and industrial areas.

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

- a. Adding landscaping along White Oak Avenue as compensation for the reduction of the setback is appropriate.
- b. The building's location along White Oak Avenue is otherwise in compliance with the required setback for I-2 districts.

Mr. Hutton stated the Phase II environmental will need to be done. The petitioner will contact staff when a company has been hired.

Mr. Diaz stated the Phase I report that was provided was from 2019. A new report will be provided. Mr. Poland asked the petitioner to coordinate with Ron Novak, Director of Environmental Management.

Chairperson Hill asked for a motion to adopt the staff report subject to the six (6) conditions as presented by staff and to adopt the Finding of Fact into the record (Z-23-06). Mr. Brock so moved, seconded by Ms. Ragin. Roll call vote. Dennis Radowski/yes; Nancy Ragin/yes; Roger Brock/yes; William Hutton/yes; Kathleen Hill/yes. 5 "Ayes", 0 "Nays", 0 "Abstentions", 0 "Absent". Motion carried.

Chairperson Hill asked for a motion to approve the developmental variance (Z-23-06), subject to the six (6) conditions. Mr. Brock so moved, seconded by Mr. Radowski. Roll call vote. Dennis Radowski/yes; Nancy Ragin/yes; Roger Brock/yes; William Hutton/yes; Kathleen Hill/yes. 5 "Ayes", 0 "Nays", 0 "Abstentions", 0 "Absent". Motion carried.

COMMISSIONER COMMENTS

There were none.

STAFF COMMENTS

Mr. Poland reminded the Board to use their microphones and place them closer. Mr. Poland reviewed with the Board to include the conditions with the motion for approval. Mr. Poland stated there would be a March 28, 2023 meeting.

PUBLIC COMMENTS

There were none.

ADJOURNMENT

Chairperson Hill adjourned the meeting at 7:07 p.m.

PREPARED BY:



Shannon Morris-Smith
Secretary to the Board of Zoning Appeals

APPROVED BY THE BOARD OF ZONING APPEALS:



Kathleen Hill
Chairperson

Date Approved: 5/31/23