

BZA STAFF REPORT #1

PLANNING & BUILDING DEPARTMENT

Town of Avon, Indiana
6570 East U.S. Highway 36
Avon, IN 46123

Case Number: VAR 10-01
Case Name: Avant Gard / Bristol Properties, LLC
Report Date: February 18, 2010

GENERAL INFORMATION

A. Applicant: Bristol Properties, LLC
133 West Market Street #242
Indianapolis, IN 46204

B. Owners: Same

C. Requested Action: Variance of use to allow a salon & spa in a Light Industrial district.

D. Applicable Regulations: Section 12-11, permitted use table.

E. Exhibits:
1. Staff Report, 02/18/10
2. Location Map, 02/18/10
3. Applicant's Site Plan, 01/19/10

F. Staff Reviewer: Al Salzman

SITE INFORMATION

A. Location: 8131 Kingston Street (Avon Commerce Park)

B. Lot Size: +/- 2.75 Acres

C. Existing Land Use: Light Industrial Flex-Tenant Building

D. Existing Zoning: I-2, Light Industrial

E. Surrounding Land Use/Zoning:
North: Unimproved lots in industrial park
South: CSX rail yard
East: Light Industrial flex-tenant building
West: Light Industrial flex-tenant building

F. Related Petitions: None

PETITION HISTORY

The February 18, 2010 hearing represents the first public hearing for this petition.

This petition was submitted to the Planning and Building Department on January 19, 2010.

PROCEDURAL

- Notification of the February 18, 2010 public hearing was provided to abutting property owners in accordance the Rules of Procedure on or before February 8, 2010.
- Notice of the February 18, 2010 public hearing was published in the Hendricks County Flyer newspaper in accordance with the Rules of Procedure.
- Variance of Use requires a public hearing.
- The Board of Zoning Appeals may approve, conditionally approve, continue, or deny the requested variance. Any conditions should be determined through agreement of the BZA and the petitioner. Any continuance should also be determined through agreement of the BZA and the petitioner.
- A written Findings of Fact accompanies the petition.

SUMMARY

The request would provide for the use of the subject site as a salon and spa, a use not included in the list of permitted uses within the I-2 District. The subject site is currently improved with a light-industrial flex-tenant building, paved surface parking spaces and drive aisles, and landscaping.

Staff recommends denial of VAR(U) 10-01 because the findings of fact have not been satisfied as discussed below.

ANALYSIS

The subject site is a single parcel within a developed light industrial park, and consists of approximately 2.75 acres. The subject site is improved with a 25,000 square-foot, two story light industrial structure. A paved surface parking area with 36 standard spaces and two (2) ADA accessible spaces is located between the north face of the structure and the right-of-way of Kingston Street. A truck loading area and approximately 24 parking spaces are located to the rear of the structure, between the south face of the structure and the south property line. Storm water detention for the subject site is managed off-site, in a detention area designed to accommodate the storm water of the entire park.

The subject site is accessible at the north property line via two curb cuts from the public right-of-way of Kingston Street. The westernmost of these curb cuts straddles the west property line, and is shared with the property abutting to the west. The site is joined to an identical parcel, improved with an identical structure, immediately west of the subject site. Cross-access between these two parcels is possible via private drives without using the public right-of-way of Kingston Street.

The structure located upon the subject site is currently divided into four (4) separate tenant suites, each comprising approximately 6,250 square feet of area. One of the four tenant spaces appears to currently be occupied. The submitted petition proposes to occupy one tenant space with the Avant Gard hair styling salon, a use which is not permitted within the I-2 Light Industrial District. A related use, the Avant Gard hairstyling vocational school, would occupy a second tenant space. The related use is permitted by right, and would be permitted regardless of the outcome of this request.

CONSIDERATIONS

General Characteristics:

Light Industrial areas may have many characteristics that lend themselves favorably to commercial use. Because of the less-intensive nature of the uses typical in light industrial zoning, these areas may be

located closer to commercial centers, major roads, and residential areas than an industrial area of higher intensity would be. Many light industrial uses are characterized by a lower demand for the raw materials associated with heavier industrial districts, reducing objectionable characteristics such as outdoor storage or operations. It is also common for many light industrial uses to incorporate service, sales, and display areas into the facilities, typically resulting in traffic from customers and vendors at a higher volume than heavy industrial areas.

However, light industrial areas also feature characteristics that make them less suitable for commercial uses. Frontage on major thoroughfares may be limited, resulting in less visibility and inferior access when compared to established commercial areas. Signage associated with light industrial developments is typically of a lesser scale than an established commercial area, further compounding the visibility issues. Abutting tenants or properties used in a manner at the higher-intensity end of the permitted use spectrum may introduce unwanted side-effects such as noise and truck traffic at a level detrimental to commercial uses, potentially creating conflicts between property owners and tenants. Further, commercial parking ratios typically provide for a higher number of parking spaces than those usually found in industrial development standards.

Use Issues:

The terms of the I-2 Light Industrial district identify twenty-two (22) permitted uses as allowed by-right, and provide for another eighteen (18) through the Special Exception process. This allows for a wide range of potential uses within the subject site. The subject site is currently 25% occupied with compliant uses. The submitted petition identifies the intention of the petitioner to occupy an additional 25% of the subject site with a second compliant use.

Development Standards Issues:

The subject site is improved with approximately 25,000 square feet of structure, divided into four (4) tenant spaces. These spaces share approximately sixty (60) parking spaces, providing for a ratio of approximately fifteen (15) spaces per tenant space. The Town of Avon Zoning Ordinance establishes a requirement of one parking space per 250 square feet of floor area for retail establishments, which would result in a parking requirement of 25 spaces for the proposed use. While this may not be an immediate issue due to current vacancy, the potential for future parking disputes would be created by the grant of this request.

ADDITIONAL CONSIDERATIONS

The physical characteristics of the subject site (location, access, and developed parking area) are such that any impacts from overflow parking or additional traffic associated with the proposed use are likely only to disadvantage other tenants within the same structure. The property owner of the structure in question, through their consent to this petition, appears to be willing to accept any issues created through the enabling of the requested use at the subject site. Should the Board agree that any impact would be minor and limited to the property owner and their tenants, the Board could potentially find that the use and value of the area adjacent to the property would not be affected in a substantially adverse manner.

The proposed use likely would function in a manner complimentary to the use permitted by right in the underlying district (styling school), and could be considered secondary and accessory to the permitted use. Should the Board determine this to be the case, As such, the requested use (hair salon) could be considered a minor deviation from the terms of the ordinance and potentially be considered acceptable should the Board find an unnecessary hardship exists.

FINDINGS OF FACT

The Board of Zoning Appeals shall approve, conditionally approve or deny variances of use from the Avon Zoning Ordinance. A variance may be approved under IC 36-7-4-918.5 only upon a determination in writing that:

Finding #1 The approval is not injurious to the public health, safety, morals and general welfare.

Staff Finding: The requested approval would not be likely to be injurious.

Finding #2: The use and value of the area adjacent to the property would not be affected in a substantially adverse manner.

Staff Response: The requested approval has the potential to impact the use and value of adjacent properties in that use of the site in the requested manner may overwhelm the parking area associated with the facility.

Finding #3: The need from the variance arises from a condition peculiar to the property.

Staff Response: The requested variance does not arise from a condition peculiar to the property, as there is no inherent physical limitation or other constraint that would prohibit the subject site from being used in accordance with the terms of the I-2 District.

Finding #4: The strict application of the terms of the Avon Zoning Ordinance would constitute an unnecessary hardship if applied to the property.

Staff Response: The property is currently in use in accordance with the terms of the Avon Zoning Ordinance. The application also identifies the intention of petitioner to locate an additional compliant business within the same structure with no relief from the terms of the Avon Zoning Ordinance, thereby demonstrating that no unnecessary hardship exists.

Finding #5: The use does not interfere substantially with the Town's Comprehensive Plan.

Staff Response: The requested use would not interfere substantially with the Town's Comprehensive Plan.

RECOMMENDATION

The Town of Avon Staff makes the following recommendation:

Staff recommends that **VAR(U) 10-01, Bristol Properties, LLC, be denied**, subject to the staff Findings of Fact.

Submitted By:

Al Salzman, AICP

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Director, Avon Planning & Building