

AVON BOARD OF ZONING APPEALS
MEETING AGENDA

MEETING DATE: November 21, 2019

TIME: 7:00 PM

PLACE: AVON TOWN HALL COUNCIL CHAMBERS

1. Call to order/Pledge of Allegiance
 2. Roll Call/ Determination of Quorum
 3. Approval of Minutes: August 15 and October 17, 2019
 4. Request for Continuances or Agenda Modifications: None
 5. Public Comments: (Public may comment on items NOT part of a public hearing)
 6. Old Business: None
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7. New Business / Public Hearings:

DOCKET # VAR 19-16 – O’Reilly Automotive – 7752 Cobblesprings Drive
Development Standards Variance

A request for approval of a development standards variance to allow a reduction in side yard setback and to allow loading space in a front yard. The property is approximately 1.28 acres located at 7752 Cobblesprings Drive. The property is zoned SC and is within Tier 1 of the US Highway 36 Overlay District.

PETITIONER: O’Reilly Automotive Stores, Inc.

Other Business: 2020 Calendar
Signatures

Adjournment

Next Meeting: December 19, 2019

Note: This meeting will be held in the Town court room

VAR 19-16 O'Reilly Loading Zone– 7752 Cobblesprings Drive
Planning & Building Department Staff Report
November 21, 2019
Board of Zoning Appeals, Public Hearing
Jodi Dickey

- A. Petition Number: VAR 19-16 O'Reilly Automotive
- B. Applicant: O'Reilly Automotive Stores, Inc.
- C. Location: The subject property is located at 7752 Cobblesprings Drive, at the northwest corner of E US HWY 36 and Cobblesprings Drive. It is Lot 7 of the Avon Crossing Commercial subdivision
- D. Parcel Size: The subject parcel is approximately 1.28 acres.
- E. Land Use and Zoning: The parcel is zoned SC (shopping center) and lies within Tier 1 of the US Highway 36 Overlay District. Currently, Splash Car Wash occupies the site.
- Properties to the east and north are zoned SC and contain commercial and institutional uses. To the west, property is zoned C-2 and contains a multi-tenant retail structure. Directly to the south (across US 36), property is zoned C-2 and contains a commercial warehouse (Aqua Systems).
- F. Action Requested: Grant a development standards variance to allow less than the minimum side yard setback. Chapter 11 specifies all side yards for outlets in the SC zoning district must adhere to C-3 development standards (Chapter 10). In this case, the side yard setback is a minimum of 10'. Additionally, Chapter 23, Section 23-12, 7 states that loading areas may not be oriented to US Highway 36 or any other public street and be located behind the building.
- The appellant is proposing an infill project to demolish the existing Splash Car Wash and build a new retail store. The variance requests are necessary because the existing site conditions limit the amount of property available to construct the retail store along with other necessary site improvements.
That is the reason for these requests.
- Staff recommends approval of both requests based on the findings of fact.
- G. History: There have been previous requests for this site.
Previous appeals:
VAR(U) 14-07 to reestablish use for Splash Car Wash

This appellant has also received the following variance:
VAR 19-11 Landscaping buffer yard

H. Staff Comments:

The appellant proposes to remove the existing building and construct a new O'Reilly Auto Parts store.

Access to the site is via Cobblesprings Drive. This will continue to be the only access to the site.

Conceptual plans submitted by the appellant show the proposed building located in the northwest corner of the site. This is really the only spot on the lot that could meet the required setbacks and still provide required parking. The appellant previously submitted a plan that was compliant with the building setbacks. However, the owner has submitted new plans showing a slightly larger structure (7,400 sq. ft. vs. 7,228 sq. ft. originally). This change was necessitated by the requirement to have a brick building. The inside dimensions have not changed, but with the material change (metal to brick) the building's length and width increased. With the additional 172 sq. ft. the building now encroaches into the side yard setback to the north. The building could only be enlarged to the north due to front yard, landscaping, and parking requirements.

In addition to the setback encroachment, there is a truck loading/unloading area located on the eastern façade. The business receives delivery of inventory via semi truck and needs an area to unload. Because the site is within the US Highway 36 Overlay District, loading areas may not face a public street (in this case, US 36 and Cobblesprings Drive).

This project will be required to go through the plan commission process for plan approval prior to construction.

I. Statutory Findings for a Variance of Development Standard:

The Board of Zoning Appeals shall approve, conditionally approve or deny variances from the development standards (such as height, bulk, or area) of the Avon Zoning Ordinance. A variance may be approved under IC 36-7-4-918.5 only upon a determination in writing that:

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

Granting a variance to allow a reduction in the required sideyard setback will not be injurious to the general welfare of the community. The requested reduction in the setback area is along the north property line, where the parcel abuts the parking lot of the adjoining property. This will have no

negative impacts on health, safety, and welfare. Likewise, locating the truck unloading area in a front yard (facing Cobblesprings Drive) will not result in injurious impacts. The business receives inventory deliveries during overnight hours so will not impact business hours or times when other vehicles will be in the area. Staff considers this criterion to be met for both requests.

Criterion 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

Granting this variance should not adversely affect adjacent property uses or values. The parcel is commercially zoned and lies amidst commercial uses. Having the new building encroach into the side yard will not impact the adjoining properties at all. There is still adequate space between the proposed structure and the adjoining property's parking lot and existing building. There is still room to access O'Reilly's property for any ground or building maintenance that might be needed.

Because O'Reilly receives inventory deliveries only during off hours, vehicular and pedestrian circulation and parking for adjacent properties (as well as for O'Reilly) will not be negatively impacted.

Staff considers this criterion to be met for both requests.

Criterion 3: The strict application of the terms of the Avon Zoning Ordinance will result in practical difficulties in the use of the property

This property was platted and improved before the US Highway 36 Overlay District standards were adopted. Given the parcel size and configuration, there isn't a lot of room to locate the building and necessary loading improvements and maneuvering room. The Overlay District requires 80% masonry on all sides of new buildings. Because this finish material wasn't contemplated during the initial building design, the structure itself is larger than originally designed. If a variance to reduce the side yard setback is not granted the appellant would be required to seek a variance for other regulations or seek a waiver from the Plan Commission. Staff considers this criterion to be met for both requests.

Criterion 4: The variance requested is the minimum necessary

The request is the minimum necessary to construct the desired improvements on the site. Without this variance, meeting ordinance requirements for brick materials would necessitate reducing the size of the building or moving the building to the south. If the building is shifted on the site to provide a 10' setback, different variances would be needed (buffer yard, front yard, perhaps required landscaping).

There is no other location on site that can accommodate a semitrailer; the unloading area must be placed in the front yard along either Cobblesprings Drive or US Highway 36. Staff considers this criterion to be met for both requests.

Criterion 5: The need for the variance is not caused by the owner, previous or present

As previously noted, the property was platted and improved prior to the establishment of the US 36 Overlay regulations. These regulations make it more difficult to redevelop this site. The proposed layout offers the most efficient means to redevelop this site. Staff is sure any other use would need to also seek variances to develop.

Staff considers this criterion to be met for both requests.

CONDITIONS

Per IC 36-7-4-918.5, the Board may impose reasonable conditions as a part of the Board's approval.

J. Recommendation:

Because the appellant has met the findings of fact for all five criteria, Staff recommends approval of VAR 19-16.

VAR 19-16 O'Reilly- 7752 CobbleSprings Drive Location Map



Sample BZA Motion

AVON BOARD OF ZONING APPEALS

Approval of a development standards variance

Case Number: VAR 19-16, O'Reilly Landscaping– 7752 Cobblesprings Dr.

I move that we **approve** VAR 19-16, a development standards variance to allow less than the minimum side yard setback width and to allow an unloading area within a front yard within Tier 1 of the US Highway 36 Overlay District as **having** satisfied the requirements for variances under state law and subject to the approved Findings of Fact.

FINDINGS OF FACT

VARIANCE FROM THE DEVELOPMENT STANDARDS BOARD OF ZONING APPEALS AVON, INDIANA



Project Name: New O'Reilly Auto Parts Store

Requested Variance: Side Setback Variance: Chapter 11, table 11-3, Chapter 10, Table 10-3. And Variance for Loading Area Orientation Chapter 23, Section 23.12, and Chapter 15.

The petitioner seeking a variance from the development standards before the Avon Board of Zoning Appeals must answer the following three (3) questions and provide any documentation that may support the findings. (These may serve as the basis for the written Findings of Fact for this petition)

1. Will the approval be injurious to the public health, safety, morals, and general welfare of the community? (Please answer *yes* or *no* and state the reason[s] for your answer on the lines below.)

Side Setback Variance: No, The side of the property abutts an existing parking lot. Allowing the variance will leave minimum 5' between building and property line allowing space for building maintenance and landscaping.

Unloading Space Orientation: The space orientation will allow the entire truck/trailer to be on property when parked.

2. Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner? (Please answer *yes* or *no* and state the reason[s] for you answer on the lines below.)

Side Setback Variance: No. The minimum 5' space between building and property line will allow space for building maintenance and landscaping. Due to the masonry construction the building wall provides a 1 hr. fire wall.

Unloading Space Orientation: All deliveries occur at night. Trucks will rarely be seen.

3. Will the strict application of the terms of the Avon Zoning Ordinance constitute a practical difficulty if applied to the property for which the variance is sought? (Please answer *yes* or *no* and state the reasons[s] for your answer on the lines below.)

Side Setback Variance: Due to a strict 20' landscape buffer along US 36 and foundation plantings along the front of the building the depth of the lot does not allow for the minimum building size of 7,400 sq. ft.

Unloading Space Orientation: Any orientation will result in truck facing a highway due to being a corner lot.

4. Is the variance requested the minimum necessary? (Please answer *yes* or *no* and state the reason[s] for your answer on the lines below.)

Side Setback Variance: Yes, minimum building size is 7,400 sq. ft.

Unloading Space Orientation: Yes, size dictated by ordinance.

5. The need for the variance was not caused by the owner, previous or present. (Please answer *yes* or *no* and state the reason[s] for your answer on the lines below.)

Side Setback Variance: No. The current lot size existed when the property was rezoned to SC.

Unloading Space Orientation: No. The current lot size existed when the property was rezoned to SC.