

Speedway Variance Summary

Speedway LLC filed a variance application to two Code requirements. The first was to Section 1153.04(c)(4), rear yard setback standards within the Community Commercial (CC) zone district. CC zone district requires a minimum setback of 10'. The existing building, proposed cooler expansion, and a new cooler were either located or proposed to be located within the required setback. Previous variances were granted but none to deviate from the rear yard setback requirements.

The second variance is to Section 1165.04(a)(2) which prohibits animated, electronic message, or flashing signs. The applicants are requesting to change the existing price panels with LED price panels. The change is proposed to both pole signs, one fronting Agler Road, the other fronts Stygler Road. Changes to the size and height of the signs are not proposed.

The Planning Commission was in agreement that the variance to reduce the rear yard setback met the criteria of Section 1131.04 but they could not come to a consensus over the request to allow LED signs. Therefore, the Planning Commission made to separate motions. The first motion was to approve the variance to Section 1153.04(c)(4), rear yard setback. The variance to Section 1165.04(a)(2), prohibited signs, was denied.

It is important to note that the variances are subject to different criteria. The variance to allow LED signs is subject to Section 1165.12 which is as follows:

1165.12 VARIANCES AND APPEALS.

(a) Variance Procedure. This section shall not apply to temporary signs as defined in Section [1165.07](#) of this chapter.

(1) The standard for granting a variance which relates solely to area requirements is a lesser standard than that applied to variances which relate to use. An application for an area variance need not establish unnecessary hardship; it is sufficient that the application show practical difficulties.

In determining whether a property owner seeking an area variance has encountered practical difficulties, Planning Commission shall consider and weight the following factors.

- A. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
- B. Whether the variance is substantial;
- C. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
- D. Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, refuse);

E. Whether the property owner purchased the property with the knowledge of the zoning restriction;

F. Whether the property owner's predicament feasibly can be obviated through some method other than a variance;

G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance;

H. Whether the sign is sufficiently compatible with the architectural and design character of the immediate neighborhood and all graphic design standards established for the district; and

I. Whether the sign will be hazardous to passing traffic or otherwise detrimental to the public safety and welfare.

(2) In granting such variance, the Planning Commission may specify the size, type and location of the sign, and impose such other reasonable terms, restrictions and conditions as it may deem to be in the public interest.

(b) Appeals. Any person affected by any decision of the Planning and Zoning Administrator or the Planning Commission made pursuant to this chapter may file an appeal with the Board of Zoning and Building Appeals in accordance with the requirements of Section [1127.08](#) (Appeal of Administrative Orders).