

1. Agenda 7/21/2020

Documents:

[ADMINISTRATIVE ADJUSTMENT AGENDA JULY 2020.PDF](#)

2. Administrative Adjustment 20-03 Staff Report

Documents:

[ADMINISTRATIVE ADJUSTMENT 20-03 STAFF REPORT WITH ATTACHMENTS.PDF](#)



## **ADMINISTRATIVE ADJUSTMENT HEARING AGENDA**

**Tuesday, July 21, 2020, at 6 PM**

**Virtual Meeting:**

**[www.facebook.com/WestminsterMD](https://www.facebook.com/WestminsterMD)**

**[www.WestminsterMD.gov](http://www.WestminsterMD.gov)**

### **I. Call to Order**

**Statement of Authority-** Pursuant to Maryland Code Annotated, Land Use Article, Division 1, Single Jurisdiction Planning and Zoning, Title 4, Zoning, Subtitle 2, Designation and Adoption, Section 4-205 and the City of Westminster Zoning Ordinance Section 164-158.1 A. (1), "...the Planning Director [Director] is authorized to grant administrative adjustments from the following requirements contained in this chapter:

- (a) Local height requirements;
- (b) Local setback requirements;
- (c) Local bulk requirements;
- (d) Local parking requirements;
- (e) Local loading, dimensional, or area requirements; or
- (f) Similar local requirements.

The Director may grant an administrative adjustment in cases where the strict compliance with the requirements of this chapter would result in practical difficulty or unreasonable hardship which has not been caused by the applicant.

### **II. Public Hearings**

#### **CASE NO: 20-03**

An application by Mid-Atlantic Lubes, LLC (applicant), the contract purchaser, requesting approval of an Administrative Adjustment to the parking requirements of City of Westminster Zoning Ordinance Section 164-208 A. (4) and Section 164-111. The applicant is requesting that a parking space be provided in each of the four (4) service bay queuing lanes of a proposed service station to meet four (4) of the required 13 parking spaces. Nine (9) parking spaces are located on-site.

### **III. Adjournment**

Posted July 17, 2020



To: Mark A. Depo, Director of Community Planning and Development

From: Andrea Gerhard, Comprehensive

Hearing Date: July 21, 2020

Subject: **Administrative Adjustment Case #AA 20-03 Staff Memo**

Re: An application by Mid-Atlantic Lubes, LLC ("Applicant"), the contract purchaser, requesting approval of an Administrative Adjustment to the parking requirements of City of Westminster Zoning Ordinance Section 164-208.A.(10) and Section 164-111. The Applicant is requesting that a parking space be provided in each of the four (4) service bay queuing lanes of a proposed service station to meet four (4) of the required 13 parking spaces. Nine (9) parking spaces are located on-site.

**I. History and Facts**

On June 8, 2020, an administrative adjustment application was submitted to the Department of Community Planning and Development for the property located at 334 Gorsuch Road (SDAT# 07-111657), hereinafter referred to as the "Property". The Property is zoned B-Business. The Maryland State Department of Assessments and Taxation online records indicate the Property is owned by ABBEC Property, LLC. Mid-Atlantic Lubes, LLC is the contract purchaser.

**II. Notice**

On July 5, 2020, a Notice of Hearing appeared in the Carroll County Times. On July 7, 2020, the Property was posted with a Zoning Notice sign and a Notice of Hearing was sent to the Property owner and adjoining Property owners. On July 17, a copy of the agenda was posted on the City's website. These notices were provided to meet the notification requirements set forth in the Maryland Open Meeting Act and Section four of the Administrative Adjustment Procedures, as contained in Resolution No. R03-9.

**III. Authorization**

Pursuant to Maryland Code Annotated, Land Use Article, Division 1, Single Jurisdiction Planning and Zoning, Title 4, Zoning, Subtitle 2, Designation and Adoption, § 4-205 and § 164-158.1 A. (1), of the City Code, "...the Planning Director is authorized to grant administrative adjustments from the following requirements contained in this chapter:"

- (a) Local height requirements;
- (b) Local setback requirements;

- (c) Local bulk requirements;
- (d) Local parking requirements;
- (e) Local loading, dimensional, or area requirements; or
- (f) Similar local requirements.

**IV. Proposal**

On May 5, 2020, Board of Zoning Appeals (BZA) Meeting approved a Special Exception ([BZA Case #20-02](#)) for a Service Station (Valvoline Instant Oil Change Facility) at the Property. The request was subject to the provisions of Zoning Ordinance Section 164-42.S. and Section 164-149. It is the intent that all of the documentation from the May 5, 2020 BZA Meeting be entered into the record as part of this hearing.

**V. Process**

On July 14, 2003, the Mayor and Common Council adopted Resolution R03-9 that contains Administrative Adjustment Procedures. Under section five of the procedures, the Director may consider the factors set forth in § 164-161.A.(3), originally related to the BZA and which are as follows:

**Administrative Adjustment** to the parking requirements of Zoning Ordinance Section 164-111. Such administrative adjustment shall be authorized by the Director only upon a finding by the Director as follows:

1. There are exceptional or extraordinary circumstances or conditions applying to the Property in question or to the intended use of the Property that do not apply generally to other properties or classes of uses in the same zone;

The Applicant states that the Property is in a highly visible, intensely developed commercial corridor making it very desirable for business purposes, however, it is an unusually small parcel containing 0.49 acre not suited for high volume business uses. Its configuration is somewhat truncated at the entrance by land owned by the State Highway Administration for MD Route 140. The Property is constrained to the south and west by an existing building in close proximity to the southern boundary and a use-in-common driveway along the western boundary leading to its entrance at Gorsuch Road. The Property also has a rising topography to the rear which requires a retaining wall along parts of the southern and eastern boundary as shown on the Concept Site Plan. These conditions are not typically present on other properties or classes of uses in the Business Zone. The "intended use" is unique in that the customers remain in their vehicles while waiting to enter the service bays and during the actual services provided in the service bays.

2. Such variance is necessary for the preservation and enjoyment of substantial Property rights possessed by other properties in the same zone and in the same vicinity; and

The Applicant seeks a parking space credit within each of the four (4) proposed service bays, as shown on the site plan. As described in the Instant Oil Change Customer Experience document filed with the Application, customer vehicles are at all times either in the service bays or queued behind the bays waiting for service. The Applicant states that there is no need to duplicate parking spaces for customer vehicles in other parts of the site. Traditional parking spaces are only required for employees. This facilitates more room for traffic circulation around the site, and design space to accommodate oil delivery and removal trucks. This also facilitates the preservation and enjoyment of substantial Property rights by addressing the need for unobstructed access for the adjoining Property to the south and west presently, and in consideration of the possible future development thereof. The freeing up of space enables a full-size facility to meet public demand for Applicant's services while providing safe and free traffic circulation. It also allows compliance with the City's 10% landscape requirement in a manner shown on the concept landscape plan to provide considerable screening under challenging grades along the adjoining Property to the south.

3. The authorizing of such variance will not be of substantial detriment to adjacent properties and will not materially impair the purpose of this chapter or the public interest.

The Applicant states that there will be no detriment to adjacent properties due to this Administrative Adjustment. It simply avoids unnecessary paved and striped space for which there is no need. Presumably, the relevant purpose of this chapter is to provide for sufficient parking. This parking in question is provided in the form of queuing spaces due to Applicant's unique service model.

## **VI. Findings of Facts and Conclusions of Law**

Staff recommends that the Director consider the following as findings of fact and conclusions of law:

### Finding 1

- The Applicant has stated that service customers do not leave their vehicles.

### Conclusion

- The four parking spaces that are being requested are more like staging or que spaces rather than actual parking spaces. The attendants will be continually moving cars into and out of the service bays. Cars will not be parked in these four spaces for a long period of time.

### Finding 2

- The Applicant is claiming that the Property is constrained to the south and west by an existing building near the southern boundary and a use-in-common driveway along the western boundary leading to its entrance at Gorsuch Road. The Property also has a rising topography to the rear which requires a retaining wall along parts of the southern and eastern boundary.

### Conclusion

- The constraints represent an exceptional condition for this Property, which do not apply generally to other properties in the same zone. This scenario is an example of the kinds of hardship that are widely recognized as legitimate bases for granting variances. By citing Zoning Ordinance Section 164-161 A (3), City Code directs attention to the variance process as a model.

### Finding 3

- Pending the outcome of the hearing on July 21, 2020, the Applicant is claiming there will be no known detriments to adjoining Property owners. The BZA recently held a hearing regarding this case. Testimony was given by a representative of an adjoining Property owner showing their support for such project.

### Conclusion

- Authorizing this adjustment would not result in any detriment or impairments to adjoining Property owners.

## **VII. Recommendation**

Staff recommends approval of the proposed Administrative Adjustment, per § 164-158.1 of the City Code.

Legal representation for the Applicant has requested that BZA Case 20-02 go back before the BZA for a rehearing regarding errors within the written BZA decision from the May 5, 2020 meeting. The decision from this meeting is currently suspended. Any approvals that are a result of this July 21, 2020 hearing will be conditioned upon resolution of this error regarding the written decision for BZA Case 20-02.

## **Attachments**

1. Site location aerial map
2. Zoning Ordinance relevant to the Administrative Adjustment

cc: Barbara B. Matthews, City Administrator Elissa D. Levan, City Attorney

### **§ 164-205 Purpose.**

The purpose of this article is to ensure the City that proposed development is in conformity with the intent and provisions of the land use controls and the Comprehensive Plan for Westminster and to avoid inequities and to guide the City in the issuance of building permits.

### **§ 164-206 Applicability.**

The provisions of this article shall apply to any new, expanded or remodeled use within all zones, and no zoning certificate or building permit shall be issued therefor except in accordance with an approved site plan.

### **§ 164-207 Approval required.**

A site plan containing the information set forth in § 164-208 or 164-209 shall be filed with and approved by the Planning Director as provided in § 164-211 prior to the issuance of a zoning certificate.

### **§ 164-208 Contents of site plan.**

[Amended 1-28-2008 by Ord. No. 774]

- A. Fifteen copies of the site plan shall be filed with the Planning Director, may cover all or any part of a lot or tract and shall contain the following information, drawn at a consistent scale:
- (1) The location of the tract by an insert map at a scale of not less than one inch equals 2,000 feet and such information as the names and numbers of adjoining roads, streams and bodies of water, railroads, subdivisions, election districts or other landmarks, sufficient to clearly identify the location of the property.
  - (2) A boundary survey of the tract.
  - (3) A certificate setting forth the source of title of the owner of the tract and the place of record or the last instrument in the chain of title, if such certificate has not been provided with a development plan.
  - (4) All existing and proposed streets and easements, their names, numbers and widths; existing and proposed utilities; watercourses and their names; the owners, zoning and present use of adjoining tracts if not previously submitted with a development plan; and the Tax Map/parcel number, current zoning, parking required/provided, structure use and plan preparer.
  - (5) All existing and proposed buildings and their location, size, height and proposed use.
  - (6) Setback requirements and spaces between buildings.
  - (7) Signs, their location, size and height.
  - (8) The location, type and complete dimensioning of vehicular entrances to the site.
  - (9) The location, type, size and height of fencing, retaining walls, lighting and screen planting where required under the provisions of this chapter.
  - (10) All off-street parking, loading spaces and walkways, indicating type of surfacing, size, angle of stalls and width of aisles, and a specific schedule showing the number of parking spaces provided and the number required in accordance with Article XVI, including connection with adjacent developments and dimensions of landscaped areas and type of curbing.

- (11) All locations and sizes of proposed water and sewer installations or proposed additions to existing water and sewer installations, as well as any design features which are unusual or which deviate from normal design practices. The proximity to the nearest hydrant and its area of coverage shall also be shown.
- (12) Provisions for the adequate disposition of natural and storm water in accordance with the duly adopted design criteria and standards of the City, indicating locations, sizes, types and grades of ditches, catch basins and pipes and connections to the existing drainage system. Copies of all pertinent calculations and assumptions relative to the storm drainage design, to include the delineation and consideration of the off-site contributing watershed and affected areas, and provisions for sediment control and/or stormwater retention, which are to be incorporated in all phases of construction, shall accompany the site plan submissions for review by the City and the Soil Conservation District.
- (13) Existing topography with a maximum of two-foot contour intervals; where the existing ground is on a slope of less than 2%, either one-foot contours or spot elevations where necessary, but not more than 50 feet apart in all directions.
- (14) A drainage area map, to a usable scale.
- (15) The proposed finished grading by contours supplemented where necessary by spot elevations. All horizontal dimensions shown on the site plan shall be in feet and decimals of a foot to be closest to 1/100 of a foot; and all bearings in degrees, minutes and seconds shall be to the nearest 10 seconds. Closure shall be within acceptable survey tolerances, a minimum of 1:10,000.
- (16) A proposed construction schedule. If the project is proposed to be built in phases, the schedule shall specifically identify the timing for each phase. The schedule shall also show the timing for any dedication for utilities, roads, open areas and recreational facilities. The schedule must be approved by the Director and by the Planning Commission as a part of their site plan approval and the approved schedule shall establish the validity period for the entire project, including any phasing.

[Added 10-27-2008 by Ord. No. 788]

- B. The Planning Director may also require such other information as the Director deems necessary to comply with the purposes of this section and this chapter.

[Amended 10-27-2008 by Ord. No. 788]

### **§ 164-209 Simplified site plan.**

- A. Upon the determination by the Zoning Administrator and the Planning Director, with the concurrence of all appropriate agencies, a simplified site plan may be filed by the owner/occupant of a proposed single-family detached dwelling, an accessory building, a temporary use, an addition to or change of use for a commercial or industrial structure or for a special exception use which does not require a building permit in those cases where a field inspection indicates that the scope of the proposed accessory building, addition or special exception use is of such nature that the provisions for the handling of natural and storm water, sediment control, off-street parking, setbacks, water and sewerage and other requirements can be adequately addressed with a simplified site plan. Said site plan may be approved by the Zoning Administrator and the Planning Director upon concurrence of all appropriate agencies, except that approval of industrial use site plans shall be in accordance with other sections of this chapter.
- B. The simplified site plan shall contain the following information:
- (1) An accurate sketch of the lot drawn to scale.
  - (2) The present record owner of the property.
  - (3) A vicinity map.

**§ 164-111 General provisions and requirements.**

- A. For the following uses of buildings hereinafter erected or increased from the size existing at the time of the adoption of this chapter, off-street parking facilities which are outside the public right-of-way shall be required as provided herein.
- B. Parking standards. Off-street parking facilities shall be provided for uses in zones, must not be more than 300 feet in distance from an entrance to said uses, shall accommodate normal parking requirements and shall meet the standards listed below.
- C. Parking facilities in Central Business Zone; benefit assessment charge and annual maintenance fee. As to all construction or uses, including residential uses, commenced in the Central Business Zone after the effective date of this section, to the extent that the Planning Director determines that the size, configuration or other physical characteristic of the site of the planned use makes it impossible for the user to meet the standards in this section, thereby creating a hardship, the Planning Director may, in the Planning Director’s discretion, upon application from the user, allow a reduction in the number of spaces; provided, however, that the user shall pay the City a one-time benefit assessment charge and an annual maintenance fee for each space the user is not able to provide under the standards in this section as provided in the General Fee Ordinance.<sup>[1]</sup>

[Amended 2-27-1995 by Ord. No. 594; 4-14-1997 by Ord. No. 617; 9-24-2001 by Ord. No. 672; 7-12-2004 by Ord. No. 718; 1-28-2008 by Ord. No. 774; 11-24-2008 by Ord. No. 792]

**Parking Standards  
(number of spaces)**

**Type of Use**

Residential

Single-family detached and semidetached

2 per dwelling unit, minimum of 9 x 18 feet in size per space

Single-family attached

3 per dwelling unit, minimum of 9 x 18 feet in size per space

Multiple-family units

1 per efficiency unit; 1 1/2 per 1-bedroom unit; 2 for 2- or more-than-2-bedroom units

Multiple-family housing for older persons

1 1/2 per dwelling unit up to 2 bedrooms, 2 per dwelling unit with more than 2 bedrooms

Nonresidential

Airparks, airports and fields requirements. Land uses incidental to air flights are subject to other parking standards contained in this chapter.

Subject to state and federal site

Animal hospitals, veterinary clinics and kennels

1 per employee, plus 1 per business vehicle, plus 1 for each 300 square feet of floor space used for hospital, clinic, office, storage or other purposes

Automobile service stations

2 per bay and 1 per employee shift

Barbershops and beauty shops

1 per employee, plus 2 per each chair

Bowling centers

4 per lane and 1 per employee

Commercial establishments devoted to retail sales, trade, merchandising or similar uses not otherwise specified herein

1 for each 250 square feet of floor area used for retail sales, trade or merchandising, and 1 for each 300 square feet of floor space used for office, storage or other purposes

Convents and monasteries

1 for each 250 square feet of floor space, plus 1 per institutional vehicle

**Type of Use**

Country clubs, private clubs, social clubs and fraternal organizations

Fire stations, rescue stations and ambulance services

Food stores, supermarkets and roadside stands

Funeral homes and mortuaries

Furniture and appliance stores and repair shops

Government buildings and public buildings

Home occupations

Hospitals, nursing, care or retirement homes

Hotels, motels, lodging houses and boarding- (lodging) or rooming houses

Indoor shooting ranges

Manufacturing establishments not otherwise specified herein

Medical and dental offices and clinics

Nightclubs and taverns

Offices: business, professional or financial

Places of worship

Radio and television studios

Recreation facilities and centers

Research and development establishments, including laboratories

**Parking Standards****(number of spaces)**

1 per 4 persons of estimated facility capacity, plus 1 per employee and 1 per facility vehicle and piece of mobile equipment

1 per 1 1/2 employees on a major shift, plus 1 per facility vehicle, plus 1 per piece of mobile equipment, plus 1 for visitor's use per 5 employees on the maximum shift

1 per 200 square feet of floor area devoted to customer service

1 for each 100 square feet of floor area devoted to assembly room purposes, plus 1 per 2 employees, plus 1 for each vehicle used in connection with the business

1 per 500 square feet of floor area, plus 1 for each employee

1 for each 250 square feet of floor area or 2 per office, whichever is greater

1 in addition to spaces devoted to use by the residents

1 for every 4 beds or 1 per 600 square feet of floor area, exclusive of basement area not devoted to patients, whichever is greater

1 for each rental room or suite. In addition, if a restaurant in connection with such use is open to the public, the off-street parking facilities for such restaurant shall be those required for a restaurant use.

1 per employee and 2 per each shooting and 1 for each 250 square feet of floor area used for accessory retail sales

1 per 1 1/2 employees on a major shift, plus 1 per company vehicle and piece of mobile equipment

4 per doctor, plus 1 per employee or 1 for each 200 square feet of office space, whichever is greater

1 per 4 seats or 1 per 75 square feet of floor area devoted to customer service, plus 1 per employee, whichever is greater

1 for each 250 square feet of floor area or 2 per office, whichever is greater

1 for each 3 fixed seats, provided that the number of spaces required may be reduced by up to 50% if the place of worship is within 500 feet of any public parking lot or commercial parking lot where sufficient spaces are available, by permission of the owner(s) without charge, during the time of services to make up the additional spaces required

1 for each 250 square feet of floor area or 2 per office, whichever is greater

1 per 4 persons of estimated facility capacity, plus 1 per employee and 1 per facility vehicle and piece of mobile equipment

1 per 1 1/2 employees based on the occupancy load, plus 1 per company vehicle

## Parking Standards

### (number of spaces)

#### Type of Use

Restaurants and lunchrooms

1 per 4 seats, plus 1 per 2 employees

Schools

Subject to State Board of Education site requirements

Sport centers or arenas, auditoriums not associated with schools, theaters, private assembly halls and community meeting halls

1 per 3 seats or similar accommodations provided, plus 1 per 2 employees

Swimming pools, commercial

1 per 4 persons of estimated pool maximum capacity, plus 1 per employee

Swimming pools, community

1 per 7 persons of estimated pool maximum capacity, plus 1 per employee

Taxi stations

1 for every 3 taxis using the station

Truck and motor freight terminals

1 per motor vehicle to be serviced by the facility, plus 1 per employee. With the exception of parking spaces for employees, all motor vehicle spaces shall be of a size adequate for the type of vehicle serviced by the terminal.

Utility facilities, including telephone offices and service centers

1 per 1 1/2 employees on a major shift, plus 1 per company vehicle and piece of mobile equipment, plus 1 for visitors use per 25 employees on the maximum shift, or 1 per 1,000 square feet of gross floor area

Warehouses, heavy equipment storage yards, lumber- and building materials yards and all other industrial uses

1 per 1 1/2 employees on a major shift, plus 1 per company vehicle and piece of mobile equipment, plus 1 for visitor's use per 25 employees on the maximum shift, or 1 per 1,000 square feet of gross floor area

Wholesale establishments

1 per 2 employees

[1] *Editor's Note: See Ch. A175, Fees, Art. I, General Fees.*

- D. [2] Parking facilities in Downtown Parking Area; benefit assessment charge and annual maintenance fee. As to all construction or uses, including residential uses, commenced in the Downtown Parking Area after the effective date of this section, to the extent that the Planning Director determines that the size, configuration or other physical characteristic of the site of the planned use makes it impossible for the user to meet the standards in this section, thereby creating a hardship, the Director may, in the Director's discretion, upon application from the user, allow a reduction in the number of spaces; provided, however, that the user shall pay the City a one-time benefit assessment charge of and an annual maintenance fee for each space the user is not able to provide under the standards in this section as provided in the General Fee Ordinance.<sup>[3]</sup> Additionally, there is hereby granted a reduction in the number of required parking spaces of 25% for all construction or uses, commenced in the Downtown Parking Area after July 1, 2004. The Downtown Parking Area shall be designated on a map adopted by resolution of the Mayor and Common Council.

[Added 7-12-2004 by Ord. No. 718; amended 1-28-2008 by Ord. No. 774; 11-24-2008 by Ord. No. 792]

[2] *Editor's Note: Former Subsections D, E and F were redesignated as Subsections E, F and G to accommodate the addition of a new Subsection D.*

[3] *Editor's Note: See Ch. A175, Fees, Art. I, General Fees.*

- E. All off-street parking and loading facilities required by this article for any use shall be located on and entirely within the same record lot with that use, unless otherwise provided for in this article.
- F. Requirements for the provision of parking facilities with respect to two or more property uses of the same or different types may be satisfied by the permanent allocation of the requisite number of spaces for each use in a common parking facility, cooperatively established and operated. The number of spaces so designated may not be less than the sum of the individual requirements for each use, except as hereinafter provided, and all design requirements contained in this article must be met. A common parking facility so established must be located so