

GREENWOOD BOARD OF ZONING APPEALS  
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**Members Attending**

Phil Tinkle, Carmen Madsen, Ken Knartzer, Lucy Bartley, Vickie Peters, Shawna Koons, City Attorney; Bill Peeples, Planning Director; and Janice Nix, Recording Secretary

The meeting was called to order at 6:00 p.m. by Phil Tinkle, Chairman.

**Approval of Meeting Minutes**

October 10<sup>th</sup> – Knartzer noted Vickie Peters was listed twice in the attendance list. Knartzer moved to approve the minutes as amended, seconded by Bartley. Vote: Ayes (5-0). **MOTION CARRIES.**

**Special Requests/Continuances**

None.

**Findings of Fact**

None.

**Old Business**

**Docket V2016-019 – Use Variance – Speedway Fuel Station** – Located at NE corner of SR 135 & Stones Crossing – requests a use variance of the State Road 135 Corridor Overlay District to provide for the construction of a gasoline service station (gasoline service stations not permitted). – Speedway LLC, petitioner; NE Corner 135, LLC, owner.

Roy Chamberlin and Mike Bergman were sworn, as well as several members of the audience.

Public hearing was opened.

Roy Chamberlin presented preliminary plans of the proposed gas station. He explained the overlay zone does not allow gas stations. Speedway has been considering putting a gas station at this location since 2013. They have spoken with adjacent property owners concerning making access available from this site. A short overview of the Speedway company was given. Once constructed this location will provide 15-20 new jobs.

Mike Bergman came forward. The building will be approximately 3,900 sq. ft. There will be 7 fueling stations with a total of 14 pumps. A conceptual site plan was presented.

Statutory criteria was addressed by the petitioner as follows:

1. **Criteria:** The approval will not be injurious to the public health, safety, morals, and general welfare of the community because: **Answer:** The proposed convenience store fills a need for a convenience store to serve northbound SR 135 motorists. Northbound SR 135 motorists would not be required to make left turns (across oncoming traffic) to access the proposed convenience store. The proposed Speedway store's site will be designed to provide safe vehicular and pedestrian circulation. Speedway employs state-of-the-art safety measures in its fuel storage systems.
2. **Criteria:** The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because: **Answer:** The proposed store's site is currently occupied by a boarded up house. The proposed Speedway store will improve the site with brand new

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construction that is compatible with the adjacent development. Speedway's intent is to meet the City's requirements for architectural requirements and landscaping.

3. **Criteria:** The need for the variance arises from some condition peculiar to the property involved because: **Answer:** There is a gap in the availability of convenience stores in the subject portion of SR 135 for northbound SR 135 motorists. The majority of visits to convenience stores are by customers who stop at the convenience store on their way to some other final destination. The location of the proposed Speedway store will be a safe and convenient stop for motorists who will be traveling to the blossoming development along the SR 135 corridor.
4. **Criteria:** The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought because: **Answer:** The proposed Speedway convenience store will be compatible with the other commercial development in the vicinity. The proposed Speedway store will support, by serving motorists visiting the other nearby commercial establishments, the economic stability of those businesses.
5. **Criteria:** The approval does not interfere substantially with the Comprehensive Plan because: **Answer:** The proposed Speedway store will be compatible with, and supportive of, the other businesses in the vicinity.

The floor was opened for remonstrance.

Randy Goodin, 1157 Central Park Blvd, Grwd, came forward. He asked what safety measures Speedway uses for id checks for alcohol purchases. He also expressed concern about the cleanliness of the facility.

Marsha Isbell, owner of property at 1764 Stones Crossing Rd, Grwd. came forward. She is planning to open a real estate office on her property. She feels a gas station is not a good fit for the surrounding businesses.

Mike Caito came forward. He stated he is representing the Schoettle family who are property owners in the area. He stated they are not in favor of approval of the variance.

Mike Campbell, 1237 Shady Creek Dr, Grwd. came forward. He is a member of the Greenwood City Council. He distributed copies of the proposed amendments to the overlay zone(s) that are being considered at the Plan Commission meeting this evening. He asked that any approval by this board this evening should include those amendments as a condition.

Rebuttal was given by Chamberlin. He stated id's are extensively checked for alcohol purchases, that cleanliness would be addressed and he confirmed there are a total of 14 pumps proposed.

Public hearing was closed.

Attorney Koons advised the members that since an amended staff report had been distributed they would need to approve the admission of it. Knartzer moved to admit the amended staff report into the record, seconded by Madsen. Vote: Ayes (5-0). **MOTION CARRIES.**

Knartzer stated he struggles with the proof of hardship in the criteria. Tinkle agreed. He asked Chamberlin to offer more information about #3 & #4 in the criteria concerning the hardship if the gas station is not approved. Chamberlin stated he agreed that the area is a little underdeveloped. He argued that Speedway is not just a gas station, they are also a convenience store and café

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Knartzer moved to admit into the record all evidence presented in regard to this matter, including the notices, receipts, maps, photographs, written documents, Petitioner's application and attachments, Petitioner's Detailed Statement of Reasons, the Staff Report prepared by the Planning Department, certified copies of the Zoning Ordinance and Comprehensive Plan, testimony of the Petitioner, City planning staff and any Remonstrators, and all other exhibits presented, be they oral or written, for consideration by the Board in regard to the petition, and to include the testimony of those present this evening, seconded by Madsen. Vote: Ayes, (5-0). **MOTION CARRIES.**

Knartzer moved to deny V2016-019, request to allow a gas station in the overlay zone, due to lack of supporting criteria, seconded by Bartley. Vote: Ayes (5-0). **MOTION CARRIES**

Knartzer moved that having considered the statutory criteria that we direct the Corporation Counsel's Office to draft written Findings of Fact, regarding our decision approving the revocation of Variance Petition Number V2016-019, said Findings to specifically incorporate the staff report and the evidence submitted into the record, for consideration and adoption by the Board of Zoning Appeals as our final decision and final action regarding this Petition at our next meeting, seconded by Madsen. Vote: Ayes (5 -0). **MOTION CARRIES.**

**Old Business From the Floor**

None.

**New Business**

**Docket V2016-021 – Development Standards Variance Revocation – Chirico Media** – Located near the southwest corner of the intersection of McColgin Drive with Graham Road. – requests a revocation of dimensional (development standards) variance, V2015-005, which requested a variance of the Greenwood Sign Code to provide for the demolition of an existing conventional billboard and the construction of a new digital billboard within 500 feet of an interchange (not permitted). – Planning Director, petitioner; County Line 101 Partners, owner.

The public hearing was opened.

Bill Peeples, Planning Director, came forward and was sworn.

He gave the following presentation:

On April 13, 2015, Chirico Media requested a variance of development standards to provide for the construction of a digital billboard on property at the southwest corner of County Line Road and Graham Road. The variance was necessary, because the proposed location was within 500 feet of an interstate interchange. As part of this proposal, the petitioner intended to remove an existing billboard that was also within 500 feet of the interchange but grandfathered, because it existed prior to the construction of the interchange in 1998. Subsequent to the approval of the variance request, the property came under contract and the prospective owners wished to retain the existing billboard on the site. Since V2015-005 was conditioned upon the removal the existing sign, the petitioner was unable to construct this new billboard.

In 2016, Chirico Media requested a variance of development standards (V2016-005) to construct a digital billboard on property occupied by OrthoIndy, a medical use immediately south of the property that was the subject of V2015-005. This variance was necessary because the proposed billboard would be located 872 feet from existing billboard to the north (1000 feet distance between billboards) and located within 500 feet of an interstate interchange (500-foot separation from an interstate interchange required). The Board of Zoning Appeals approved this variance with three commitments, one of which was that V2015-005 be revoked.

This petition is filed by the Director in order to accomplish the commitment of V2016-005.

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It is the Director's opinion that the perpetuation of V2015-005 will be injurious to the public health, safety, morals, and general welfare of the community because it could allow two digital billboards and a conventional billboard within a space of 872 feet and immediately adjacent to an interstate interchange. This spacing would increase distractions along Interstate 65 in proximity to an interchange, resulting in a higher probability of distracted driving in an area of the Interstate where merging and lane changes are common. This would exacerbate an unsafe condition to the travelling public.

It is the Director's opinion that the perpetuation of V2015-005 will affect the use and value of the area adjacent to the property included in the variance in a substantially adverse manner, because the proliferation of billboards along the Interstate above that permitted by the Ordinance along I-65, would detract from the high-quality aesthetic that is intended by the Interstate 65 Corridor Overlay District.

It is the Director's opinion that the perpetuation of V2015-005 will not result in practical difficulties in the use of the property, because the conventional billboard that is grandfathered and was to be removed upon the construction of the digital billboard approved under V2015-005 will be retained.

The public hearing was closed.

Knartzer moved to admit into the record all evidence presented in regard to this matter, including the notices, receipts, maps, photographs, written documents, Petitioner's application and attachments, Petitioner's Detailed Statement of Reasons, the Staff Report prepared by the Planning Department, certified copies of the Zoning Ordinance and Comprehensive Plan, testimony of the Petitioner, City planning staff and any Remonstrators, and all other exhibits presented, be they oral or written, for consideration by the Board in regard to the petition, and to include the testimony of those present this evening, seconded by Peters. Vote: Ayes, (5-0). **MOTION CARRIES.**

Knartzer moved to approve V2016-021, the revocation of variance V2015-005, seconded by Bartley. Vote: Ayes (5-0). **MOTION CARRIES.**

Knartzer moved that having considered the statutory criteria that we direct the Corporation Counsel's Office to draft written Findings of Fact, regarding our decision approving the revocation of Variance Petition Number V2015-005, said Findings to specifically incorporate the staff report and the evidence submitted into the record, for consideration and adoption by the Board of Zoning Appeals as our final decision and final action regarding this Petition at our next meeting, seconded by Peters. Vote: Ayes (5-0). **MOTION CARRIES.**

**New Business From the Floor**

None.

**Announcements/Reports**

None.

**Adjournment**

Madsen moved to adjourn, seconded by Peters. Vote: Ayes (5-0). **MOTION CARRIES.** Meeting adjourned at 7:00 p.m.

  
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Janice Nix  
Recording Secretary

  
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Phil Tinkle  
President