



Department of Planning and Economic Development
 Staff Report to the Planning Commission

September 9, 2011

2020 S. Rochester Road Gas Station	
REQUEST	40 foot rear yard setback variance (from west and south property lines)
APPLICANT	GS Gas Inc. 24472 Northwestern Highway Southfield, MI 48075
AGENT	Mr. Tarek Gayar
LOCATION	Southwest corner of Rochester and Hamlin Roads
FILE NO.	99-028
PARCEL NO.	15-27-226-012
ZONING	B-5 Automotive Business District
STAFF	Jim Breuckman, AICP, Manager of Planning

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Site Description

The subject site is located at the southwest corner of the Rochester and Hamlin Road intersection. The subject site is zoned B-5 (Automotive Business). The property to the west and south is zoned B-2 (General Business), while properties at the other 3 corners of the intersection are all zoned B-3 (Shopping Center Business). The site has an area of 18,082 square feet.

Requested Variance

A variance of 40 feet from Chapter 138, Section 138-5.100, Schedule of Regulations, of the Code of Ordinances, which requires a 50 foot rear yard setback in the B-5 Automotive Business zoning district.

Summary

In the B-5 district a front yard setback is required from any street. As the site is a corner lot, front yard setbacks are required from the north and east property lines. A rear yard setback of 50 feet is therefore required from the west and south property lines. Footnote J to the schedule of regulations allows the Planning Commission to reduce the rear yard setback requirement to 25 feet where property lines abut a non-residential zoning district.

The applicant is requesting a 40 foot variance from the required 50 foot front yard setback. The variance, if granted, will permit the construction of a new building with 10 foot setbacks. This item was a discussion item at the Planning Commission's September 6 meeting. As reflected in the attached minutes from that meeting, the Planning Commission indicated it is amenable to reducing the setback requirement to 25 feet at this site, so the Zoning Board of Appeals may consider granting a 15 foot variance as the minimum necessary variance.

The City of Rochester Hills Zoning Ordinance authorizes the Zoning Board of Appeals to vary or modify the Ordinance where there is a practical difficulty or unnecessary hardship in the way of carrying out the strict letter of the Ordinance.

The applicant is requesting a non-use variance. A non-use variance is a variance granted to provide relief from a specific standard in the Ordinance, which usually relates to an area, dimensional or construction requirement or limitation. To obtain a non-use variance, an applicant must present proof that a practical difficulty exists, and the practical difficulty must relate to a unique circumstance of the property, as distinguished from a personal circumstance or situation of the applicant.

The submitted application identifies the criteria to be granted a variance and the applicant's reasons for the request. A potential motion will be provided for your review the night of the meeting.

Site Zoning History

The subject site was initially developed in 1970, and was developed according to the Zoning standards in effect at the time. In 1970 there were just three B districts (B-1, B-2, and B-3), and the site was zoned B-3. In 1977 Avon Township enacted a new Zoning Ordinance that created the B-4 and B-5 zoning districts.

	Property Line			
	East	North	West	South
Existing setback	75 feet	69 feet	35 feet	34 feet
B-3 Requirement (1970)	40 feet	0 feet	20 feet	0 feet
B-5 Requirement (1977)	75 feet	75 feet	50 feet	50 feet
B-5 Requirement (Today)	75 feet	75 feet	50 (25) feet	50 (25) feet

The above table makes clear that the property was developed in conformance with the Zoning standards in effect at the time. However, the City's 1977 creation of the B-5 district with its much larger setbacks and rezoning of the site from B-3 to B-5 rendered the site nonconforming.

The effect of the City's creation of a new B-5 district was to prevent the improvement or redevelopment of many gas station sites throughout the City, a restriction that persists despite recent amendments that allow the Planning Commission to reduce setback requirements in the B-5 district.

Analysis

Section 138-2.407 provides criteria for determining if a practical difficulty exists. The applicant has submitted correspondence in his submittal documentation explaining the reason for the requested variance.

1. Nearly all gas stations in the City are nonconforming with respect to one or more of the dimensional requirements of the Ordinance (refer to the attached table showing the status of compliance for all B-5 sites). It is clear that most gas stations in the City were developed prior to the existing dimensional standards being in effect.
2. The applicant's requested 10-foot rear yard setback is comparable to the existing side and rear yard setbacks at a number of existing gas stations in the City. Thus, granting the variance will do substantial justice to the applicant and other property owners within the district.
3. A lesser 15-foot variance will provide substantial relief to the applicant in light of the Planning Commission's discussion at its September 6 meeting.
4. The plight of the applicant is due to circumstances that are unique to sites zoned B-5 that were developed prior to 1977. These sites were developed according to a set of dimensional standards that are much less restrictive than exist today.
5. The applicant wishes to replace a functionally obsolete commercial building with a contemporary and economically viable building. His problem is not self-created as it was Avon Township that imposed much more restrictive setback requirements in 1977, rendering the site nonconforming and further, precluding the future expansion or reconstruction of the building.

Attachments

- Survey of B-5 district sites' compliance with current Ordinance standards.
- Planning Commission minutes, September 6, 2011.