

Board of Zoning Adjustment Staff Report

June 7, 2021



Case No:	21-VARIANCE-0041/21-VARIANCE-0055
Project Name:	11701 Gateworth Way
Location:	11701 Gateworth Way
Owner(s):	Bennett Realty, LLC
Applicant:	Drake Real Estate Services – Jon Hauser
Jurisdiction:	City of Middletown
Council District:	20 – Stuart Benson
Case Manager:	Joel Dock, AICP, Planner II

REQUEST(S)

- **Variances**

1. 21-VARIANCE-0041 – **Variance** from LDC, section 5.3.5 to reduce the front setback along a private access easement from 25' to 15'
2. 21-VARIANCE-0055 – **Variance** from Land Development Code (LDC), section 5.3.5 to reduce the expressway setback from 50' to 25' at its closest point

CASE SUMMARY/BACKGROUND

The proposal will convert an existing motorcycle dealership to an electric vehicle dealership and expand the current areas for parking and display onto an abutting vacant tract of land. The subject property is on the north side of Interstate-64 and abuts the west-bound entrance from Blankenbaker Parkway. It is accessed from a private street. An associated revised detailed district development plan is on the agenda for the Development Review Committee on June 2, 2021.

STAFF FINDING

The variances appear to be adequately justified based on staff's analysis contained in the staff report. The proposed setbacks are consistent with existing development and no adverse impacts would appear to result from these variances.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE (1)

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect public health, safety, or welfare as the setback does not impede the safe movement of vehicles or pedestrians.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity as the setback falls in line with existing development along the private access easement.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public as the proposal does not affect public, health, safety, or welfare or the essential character of the general vicinity.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of zoning regulations as the setback is consistent with existing development along the private road.

ADDITIONAL CONSIDERATIONS:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance arises from special circumstances that do not generally apply to land in the vicinity as the development is located along a private roadway and abuts the expressway on-ramp.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land as the setback is consistent with existing development.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the site has not been developed and relief is being sought.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE (2)

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect public health, safety, or welfare as the setback does not impede the safe movement of vehicles or pedestrians.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity as the setback falls in line with existing development along the expressway.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public as the proposal does not affect public, health, safety, or welfare or the essential character of the general vicinity.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of zoning regulations as the setback is consistent with existing development and the regulations was not in place when the existing development occurred.

ADDITIONAL CONSIDERATIONS:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance arises from special circumstances that do not generally applicable to land in the vicinity as the regulation was not in place when the existing development occurred, and the setback abuts the on-ramp and not the travel lane of the main expressway.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land as the setback is consistent with existing development and the encroachment is for a minimal area to maintain consistency with existing development.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the site has not been developed, relief is being sought, and the existing development which is to be expanded was built prior to the enactment of this regulation.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **Variances**:
 1. 21-VARIANCE-0041 – Variance from LDC, section 5.3.5 to reduce the front setback from 25' to 15'
 2. 21-VARIANCE-0055 – Variance from Land Development Code (LDC), section 5.3.5 to reduce the expressway setback from 50' to 25' at its closest point

Tract	Permitted (height – feet / area – square feet)	Requested (height – feet / area – square feet)
Tract 1 (parkway)	6/60	9/72
Tract 2 (parkway)	6/60	9/72
Tract 3 (parkway)	6/60	9/72
Tract 4 (parkway)	6/60	9/72
(collector)	8/60	9/72
Tract 5	6/60	No signage requested
Tract 6 (parkway)	6/60	16/120
(collector)	12/100	16/120

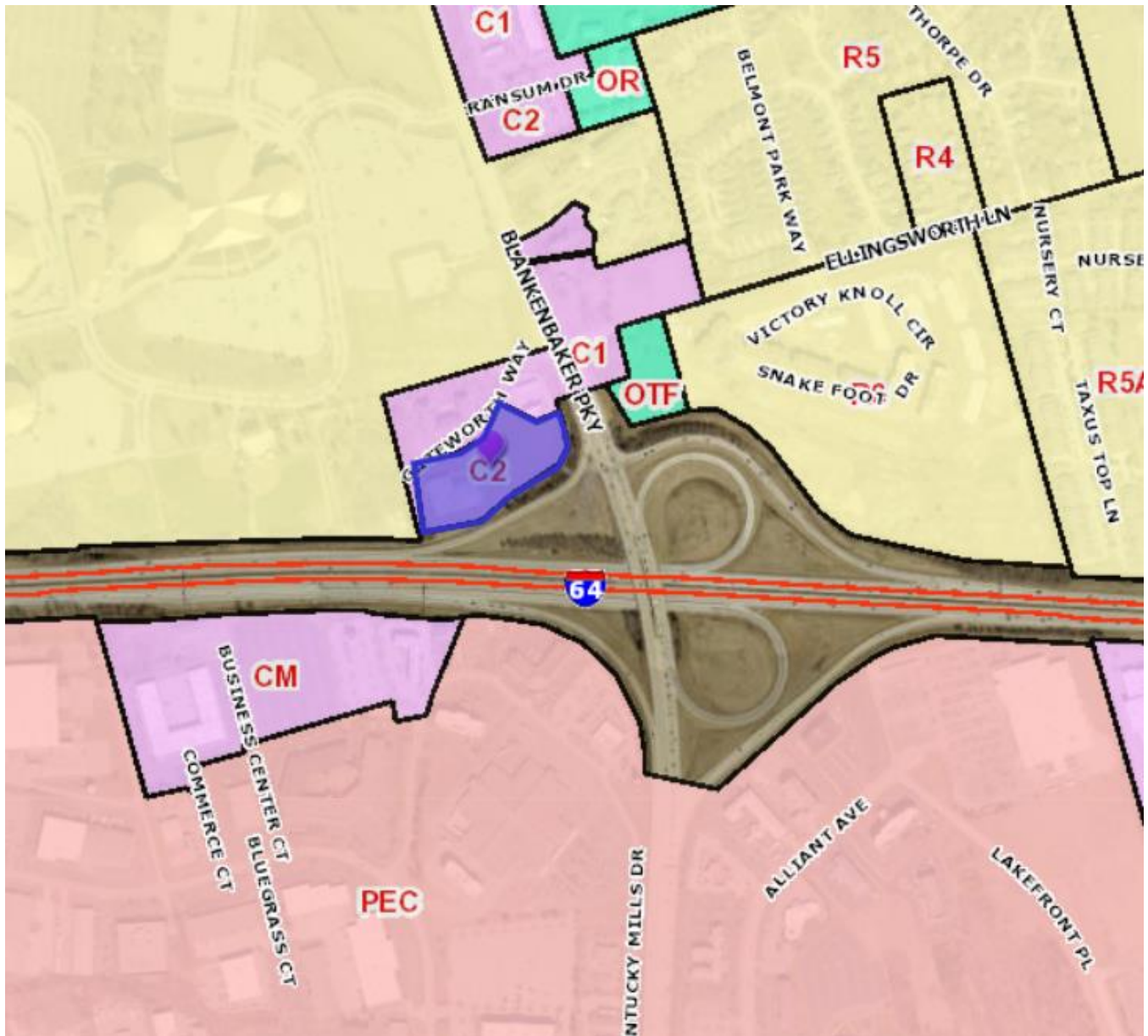
NOTIFICATION

Date	Purpose of Notice	Recipients
5/21/21	Hearing before BOZA	1 st tier adjoining property owners Speakers at previous public hearings Registered Neighborhood Groups in Council District 20

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

