

**STAFF REPORT FOR CONDITIONAL USE & VARIANCE REQUESTED FROM
PLANNING COMMISSION**

MARCV 2015-16: NATIONAL STATION, LLC

REQUESTED CONDITIONAL USE

1. A parking lot, accessory to the adjacent business use, in a Planned Neighborhood Residential (R-3) zone.

REQUESTED VARIANCES

1. To reduce the required 100' setback for the portion of the buildings that have overhead doors in a Wholesale & Warehouse (B-4) zone to 53 feet from an adjacent residential zone.
2. To reduce the required rear yard from 32 & 28 feet to 5 feet for the portion of the property that abuts an adjacent residential zone.

ZONING ORDINANCE

Article 8-11(j) (by reference to 8-8(o)), require the minimum rear yards in the Two Family Residential (R-2) zone to be a minimum of 20% of the lot depth when the property is located within the defined Infill & Redevelopment Area.

Article 8-12(d)(6) allows a parking lot as a conditional use in the Planned Neighborhood Residential (R-3) zone, as permitted in Article 16-3.

Article 8-21(o)(1) requires that all buildings and structures in a Wholesale and Warehouse (B-4) zone shall be at least 100 feet from any residential zone, unless the portion of the building has no openings except stationary windows and doors that are designed and intended solely for pedestrian access.

Article 15-3 requires a greater side or rear yard setback when two lots abut and one of the lots has a greater side or rear yard setback. In such case, the greater of the setback requirements apply to both properties.

Article 16-3 states: "The establishment and operation of a restricted accessory parking area may be authorized by the Board of Adjustment as a conditional use in such parts of any Planned Neighborhood Residential (R-3) zone, High Density Apartment (R-4) zone or High Rise Apartment (R-5) zone as abut, either directly or across an alley, a Professional Office or business (except B-2B) zone or any conforming or non-conforming institutional use in a particular residential zone, subject to the following conditions and requirements:

- (a) The parking area shall be accessory to and for use in conjunction with one or more permitted uses located on an adjoining Professional Office or business (except B-2B) zone, or in connection with one or more existing conforming or non-conforming institutional uses on adjoining premises.
- (b) Such parking shall be situated on premises not less than 5,000 square feet in area which shall abut at least fifty (50) feet, either directly or across an alley, on a Professional Office or business (except B-2B) zone, or on the premises of the existing conforming or non-conforming institutional use to which the parking area is accessory.
- (c) Such parking area shall be used solely for the parking of passenger automobiles. No commercial repair work or service of any kind shall be conducted, and no charge shall be made for parking. No sign of any kind, other than designating ownership, entrances, exits, and conditions of use, shall be maintained on such parking area. Such signs shall conform to the zone in which the parking area is established.

- (d) Each entrance and exit to and from such parking area shall be at least twenty (20) feet distant from any adjacent lot line located in any residential zone.
- (e) The parking area shall be subject to all requirements of this Zoning Ordinance concerning surfacing, lighting, landscaping, screening, and minimum yards and setbacks.
- (f) Any permit issued by the Division of Planning for such parking area may be revoked any time that the aforementioned requirements are not complied with; and any permittee who uses the premises in violation of any of the conditions specified above, or attached as conditions to such permit by the Board of Adjustment, shall be deemed in violation of this Zoning Ordinance.

CASE REVIEW

The appellant is requesting a conditional use permit to construct and operate a parking lot in a Planned Neighborhood Residential (R-3) zone, as accessory to the adjacent business uses. Two variances have also been requested in the Wholesale and Warehouse (B-4) zoned portion of the project. The first is to reduce the required rear yard from 32' & 28' to 5' to accommodate the construction of a new commercial building. The second variance is to allow this new building to have overhead doors within 53 feet of the nearby residential zone, rather than the 100' feet required by the Zoning Ordinance. Several property addresses are involved in these requests: 334, 340, 342, & 346 Richmond Avenue and 949 National Avenue.

The project area, known as National Station, is about 4 acres in size. The majority of the project is zoned B-4, and the lot known as 334 Richmond Avenue is currently zoned R-2 but is requesting a zone change to R-3 at this time. The property owner has filed a development plan for the overall redevelopment of the area in conjunction with this zone change request for 334 Richmond Avenue. This request for a parking lot as a conditional use is directly related to the larger plans for redevelopment, as it is necessary to meet the minimum required parking for the development. Therefore, it is most appropriate to discuss this use before the requested variances.

The property at 334 Richmond Avenue appears to be well suited for the proposed parking lot. It can, potentially, accommodate up to 22 parking spaces, meeting all the requirements for landscaping and parking lot design. The lot is currently vacant, but did contain a building and a large gravel parking lot until recently. Historical information about this property is difficult to find, but it is clear that there have been uses on this property that would not typically be developed in the existing R-2 zone. Apparently the addresses of this particular piece of land have also changed over time; but it appears from research that some records on this property can be found as 334, 336, and 338 Richmond Avenue. The staff could not find one definitive record, but apparently in the past this property has been used as a warehouse, a landscaping business, and an apartment building housing 3 dwelling units. This somewhat explains why the property today contains such a large area of gravel. Approving the requested conditional use for a new parking lot, designed to meet all the current criteria for parking lot design and maintenance, will not only benefit the overall redevelopment project, but will provide a land use buffer from the uses in the more intense B-4 zone for the nearby neighborhood. Utilities and sanitary sewers will not be necessary for the construction of a parking lot, and the street infrastructure, including the sidewalk, is adequate for the proposed use. Storm water controls will be required to be installed per the Engineering Manuals.

The two requested variances for the new buildings apply to the larger B-4 zoned portion of the project, located at the corner of Richmond Avenue and National Avenue. A major feature of this redevelopment is the recent closure of a public street, formerly known as White Avenue, and now known as 342 Richmond Avenue. Other than the former street, the majority of this 4-acre site is already covered with gravel, which was left from former industrial uses of the site. As this site is redeveloped, the gravel will be replaced with new buildings and an asphalt parking lot. The parking in this project is expected to change over time until there is a full build-out of the proposed development. The Board of Adjustment recently approved a conditional use for a sports training facility in one of the remaining 10,000 square-foot warehouses on the portion of the property known as 340 Richmond Avenue. The BOA required a minimum of 36 parking spaces for that use, but allowed the business and the property to have flexibility in the location and how the

parking is to be provided. Given that the busiest times for this use are after normal business hours, it is expected that they will establish joint parking agreements with the other future users in the development, which would allow more than one entity to utilize the parking spaces, but at different times of day.

These buildings abut several residential properties on Marne and Owsley Avenues. These residential properties, being within the Infill & Redevelopment Area, have a rear yard setback requirement of 20% of their lot depth, which this development must match (by Article 15-3.) Therefore, the required setbacks for the proposed commercial buildings would be 32' and 28' along the respective boundaries. The applicant requests a variance to 5'.

The nearest residential structures on Marne Avenue are about 90 to 100 feet away from these buildings and are about 60 to 80 feet away along Owsley Avenue. Still, the proposed 5' building setback is a stark departure from the Zoning Ordinance requirement, which is generally about 30 feet. The staff recommends a larger setback than 5' because the allowable uses in the B-4 zone do have some potential to generate noise and other nuisances to the surrounding residential properties. The staff also considered that the full required building setback distance would not necessarily result in a better design for this project or for the adjacent neighbors. This site could be redesigned to have the buildings moved forward; but at a 30' distance, the space will likely be used for pedestrian (or possibly vehicular) access, which could inadvertently permit a more disturbing activity near the property line than the building itself. If the back walls of the building are insulated, and a 15-20 foot landscape buffer area is provided, the building itself could augment a greater buffer to the neighborhood than meeting the minimum requirement. The main drive aisle on the other side of these buildings appears to be excessively wide and could be narrowed to provide the additional distance at the back of the buildings, with a minimal loss of floor area.

There is one other section of the Zoning Ordinance that would require a greater setback for a portion of these buildings. In the B-4 zone, the only openings permissible within 100' of a residential zone are stationary windows and pedestrian-sized doors. Overhead doors are proposed for each of the units in this development; so those portions of the building that are within 100' of the residential zone require a variance.

According to the applicant, at its closest point, an overhead door is proposed to be 53' from the nearest residential zone. The purpose of the distance requirement is clearly to protect nearby residential uses from potential nuisances that could be generated by the allowable uses in the Wholesale & Warehouse business zone. Once again, through proper design, it is possible to accomplish this same performance goal of the Zoning Ordinance without strictly adhering to the 100' minimum distance requirement. If the solution for rear and side yard requests are that the rear wall of the buildings be insulated and without operable windows, it stands to reason that the solution would also be appropriate to allow the overhead doors on the walls that are to be facing outward and away from the residentially zoned properties.

The standard distance for the required landscape buffer area between any business zone and any residential zone is a 15' wide area, which can be reduced to a 5' landscape buffer area with the installation of a 6' tall privacy fence or wall. Staff recommends at least 15' building setback for the rear and side yards along the southern and eastern property lines where it is adjacent to the residential properties. Since it is possible that this project will be built in phases, the staff recommends that the appropriate length of this buffer be installed with the development of each of the two buildings, such that the entire buffer is complete upon completion of the two buildings.

Granting approval of the conditional use for the parking lot is appropriate and should not negatively affect the subject property or other properties in the general vicinity. A modified setback variance, which would be less than the applicant has requested but more than the Zoning Ordinance requires, is appropriate for this development in order to provide reasonable protection for the surrounding properties.

The Staff Recommends: **Approval** of the requested conditional use, for the following reasons:

- a. Granting the requested conditional use should not adversely affect the subject or surrounding properties. The proposed parking lot will be used in conjunction with the adjacent business use and is

to be designed to meet all of the requirements concerning design, landscaping, storm water, and maintenance. Although difficult to document, there have been at least some non-conforming uses of this property in the past; and, according to the applicant, the previous owner had used this lot as a parking lot. Approval of the conditional use will incentivize the applicant to make improvements that will better the visual quality and the functionality of this use.

- b. All necessary public services and facilities are available and adequate to the subject site, although the proposed use of a parking lot is not expected to have a need for many of these services.

The Staff Recommends: Approval of 1) side and rear yard variances to a minimum set back of 15 feet from the property line; and 2) Approval of the overhead door variance from 100' to 53', for the following reasons:

- a. Granting these reduced variances should not adversely affect the public health, safety or welfare, nor alter the character of the general vicinity, provided the buildings are set back a minimum of 15 feet from residential properties to lessen the impact of potential uses on the neighboring properties.
- b. A 15' landscape buffer required, in conjunction with buildings that are designed to mitigate the potential negative effects of noise and other nuisances, is a special circumstance that contributes to justifying a reduction in the required side and rear yards at this corner location.
- c. Strict application of the Zoning Ordinance would result in a significant loss of buildable area, but will not necessarily result in a better outcome for either the subject property or the adjacent residential properties, since access could be made in the more open areas.
- d. The appellant has worked to design a redevelopment that is both functional and in compliance with landscaping requirements and other provisions regulating development in the B-4 zone. A more limited variance than has been requested, should not be interpreted as circumvention of the Zoning Ordinance.

These recommendations of approval is made subject to the following conditions:

1. Should the subject property be rezoned to R-3, it shall be developed according to the submitted Zoning Development Plan, or as further amended by the Planning Commission, with at least a 15' side and rear yard setback along the residentially zoned properties.
2. All necessary permits, including a Zoning Compliance Permit, Building & Paving permits, shall be obtained from the Divisions of Planning and Building Inspection prior to any construction, and prior to occupancy of the new facilities.
3. The parking lot and driveway shall be paved, with spaces delineated, and landscaped/screened in accordance with Articles 16 and 18 of the Zoning Ordinance.
4. The final design of the parking lot, access drive and internal circulation shall be subject to review and approval by the Division of Traffic Engineering.
5. A storm water management plan shall be implemented in accordance with the requirements of the adopted Engineering Manuals, subject to acceptance by the Division of Engineering.
6. A landscape buffer area shall be provided along all property boundaries adjacent to any residential zone and shall include, at a minimum, a 6' tall fence or hedge, and 1 tree every 40 linear feet as required in Article 18-3 of the Zoning Ordinance.
7. At a minimum, the walls of the new buildings that are within 53' of a residentially zoned property shall be constructed using only stationary windows and pedestrian access doors, and also constructed with insulation & drywall (or similar construction techniques) to provide a sound barrier.