

**BOARD OF ZONING APPEALS DIVISION I**

**December 3, 2024**

**Case Number:** 2024UV1024A  
**Property Address:** 4723 South Emerson Avenue (*approximate address*)  
**Location:** Franklin Township, Council District #24  
**Petitioner:** CFT NV Developments LLC, by Ross McArthur  
**Current Zoning:** C-S  
**Request:** Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the installation of a pylon sign, being the third freestanding sign along Emerson Avenue, within 105 feet and 200 feet of existing signs (maximum of two pylon signs permitted, 300-foot separation required).  
**Current Land Use:** Commercial  
**Staff Recommendations:** Staff recommends **denial** of the request.  
**Staff Reviewer:** Michael Weigel, Senior Planner

**PETITION HISTORY**

At the November 7, 2024 hearing of Division I, the original request was split into part A (related to the pylon sign) and part B (related to the drive-thru signage). 2024UV1024B was approved 3-0; however, 2024UV1024A received an indecisive 2-1 vote and was automatically continued to the December 3, 2024 hearing date. A revised rendering was submitted to staff on November 14<sup>th</sup> indicating small reductions in height and square footage (this proposed sign is shown within the Exhibits and would have a larger area and equal height to an older sign in a similar location). Staff indicated to the applicant that placement of a monument sign in this close of proximity could be supportable but that placement of a new pylon or pole sign would not gain staff support. The petitioner was not amenable to this compromise.

**STAFF RECOMMENDATION**

Staff recommends **denial** of the pylon sign request.

**PETITION OVERVIEW**

- 4723 South Emerson Avenue is improved with a Panda Express restaurant that is currently under construction (the zoning permit ILP23-01055 was issued earlier this year). The subject site also recently had the signage permit SGN24-00473 approved for wall signs, two (2) drive-thru menu signs, and other incidental, freestanding signage. The property is surrounded by a bank to the north, other restaurants to the south and west, and self-storage buildings to the east.

- Previously, this site contained an office building associated with the self-storage use to the east. It also contained a freestanding pole sign with a digital display component advertising the storage use that had a total area of 101 square feet. This sign was removed from the property during the construction process of the Panda Express restaurant (see site photographs within the Exhibits).
- In August of 2024, another sign permit application was made for this site involving the installation of a new pylon sign as well as canopies for the drive-thru areas that would contain additional signage (see elevations within Exhibits). This pylon sign would be larger, taller, and have wider sign base supports than the previously installed pole sign. It would also be placed slightly to the southwest of the original sign's location within 300 feet of two other primary freestanding signs along the shared frontage. The zoning ordinance limits drive-thru signage to one sign per drive lane, so none of these three signs could be legally placed absent approval of this variance petition.
- This case was originally docketed with a reference to a digital display on the pylon sign. A digital display had been included on the elevation rendering provided for the sign permit application but was not included on the most recent set of plans showing solely an internally illuminated sign; the digital display request has been removed from the request text. Additionally, this property is integrated with the lot to the south (5115 Shear Avenue) due to the shared common-site facility of their entrance drive. This is why the proposed sign area of 227 square feet would be allowed and is also why the variance for the number and proximity of signs would be required.
- The property is currently zoned C-S per the terms of the rezoning petition 2004ZON152 to allow for self-storage warehouses as well as some uses typically found within C-3 zoning. The Comprehensive Plan recommends it to the Community Commercial working typology for low-intensity commercial uses that serve nearby homes.
- Findings of fact submitted along with this application indicate that this variance should be approved since the proposed pylon sign would be replacing an "existing sign" with the "same sightlines". Staff disagrees with this statement: in addition to being both larger and taller than the previous pole sign on this property, the proposed location as shown on the site plan would be closer to both signs along the shared Emerson frontage. The existence of an older sign that did not meet current standards is not a site-specific practical difficulty justifying grant of a variance.
- Staff notes that the proposed order canopy would be allowed at the height of 10 feet if there was no associated signage. The proposed size of the sign area on the canopies is only 4.25 square feet (which would be substantially smaller than the maximum size of 40 square feet allowed for drive-thru signs) and would exclusively serve to provide information to maximize the efficiency of the drive-thru. Since the proposed signs would provide minimal disruption for surrounding properties, would be limited in scope to helping motorists know where to order and would be placed upon canopies that are otherwise compliant, staff is supportive of this minor deviation.
- Regulations on primary freestanding signage along shared frontages exist to reduce potential distractions for motorists navigating busy multi-lane streets. Placement of large multi-tenant signs is a common solution to allow for the promotion of multiple businesses. The property to the south



of the subject site contains a freestanding sign with an area of 150 square feet and multiple empty tenant panels that is only 105 feet from the proposed sign location. Given that C-4 zoning allows for multiple types of compliant advertising signs (i.e. wall signs) and that ordinance rules are specifically designed to prevent the sort of visual clutter toward which this sign would contribute, staff would recommend denial of the request for a third freestanding sign of this size.

**GENERAL INFORMATION**

<b>Existing Zoning</b>	C-S	
<b>Existing Land Use</b>	Commercial	
<b>Comprehensive Plan</b>	Community Commercial	
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Surrounding Context</b>
	North:	C-3 North: Commercial
	South:	C-4 South: Commercial
	East:	C-S East: Commercial
	West:	C-3 West: Commercial
<b>Thoroughfare Plan</b>		
Emerson Avenue	Primary Arterial	110-foot existing right-of-way and 112-foot proposed right-of-way
Shear Avenue	Private Street	50-foot existing right-of-way
<b>Context Area</b>	Metro	
<b>Floodway / Floodway Fringe</b>	No	
<b>Overlay</b>	No	
<b>Wellfield Protection Area</b>	No	
<b>Site Plan</b>	09/20/2024	
<b>Site Plan (Amended)</b>	N/A	
<b>Elevations</b>	09/20/2024	
<b>Elevations (Amended)</b>	11/14/2024	
<b>Landscape Plan</b>	N/A	
<b>Findings of Fact</b>	09/20/2024	
<b>Findings of Fact (Amended)</b>	N/A	

## COMPREHENSIVE PLAN ANALYSIS

### Comprehensive Plan

- Marion County Land Use Plan Pattern Book

### Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends this site to the Community Commercial working typology to allow for low-intensity commercial and office uses within freestanding buildings or small integrated centers that serve nearby neighborhoods. Small-scale personal or professional services are a contemplated land use for this typology.

### Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

### Neighborhood / Area Specific Plan

- Not Applicable to the Site.

### Infill Housing Guidelines

- Not Applicable to the Site.

### Indy Moves

(Thoroughfare Plan, Pedestrian Plan, Bicycle Master Plan, Greenways Master Plan)

- Not Applicable to the Site.

## ZONING HISTORY

### ZONING HISTORY – SITE

**2023HOV001**, Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide a restaurant use with a bypass lane with a 4.25-foot north side setback (10-foot setback required) and with 30 parking spaces (maximum 24 parking spaces permitted), **approved**.

**2010MOD006**, Modification of Commitments, related to petition 2004-ZON-152, to modify portions of Commitment Two to eliminate the tree preservation requirement along the east property line and to provide for the landscape plan submitted to the file, **approved**.

**2006APP127**, Approval to MODIFY Commitments, related to 2004-ZON-152 to modify Commitment One to provide for development in accordance with a new site plan, file-dated, August 18, 2006; and Approval of a MODIFICATION OF SITE PLAN, related to 2004-ZON-152 to provide for the development on the site consisting of nine buildings, a communications tower, and a retention pond, **withdrawn**.

**2004ZON152**, Rezoning of 5.7 acres to the C-S zoning district to provide for a self-storage warehouse development and business operation and also a C-3 neighborhood commercial use, **approved**.

**2000UV2029**, variance of use of the Commercial Zoning Ordinance to provide for the warehousing of clothes, housewares, hardware, and other similar items (not permitted) within an existing commercial building, **approved**.

### ZONING HISTORY – VICINITY

**2020CVR803 ; 4805 S Emerson Avenue (south of site)**, Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for 65 parking spaces, 18% transparency on the south elevation and 16% transparency on the north elevation and to permit a 10-foot tall monument sign within 105 feet of an existing integrated center sign (maximum 46 parking spaces permitted, 40% transparency required within 50 feet of a public entrance and 300-foot sign separation required), **approved**.

**2015DV3054 ; 4805 S Emerson Avenue (south of site)**, Variance of development standards of the Sign Regulations to provide for a 20-foot tall freestanding sign, within 115 of an existing freestanding sign to the north (300 feet of separation required), **approved**.

**2015ZON081 ; 4705 S Emerson Avenue (northeast of site)**, Rezoning of 1.23 acres from the C-3 district to the C-S classification to provide for the expansion of an existing self-storage facility, **approved**.

**2011DVB003 ; 4810 S Emerson Avenue (southwest of site)**, VARIANCE of DEVELOPMENT STANDARDS of the Sign Regulations to provide for a 99-square foot free-standing identification sign located 143 feet and 233 feet from other existing free-standing signs (minimum 300-foot separation required), **approved**.

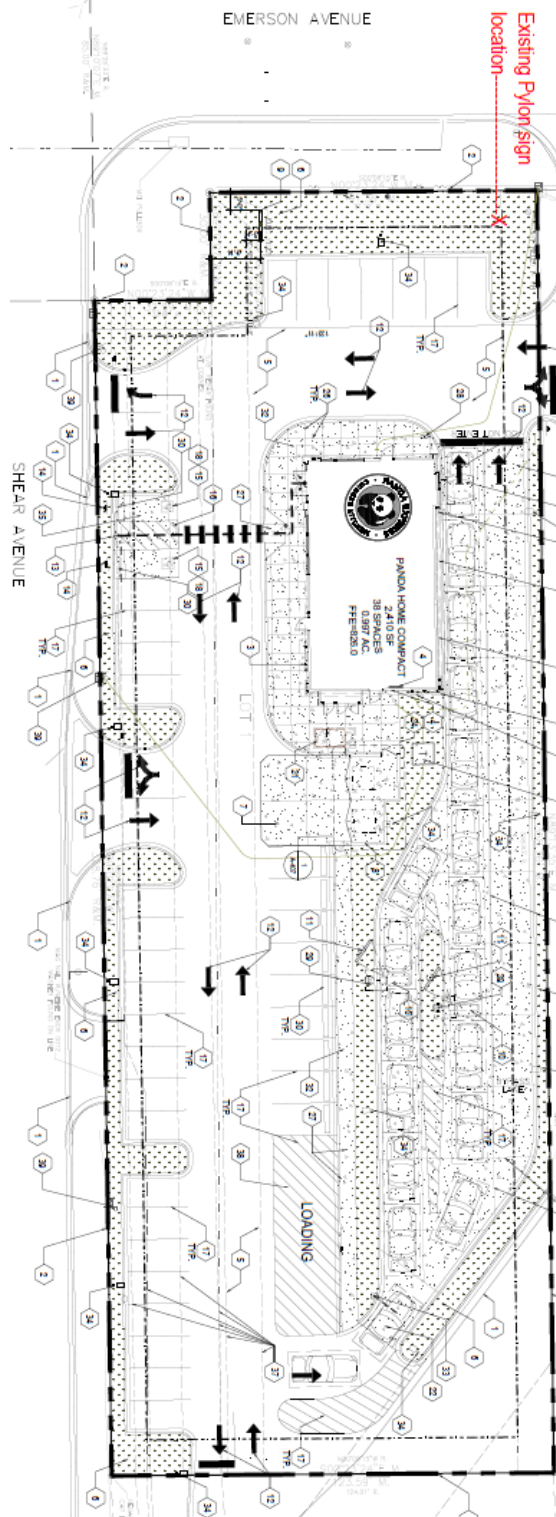
**EXHIBITS**

**2024UV1024 ; Aerial Map**



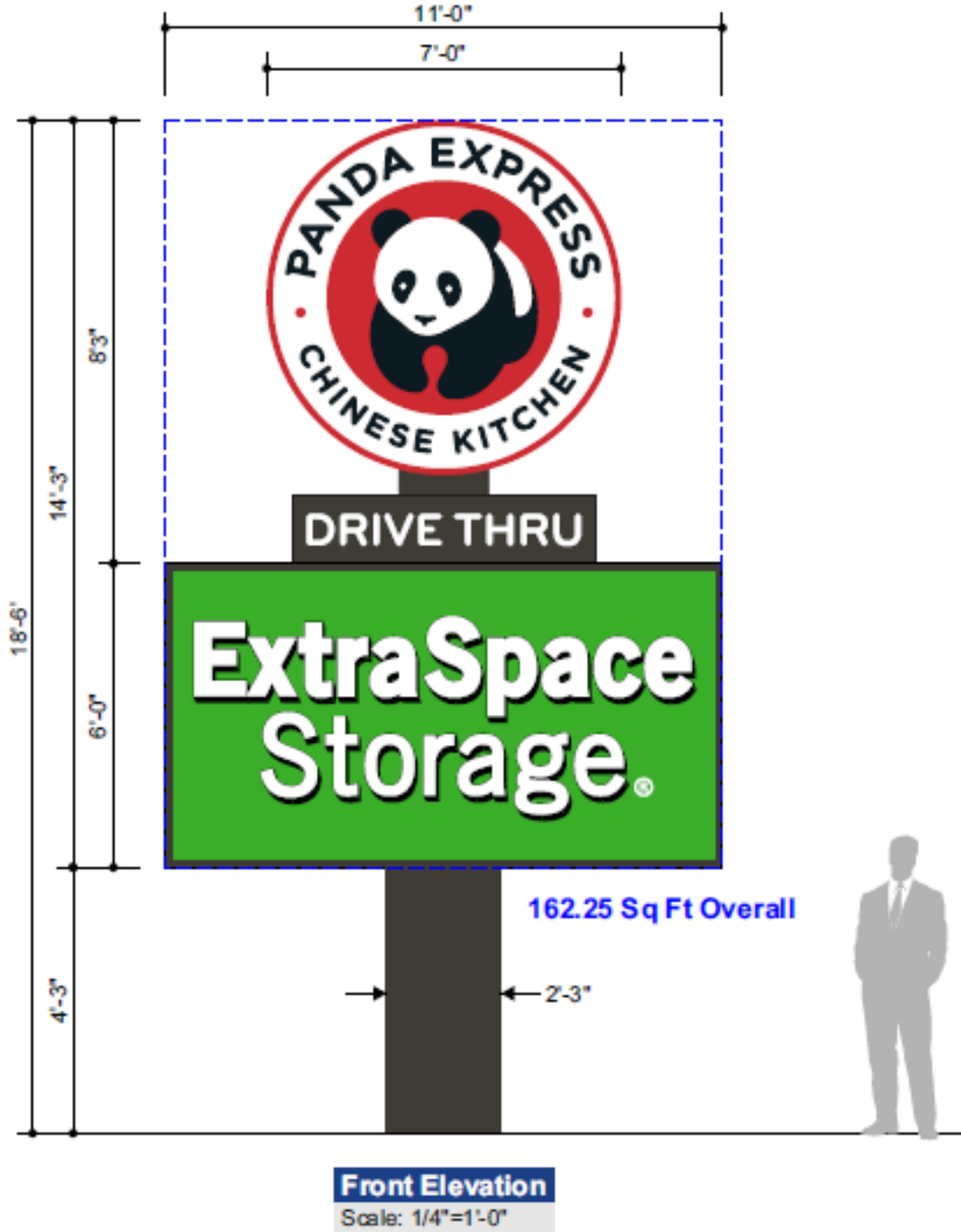
(note: the street to the south of the subject site is Shear Avenue, not E Thompson Rd)

**2024UV1024 ; Site Plan**



(note: the 'existing pylon sign location' shown on this site plan is inaccurate. The freestanding sign that previously existed but was then removed was further to the south near the location of the new proposed sign (see Aerial Photo))

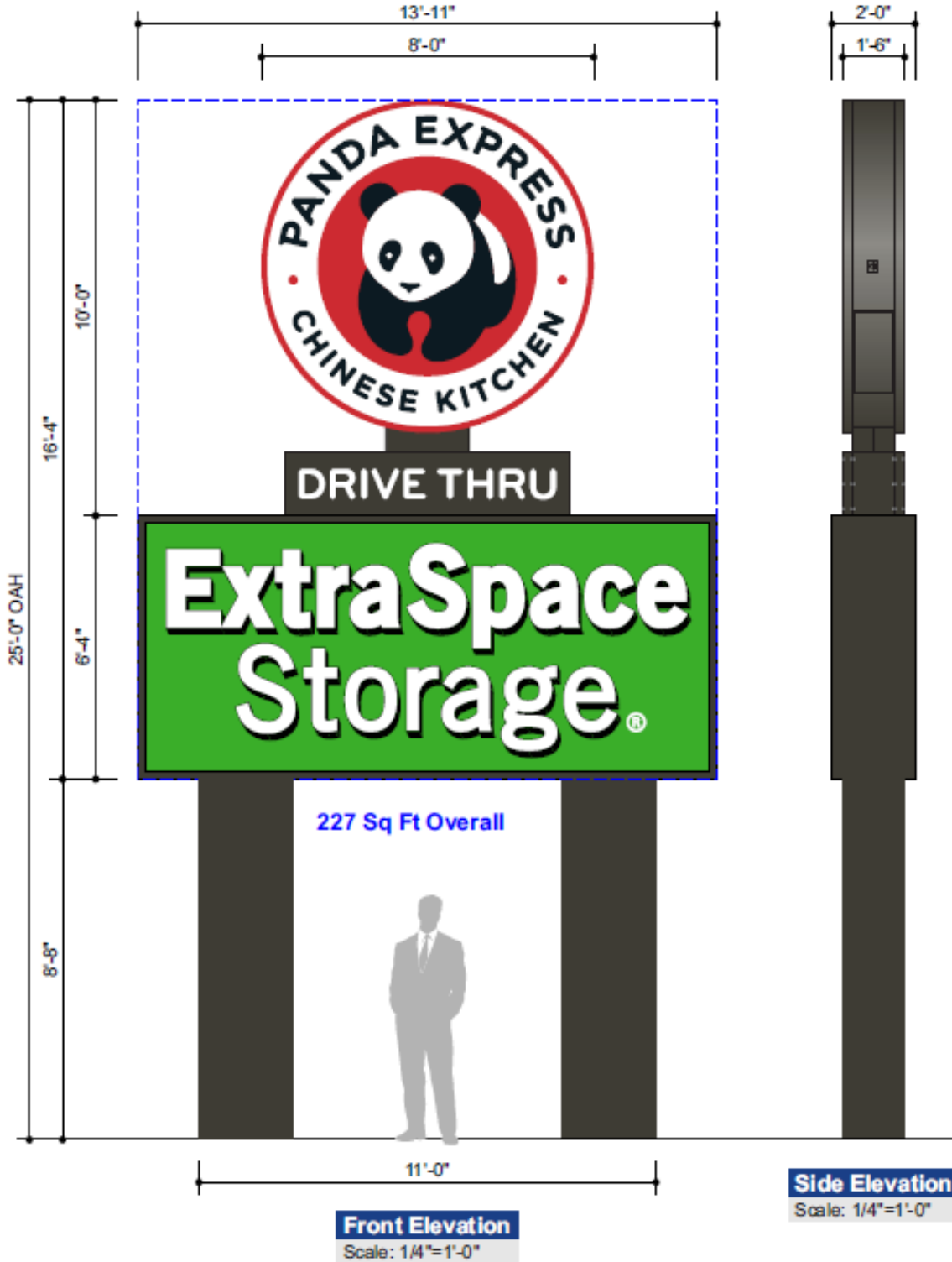
2024UV1024 ; Elevation (Pylon Sign – 11/14/2024)



(note: the person placed for scale to the east of the sign would have a height of around 4 ft, 3 in)



**2024UV1024 ; Elevation (Pylon Sign – 09/20/2024)**







**2024UV1024 ; Findings of Fact (Use)**

1. THE GRANT WILL NOT BE INJURIOUS TO THE PUBLIC HEALTH, SAFETY, MORALS, AND GENERAL WELFARE OF THE COMMUNITY BECAUSE

This is an existing sign. City code requires sign to come into compliance if any structural changes are being made to the sign.  
The new Panda Express on this property would like to add a small panel to the existing sign. The location of the sign will remain in the exact same position maintaining all the original site lines and required setback.

2. 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

This is an existing sign. All the original site lines and required setbacks will be maintained.

3. THE NEED FOR THE VARIANCE ARISES FROM SOME CONDITION PECULIAR TO THE PROPERTY INVOLVED BECAUSE

As part of the purchase agreement the Storage Facility is entitled to use this pylon, the pylon is on our property.

4. THE STRICT APPLICATION OF THE TERMS OF THE ZONING ORDINANCE CONSTITUTES AN UNUSUAL AND UNNECESSARY HARDSHIP IF APPLIED TO THE PROPERTY FOR WHICH THE VARIANCE IS SOUGHT BECAUSE

This is an existing sign. All the original site lines and required setbacks will be maintained.

5. THE GRANT DOES NOT INTERFERE SUBSTANTIALLY WITH THE COMPREHENSIVE PLAN BECAUSE

No

**2024UV1024 ; Findings of Fact (Development Standards)**

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because:

This is an existing sign. City code requires sign to come into compliance if any structural changes are being made to the sign.  
The new Panda Express on this property would like to add a small panel to the existing sign. The location of the sign will remain in the exact same position maintaining all the original site lines and required setback.

2. The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:

This is an existing sign. All the original site lines and required setbacks will be maintained.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

This is an existing sign. All the original site lines and required setbacks will be maintained.

**2024UV1024 ; Photographs**



Photo 1: Subject Site from Northwest (May 2023)



Photo 2: Subject Site from Northwest (September 2024)

**2024UV1024 ; Photographs (continued)**



Photo 3: Subject Site from Southwest (May 2023)

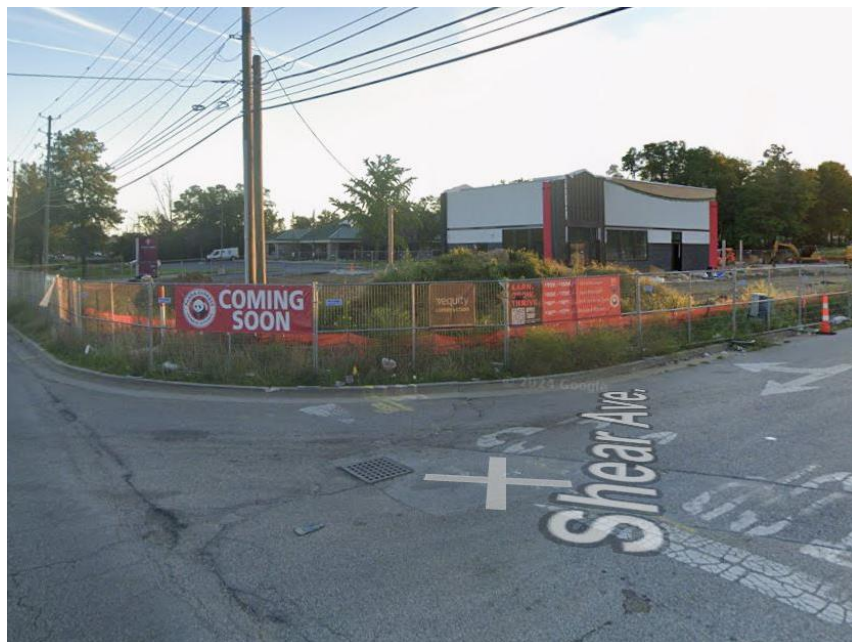


Photo 4: Subejct Site from Southwest (September 2024)

**2024UV1024 ; Photographs (continued)**



Photo 5: Neighboring Signs Viewed from South



Photo 6: Neighboring Signs Viewed from North

**2024UV1024 ; Photographs (continued)**



Photo 7: Adjacent Property to East

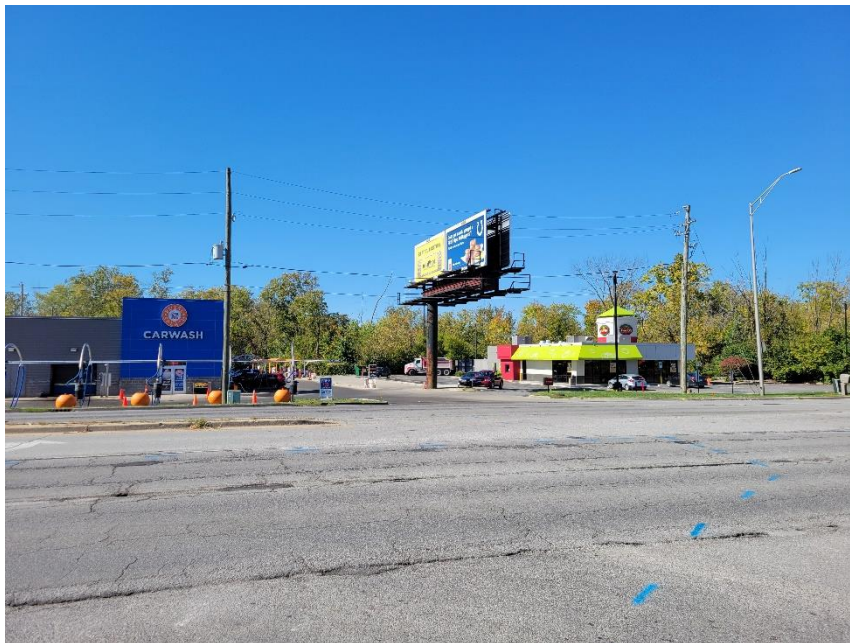


Photo 8: Adjacent Property to West