



BOARD OF ZONING APPEALS DIVISION III

March 19, 2024

Case Number: 2024-SE3-002
Property Address: 6760 Dalton Street (approximate address)
Location: Lawrence Township, Council District #4
Petitioner: Reagan Outdoor Advertising, Michelle Noppenberger
Current Zoning: C-4

Special Exception of the Consolidated Zoning and Subdivision Control Ordinance to provide for the relocation of a legally established Outdoor Advertising Sign due to a highway widening and improvement of I-69 and I-465 by a state agency.

Request:

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the relocation of an existing 14-foot by 48-foot, 50-foot tall off-premise advertising sign, of which the relocated off-premise sign will have a height of 65 feet (maximum height of 40 feet permitted) and will be considered a multi-sided sign with faces 33 degrees and 30 feet apart (maximum 15 degrees or 42 inches of separation permitted), to a 7,170 square-foot lot (maximum 6-foot by 12-foot sign permitted on lots with less than 10,000 square feet of area), with a five-foot setbacks from Bash Street, Dalton Street and the western property line (10-foot setback required), located 345 feet from the centerline of an interstate exit roadway (500-foot separation required from interstate ramp entries), within 605 and 975 feet from other outdoor advertising signs (1,000-foot radial spacing required).

Current Land Use: Undeveloped

Staff Recommendations:

Staff recommends **approval** of the special exception request to provide for the relocation and of the variance requests related to separation of faces of the sign, sign area, sign setbacks, and proximity from both the centerline of an interstate exit roadway and from other outdoor advertising signs.

Staff makes **no recommendation** on the variance request related to sign height.

Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff recommends **approval** of the special exception request to provide for the relocation and of the variance requests related to separation of faces of the sign, sign area, sign setbacks, and proximity from both the centerline of an interstate exit roadway and from other outdoor advertising signs.

Staff makes **no recommendation** on the variance request related to sign height.

PETITION OVERVIEW

- The subject site is currently undeveloped land zoned for commercial use. It is surrounded by C-4 zoning on all sides and is approximately 345 feet from an interstate exit ramp. The site is approximately 187 feet to the northwest from the location of a Tri-vision off-premises sign that was removed from 8011 Bash Street in late 2021 or early 2022 due to the expansion of I-69 by INDOT eliminating the previous location on private property.
- The Indianapolis Zoning Ordinance defines off-premises signs as “a sign that directs attention to a business, profession, commodity, or service offered on the property other than that on which the sign is located. This limitation does not apply to the content of noncommercial messages”. This definition would be inclusive of outdoor advertising signage.
- In 2017, the Indiana State Legislature adopted I.C. 8-23-20-25.6. This statute imposes new obligations on local municipalities with respect to state highway projects that result in the required removal or relocation of outdoor advertising signs. In cases when an existing outdoor advertising sign must be moved or removed as part of a highway improvement project, the owner of the sign must be allowed to either elevate or relocate the sign either by-right or by special exception. This statute would supersede local ordinance and is excerpted within the exhibits below.
- Ordinance amendments adopted by the City of Indianapolis in 2023 (744.904.C) would require the filing of a special exception for circumstances when legally established off-premises signs are required to be relocated from highway widening. Although the elevation or relocation sign would need to comply with other applicable developmental standards of the zoning ordinance (regardless of if those standards were enforceable at the initial time of construction), this circumstance matches the context described by the above-referenced statute and ordinance.
- Based on the plans provided to staff, several variances of development standards would be required to legalize the off-premises advertising sign in this location. The petitioner has asked for a sign height of 65 feet when 40 is the maximum height (the original sign was 50 feet tall). Additionally, variances for the sign size, degree of separation between the two faces, sign setbacks, and sign proximity to both an interstate exit and other outdoor advertising signs would be needed per current ordinance standards.

- A separate but related section of Indiana Code (8-23-20.5-3), also excerpted in the exhibits below, indicates that under certain circumstances, the county or municipality “is responsible for the payment of full and just compensation for the outdoor advertising sign... including any costs and fees associated with a variance application, if applicable, to the outdoor advertising sign’s owner”. Given this constraint and the government-imposed practical difficulty at the previous site, staff would be supportive of the special exception request.
- The variance requests related to the sign area, sign setbacks from the property lines of the Dalton parcel, and proximity to both other off-premises signs and the centerline of the interstate exit are borne from the state-imposed practical difficulty caused by the INDOT expansion. These variances also come as close as possible to being a ‘one-for-one’ replacement of the removed sign given that it would be relocated to a vacant parcel 187 feet away that is an appropriate area removed from protected districts and oriented to the same location. Staff would be supportive of the variance requests related to area, setbacks, and proximities.
- Based on aerial photography of the previous sign, it appears that the two faces of the originally constructed off-premises sign had a separation of approximately 18 feet. Grant of this variance would allow for legalization of a multi-sided sign with a wider degree of separation (33 degrees and 30 feet apart requested) than what is allowed by ordinance for multi-sided signs or what was existing for the previously legalized sign. The applicant has provided site plan and findings of fact documentation indicating that the increased separation would be needed to allow both northbound and southbound traffic along the interstate to view the contents of the billboard. Given the small degree of increased separation and the fact that the replacement sign has a greater distance from the interstate, staff views this as minimal relief as close to a ‘one-to-one’ replacement as possible and would be supportive of the variance request for increased width between sign faces.
- The variance requested related to height would result in legalization of a sign that is approximately 163% taller than that typically allowed by ordinance. The findings of fact submitted along with this application and additional correspondence with the applicant mention that the increased height would be necessary to allow for visibility over the road deck adjacent to I-69 as well as potential obstruction of the view from a nearby hotel to the northeast (height of 52 feet). Several requests were made to the applicant for renderings showing how severely the proposed sign would be obstructed by these impediments and how visible the sign might be from heights of both 40 feet and 65 feet, but this documentation was not received by the date of publishing. Although IC 8-23-20-25.6 does allow for elevation of a conforming outdoor advertising sign or the sign’s relocation due to highway widening, staff was not provided with conclusive documentation indicating a hardship that would only be made whole by grant of a variance for a dramatically taller sign. Considering this context, staff would make no recommendation on the variance request related to the sign height.

GENERAL INFORMATION

Existing Zoning	C-4		
Existing Land Use	Undeveloped		
Comprehensive Plan	Community Commercial		
Surrounding Context	Zoning	Surrounding Context	
	North:	C-4	North: Community Commercial
	South:	C-4	South: Community Commercial
	East:	C-4	East: Community Commercial
	West:	C-4	West: Community Commercial
Thoroughfare Plan			
Dalton Street	Local Street	30-foot right-of-way existing and 50-foot right-of-way proposed	
Bash Street	Local Street	40-foot right-of-way existing and 50-foot right-of-way proposed	
Context Area	Metro		
Floodway / Floodway Fringe	No		
Overlay	No		
Wellfield Protection Area	No		
Site Plan	02/13/2024		
Site Plan (Amended)	N/A		
Elevations	Not provided		
Elevations (Amended)	N/A		
Landscape Plan	N/A		
Findings of Fact	02/13/2024		
Findings of Fact (Amended)	03/12/2024		

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book

Pattern Book / Land Use Plan

- The Community Commercial working typology allows for low-intensity commercial and office uses to serve nearby neighborhoods. The Pattern Book makes no specific recommendations related to the placement of on-premises or off-premises signage.



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

80-Z-103, rezoning of 43.38 acres from D-S zoning to the C-4 zoning classification, **approved**.

ZONING HISTORY – VICINITY

2017UV3005 ; 8130 Summit Hill Drive (northeast of site), Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the automobile sales and fulfillment center, including a 65-foot tall vehicle vending machine (not permitted), with a portion of the parking and circulation area having a five-foot setback along the interstate (10-foot setback required), **approved**.

2016UV3004 ; 8073 Castleton Road (west of site), Variance of use of the Commercial Zoning Ordinance to provide for a retail and wholesale automobile sales facility (not permitted), **approved**.

2001DV1029 ; 8111 Bash Street (northeast of site), Variance of development standards of the Sign Regulations to provide for a 15-foot wide sign canopy above the eastern entrance of a hotel (maximum 10 feet of width permitted), **approved**.

2001ZON148 ; 6752 Gentry Street (north of site), rezoning of 0.69 acres to C-4 zoning, **approved**.

91-UV3-72 ; 8067 Castleton Road (west of site), variance of use of the Commercial Zoning Ordinance to permit the repair of fire trucks, **approved**.

89-Z-51 ; 6817 E 82nd Street (east of site), rezoning of 3.51 acres to C-6 zoning, **approved**.

88-Z-83 ; 8123 Castleton Road (north of site), rezoning of 1.39 acres to SU-9 zoning, **approved**.

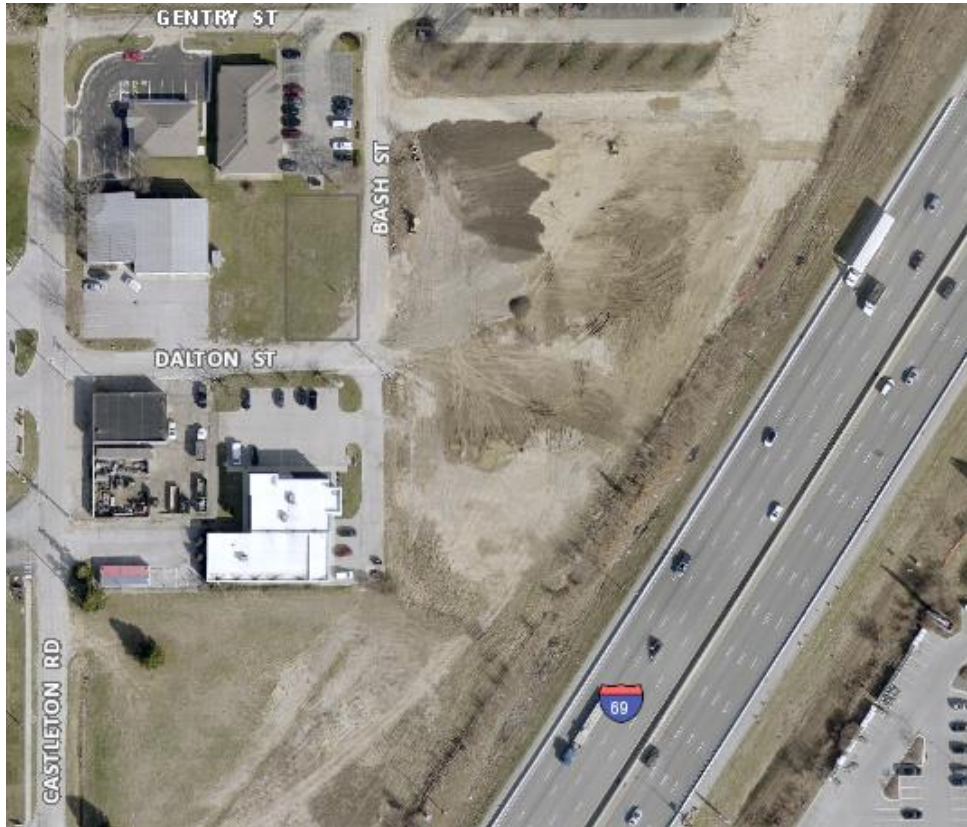
84-HOV-58 ; 8007 Castleton Road (south of site), variance of development standards of the Industrial Zoning Ordinance to provide for the construction and use of a 7978 square foot office and warehouse building within the required front and rear yards and with parking in the side and rear yards, **approved**.

83-HOV-104 ; 8015 Castleton Road (south of site), variance of front, side and rear development standards of the Industrial Zoning Ordinance to provide for an office warehouse on parcel A and future development of parcel B, with a waiver of the one year limit to obtain a permit for parcel B, **approved**.

75-Z-151 ; 8111 Bash Street (northeast of site), rezoning of 7.75 acres to C-4 zoning, **approved**.

EXHIBITS

2024SE3002 ; Aerial Map



2024SE3002 ; Site Plan



2024SE3002 ; Distance from Previous Sign Location



2024SE3002 ; Distance from Interstate Exit Roadway



2024SE3002 ; I.C. 8-23-20-25.6

IC 8-23-20-25.6 Obstruction or removal of outdoor advertising sign; elevation or relocation of outdoor advertising sign; compensation; notice of project

Sec. 25.6. (a) As used in this section, "market area" means a point within the same county as the prior location of an outdoor advertising sign.

(b) This section applies only to an outdoor advertising sign located along the interstate and primary system, as defined in 23 U.S.C. 131(t) on June 1, 1991, or any other highway where control of outdoor advertising signs is required under 23 U.S.C. 131.

(c) If an outdoor advertising sign is no longer visible or becomes obstructed, or must be moved or removed, due to a noise abatement or safety measure, grade changes, construction, directional sign, highway widening, or aesthetic improvement made by any agency of the state along the interstate and primary system or any other highway, the owner or operator of the outdoor advertising sign, to the extent allowed by federal or state law, may:

- (1) elevate a conforming outdoor advertising sign; or
- (2) relocate a conforming or nonconforming outdoor advertising sign to a point within the market area, if the new location of the outdoor advertising sign complies with the applicable spacing requirements and is located in land zoned for commercial or industrial purposes or unzoned areas used for commercial or industrial purposes.

(d) Except as provided in subsection (j), if within one (1) year of an action being filed under [IC 32-24](#), an owner can demonstrate that the owner has made good faith efforts to relocate a conforming or nonconforming outdoor advertising sign to a conforming location within the market area, but the owner has not obtained a new conforming location, the outdoor advertising sign will be treated as if it cannot be relocated within the market area. Notwithstanding subsection (e) and [IC 8-23-20.5](#), if an outdoor advertising sign cannot be elevated or relocated to a conforming location and elevation within the market area, the removal or relocation of the outdoor advertising sign constitutes a taking of a property interest and the owner must be compensated under section 27 of this chapter.

(e) The county or municipality, under [IC 36-7-4](#), may, if necessary, provide for the elevation or relocation by ordinance for a special exception to the zoning ordinance of the county or municipality.

(f) The elevated outdoor advertising sign or outdoor advertising sign to be relocated, to the extent allowed by federal or state law, may be modified:

- (1) to elevate the sign to make the entire advertising content of the sign visible;
- (2) to an angle to make the entire advertising content of the sign visible; and
- (3) in size or material type, at the expense of:
 - (A) the owner, if the modification in size or material type of the outdoor advertising sign is by choice of the owner; or
 - (B) the department, if the modification in size or material type of the outdoor advertising sign is required for the outdoor advertising sign to comply with [IC 22-13](#).

(g) This section does not exempt an owner or operator of a sign from submitting to the department any application or fee required by law.

(h) At least twelve (12) months before the filing of an eminent domain action to acquire an outdoor advertising sign under [IC 32-24](#), the department must provide written notice to the representative of the sign owner identified on the outdoor advertising sign permit that is on file with the Indiana department of transportation that a project has been planned that may impact the outdoor advertising sign.

(i) If the agency fails to provide notice required by subsection (h) within twelve (12) months of an action being filed against an owner under [IC 32-24](#), the owner may receive reasonable compensation for losses associated with the failure to receive timely notice. However, failure to send notice required by subsection (h) is not a basis of an objection to a proceeding under [IC 32-24-1-8](#).

(j) Notwithstanding subsection (d), if an action that has been filed under [IC 32-24](#) is pending as of July 1, 2023, and:

- (1) the parties have not entered into a final settlement agreement; or
- (2) no final judgment has been entered by the trier of fact;

the owner may relocate the outdoor advertising sign under this section and [IC 8-23-20.5](#).

As added by P.L.222-2017, SEC.2. Amended by P.L.97-2022, SEC.1; P.L.178-2022(ts), SEC.10; P.L.201-2023, SEC.115.

2024SE3002 ; I.C. 8-23-20.5-3

IC 8-23-20.5-3 Special exception or variance; compensation by county or municipality; eminent domain action

Sec. 3. (a) If a county or municipality either:

- (1) subject to [IC 8-23-20-10](#), does not amend its zoning ordinance as necessary to provide for a special exception to the zoning ordinance for the relocation of an outdoor advertising sign; or
- (2) does not approve a variance to the zoning ordinance filed by the outdoor advertising sign's owner that conforms to the filing requirements;

the county or municipality that did not approve the relocation of the outdoor advertising sign within the market area is responsible for the payment of full and just compensation for the outdoor advertising sign under [IC 8-23-20-27](#), including any costs and fees associated with a variance application, if applicable, to the outdoor advertising sign's owner.

(b) A county or municipality's consideration of a special exception or variance may not be a basis to delay the appointment of appraisers under [IC 32-24-1-9](#).

(c) If a county or municipality has not approved the relocation of an outdoor advertising sign located within its jurisdiction before the date an action under [IC 32-24](#) is filed, the county or municipality must be named as a party to the action.

As added by P.L. 97-2022, SEC. 4. Amended by P.L. 201-2023, SEC. 116.

2024SE3002 ; Project Description

DETAILED DESCRIPTION OF THE PROPOSAL: There is an Off-Premises sign that existed at 8011 Bash Street, Indianapolis, IN 46250, in the County of Marion in the State of Indiana. As a result of a State of Indiana Department of Transportation Road project at the I-465 N/I-69 N Interchange (INDOT Project - ClearPath 465), this necessitates the taking of multiple parcels including the parcel where an Off-Premises sign owned by Reagan Outdoor advertising and the removal of our sign. Pursuant to INDOT Rules and Regulations, and in conformity with state statute, this Off-premises sign is eligible for relocation as it is permitted to be relocated within the same county of the current location per INDOT rules. The outdoor advertising sign is eligible for relocation pursuant to Indiana Code 8-23-20.

The structure will continue to be a v-type structure with each facing being 14 feet by 48 feet in advertising sign space. The structure will also continue to be illuminated by lights affixed to each side of the structure. The relocated sign would consist of the construction and operation of a 65' tall, V-shaped, 14'x48' static off-premises sign (billboard or sign). The proposed height of the sign is necessary to overcome the height of the road deck adjacent to the location along I-69 where the sign will be viewed from. Each face of the proposed sign will be oriented toward Interstate 69 and hold static messages. The property and location is in a commercial area of the city that is bordered by commercial properties. C4 zoning to the North, South, East and West with C7 zoning to the southeast. The Land Use Plan for this parcel and surrounding parcels is Community Commercial.



2024SE3002 ; Findings of Fact (Special Exception)

1. The proposed use meets the definition of that use in Chapter 740, Article II because

The existing outdoor advertising sign that is being relocated pursuant to this special exception has been in place for over 32 years. The existing and relocated signs are both zoned commercial. This highly commercial area is compatible with signage, both on-premise and off-premise.

2. The proposed use will not injure or adversely affect the adjacent area or property values in that area because

The existing outdoor advertising sign that is being relocated pursuant to this special exception already has been in place since 1992 without affecting the neighboring properties in a substantially adverse manner. The new location of the sign is in an area of the City of Indianapolis appropriate for outdoor advertising signs. Further, pursuant to this special exception, the outdoor advertising sign is being relocated to facilitate a road improvement project administered by the Indiana Department of Transportation ("INDOT") known as the ClearPath 465/I-69 Project.

3. The grant will not materially and substantially interfere with the lawful use and enjoyment of adjoining property because

The outdoor advertising sign that is being relocated pursuant to this special exception already has been in place since 1992 without affecting the neighboring properties in a substantially adverse manner. The new location of the sign is in an area of the City of Indianapolis appropriate for outdoor advertising signs. Further, the sign will be located on the perimeter of the property so it will not interfere with future commercial development.

4. The proposed use will be compatible with the character of the district, land use authorized therein and the Comprehensive Plan for Marion County because

The proposed location of the outdoor advertising sign is in an area of the City of Indianapolis (oriented to I-69) appropriate for outdoor advertising signs. The Comprehensive Plan base land use is Community Commercial. Further, this area is zoned commercial, and it already is a highly commercial corridor.

5. The proposed use conforms to the development standards in Chapter 744 applicable to the zoning district in which it is located because

The outdoor advertising sign is being relocated to a nearby site appropriate for outdoor advertising signs. It will continue to be oriented to Interstate 69.

6. The proposed use conforms to all provisions of the Zoning Ordinance, including the performance standards in Chapter 740 and the development standards in Chapter 744 applicable to the zoning district in which it is located because

The outdoor advertising sign is being relocated to a nearby site appropriate for outdoor advertising signs. It will continue to be oriented to Interstate 69. It will be approximately 605 feet from another off-premises sign, adjacent to an I-69 ramp. It will continue to be located in Commercial zoning.

7. The proposed use conforms to all of the use-specific standards in Chapter 743 for that use, including any Special Exception standards for that use because

The outdoor advertising sign is being relocated to a nearby site appropriate for outdoor advertising signs. It is an area zoned and highly developed as commercial.

2024SE3002 ; Findings of Fact (Variances)

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

The existing outdoor advertising sign that is being relocated pursuant to this grant of variance has been in place over 32 years without causing any injury to the public health, safety, morals, and general welfare of the community. The existing outdoor sign is being relocated to facilitate a road improvement project being administered by the Indiana Department of Transportation (“INDOT”) known as the Clear Path 465 Project. The use of the property for a billboard site is consistent with the underlying zoning and usage. The property is zoned C-4 Community Commercial. The majority of the immediate area is commercially zoned.

There is no evidence that the outdoor advertising sign has caused any injury, in any manner, to the public health, safety, morals, and general welfare of the community. The sign will conform to Federal, INDOT, and industry standards with regard to construction and safety. The general welfare of the community could be adversely impacted should the variance not be granted by requiring Indianapolis-Marion County tax dollars to be diverted from other public programs to pay for the taking of the billboard. Additionally, the sign will remain oriented to Interstate 69. The general welfare of the community could be adversely impacted should the variance not be granted by requiring Indianapolis-Marion County tax dollars to be diverted from other public programs to pay for the taking of the billboard.

- 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:**

Currently, the zoning is C-4 Community Commercial, for this parcel. The existing outdoor advertising sign that is being relocated pursuant to this grant of variance has been in place for 32 years without affecting the neighboring properties in a substantially adverse manner. The location of the already existing sign is in an area of the City of Indianapolis appropriate for outdoor advertising signs

Pursuant to this grant of variance, the outdoor advertising sign will be relocated to facilitate a road improvement project being administered by the Indiana Department of Transportation (“INDOT”) known as Clear Path 465.

A majority of the surrounding parcels are also zoned C-4 and used as commercial and office spaces. The parcel to the south opposite Dalton Street (also zoned C-4) is used as office spaces. The property to the east is now owned by the State for the Clear Path 465 road widening project. The property to the west is an auto repair shop along with more office spaces to the north. The relocation of the outdoor advertising sign is within 187 feet of the removed structure.

2024SE3002 ; Findings of Fact (Variances) cont.

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

The location of the already existing 50' off-premise billboard sign is in an area of the City of Indianapolis (oriented to I-69) appropriate for outdoor advertising signs. The existing off-premise billboard sign that is being relocated pursuant to this grant of variance already has been in place for over 32 years without generating any adverse impact. The relocation is a direct result of the State of Indiana Department of Transportation's Road project Clear Path 465/I-69. Strict application of the zoning ordinance will result in the loss of the billboard, and the costs of the taking would be shifted to Indianapolis-Marion County pursuant to Indiana Code 8-23-20-25.6. The zoning ordinance places an unnecessary and unusual hardship on the application through no fault or action of applicant and does not further the intent of the zoning ordinance. The petitioner seeks to be made whole through the replacement of the billboard taken under eminent domain. Construction of a 65-foot-tall structure will be approximately 55 feet above road grade, of Interstate-69, as the property sits below Interstate-69 at approximately 10'.

The parcel's overall square footage is approximately 7,900 sf and any future development would require the increased off-premises sign's height, of 65' to allow for construction of a building. Without the increased sign height to 65', a practical difficulty would exist for future development. The existing off-premise sign was also closer to I-69 whereas the relocated sign sits west of Bash Street. Clear Path 465's interstate widening and moving the structure further away from the interstate will cause blockage of the faces at 40', which creates a practical difficulty. To the northeast, of our proposed site, sits a 4-story hotel building at 52' overall height and to the south, sits an office building at approximately 28' overall height creating a practical difficulty if the overall height is set at 40'.

The off-premise billboard sign setback that existed was approximately 60 feet from the right of way. The five (5) foot setback at the proposed off-premise billboard location is measured at approximately 190 feet from the soon to be constructed interstate creating a 130-foot increase in distance from the interstate view. Not receiving the five (5) foot setback variances would create a practical difficulty as the distance seen from the interstate is farther than the off-premise sign that existed and due to the limited square footage of the parcel it would not be possible to have a setback of more than 5'. Also, there is a practical difficulty regarding the limited square footage, of the parcel, where our existing off-premise billboard's face size was 14'x48' and the ordinance requires a parcel, of at least 43,650 sf or above to have the 14'x48' face sizing. A 6'x12' sign would not be able to be seen from the interstate. Also, due to the setback from the interstate, a 30' (33 degree) V separation is also required to view the faces from I-69. It would be a practical difficulty to limit the separation to 15 degrees, as the faces would not be seen from I-69 due to the interstate widening and the setback. Due to special circumstances with the need to relocate the off-premise billboard sign there is a need for flexibility as the existing sign was not previously subject to (i.e. radial distance less than 1,000' from other existing off-premise signs and distance from the centerline of an interstate exit roadway).

2024SE3002 ; Pictures



Photo 1: View of Subject Site & Previous Sign from I-465 looking West (June 2021)



Photo 2: View of Subject Site and Removed Previous Sign from I-465 looking West (August 2023)

2024SE3002 ; Pictures (continued)



Photo 3: View of Previous Sign from I-465 looking South (June 2021)



Photo 4: View of Subject Site from I-465 looking South (August 2023)

2024SE3002 ; Pictures (continued)



Photo 5: Subject Site looking East to I-465



Photo 6: Subject site looking Northwest to Adjacent Property

2024SE3002 ; Pictures (continued)



Photo 7: Previous Sign Approx. Location looking E to I-465



Photo 8: Previous Sign Approx. Location looking N to I-465

2024SE3002 ; Pictures (continued)



Photo 9: Subject Site looking North to Adjacent Property



Photo 10: Subject Site looking South to Adjacent Property