

MEMO

TO: Board of Adjustments
FROM: Sofia Nelson, Director of Planning
DATE: January 2, 2013
RE: VR-12-005- Patriot Carwash

Background Information

Request: Variance to Section 53-482 requiring the installation of a sidewalk to be constructed on property zoned Retail Services.

Address: 21195 N. IH35 (along the northbound access road/ at the intersection of Brent Blvd. and IH 35).

Proposed Use: The property is currently developed as a carwash the applicant is proposing to add an additional car wash bay to the existing car wash facility.

Staff Analysis

The subject property is located in the I-35 Overlay District. The applicant has received approval of the attached site plan conditional on either the sidewalk being installed or the applicant receiving a variance from the Board of Adjustments. Below is a table outlining staff analysis of the request along with the applicant's analysis of the finding statements.

Findings	Applicant Response	Staff Analysis
<i>The zoning regulations applicable to the property do not allow for a reasonable use of the property.</i>	"This is an existing project for which only an expansion has been submitted. There is currently no sidewalk adjacent to the site and the permitted use is not proposed to change. The enforcement of this regulation has not been done for any project thus far from exit 213 north to exit 217, including	As new development occurs construction of a sidewalk is required at the time of development. The construction of a sidewalk at the time of development allows for the incremental construction of sidewalk connectivity. As a non-conforming site, the use of property as a car wash may continue without any additional requirements. In staff's review of the request it does not appear the requirement for sidewalk

	several businesses that have been constructed as recently as the last month”	construction limits the reasonable use of the property.
<i>The hardship for which the variance is requested is unique to the property.</i>	“The addition of a 17’ wide, 37’ long bay requiring a 4’ wide, 237’ long sidewalk with the associated TxDOT permitting, disturbance, erosion controls and revegetation, where no business has had to construct such a sidewalk between Center Street and Kyle Crossing is a hardship to this successful business trying to add larger tax base to the community.”	All properties zoned Retail Services are required to construct a sidewalk along all street frontages as part of the development or redevelopment of a site. If a property is along a state maintained roadway a permit from TXDOT will be required. There does not appear to be a hardship that is unique to the subject property.
<i>The hardship is not general to the area in which the property is located.</i>	“No business has had to construct such a sidewalk between Center Street and Kyle Crossing on the interstate access road, if anywhere in the City.”	The characteristics of location and zoning are not unique to the subject property. The applicant has cited that no other properties along the frontage road have sidewalks, while that may currently be the case as properties redevelop or develop for the first time all properties will be subject to this requirement unless a variance is granted.
<i>The variance will not alter the character of the area adjacent to the property, and will not impair the use of adjacent conforming property, and will not impair the purpose of</i>	“No business, adjacent or otherwise, has had to construct such a sidewalk between Center Street and Kyle Crossing on the interstate access	As properties develop in this area they will also be subject to the construction of a sidewalk. If this variance is granted and other businesses are required to install sidewalks then sidewalk connectivity will be hard to achieve within this area and therefore

<i>the regulations of the zoning district in which the property is located.</i>	road, if anywhere in the City.”	impair the purpose of the regulations of the zoning district.
---	---------------------------------	---

Staff is recommending denial for this request for the following reasons:

- The identified hardship does not appear to be unique to the subject property.
- As an already developed site the zoning regulations allow for the use and the site to remain in its current configuration until redevelopment or new development on the site occurs. Additionally, since there is already a sidewalk along Brent Blvd. the required sidewalk would be constructed along the I-35 frontage road within the right-of-way and would not appear to limit the buildable area or reasonable use of the property.
- The property to the south of the subject property is currently undeveloped and is also zoned Retail Services and will be subject to the requirement to construct a sidewalk. If the proposed variance was granted for the carwash the ability to create sidewalk connectivity would be limited and therefore impair the purpose of the regulations of the zoning district in which the property is located.