

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: January 9, 2017****CASE NUMBER**

6082 4140 1874

APPLICANT NAME

Advantage Sign Company (Irv Horton, Agent)

LOCATION559 Virginia Street
(Southeast corner of Virginia Street and South Warren Street).**VARIANCE REQUEST****SIGN:** Sign Variance to allow a LED price changer sign for a gas station less than 300' from residentially zoned property in a B-2, Neighborhood Business District.**ZONING ORDINANCE
REQUIREMENT****SIGN:** The Zoning Ordinance requires all digital signs to be a minimum of 300' from residentially zoned property in a B-2, Neighborhood Business District.**ZONING**

B-2, Neighborhood Business District

AREA OF PROPERTY

0.63 ± Acres

**CITY COUNCIL
DISTRICT**

District 3

ANALYSIS

The applicant is requesting a Sign Variance to allow a LED price changer sign for a gas station less than 300' from residentially zoned property in a B-2, Neighborhood Business District; the Zoning Ordinance requires all digital signage to be a minimum of 300' from residentially zoned property in a B-2, Neighborhood Business District.

The site came before the Board in 1987 for a front setback variance for a gas canopy, which was approved, and in 1964 for a rear setback variance for the building, which was denied.

The applicant is proposing to install a digital double-faced LED price changer sign. The site one frontage on two streets, Virginia Street and South Warren Street. The applicant currently has an existing freestanding sign that is double sided and depicts gas prices as well as the business logo. The existing pricing sign is manually changed by changing out the number inserts. The information provided with the application does not state if the digital price changer sign will be added to the existing freestanding sign to replace the manual pricing sign, or if a new freestanding sign will be installed. The proposed LED sign will be approximately 117' away from residentially zoned property, thus requiring a variance request to the Board.

The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application; and, unless the Board is presented with sufficient evidence to find that the variance will not be contrary to the public interest, and that special conditions exist such that a literal enforcement of the Ordinance will result in an unnecessary hardship. The Ordinance also states that a variance should not be approved unless the spirit and intent of the Ordinance is observed and substantial justice done to the applicant and the surrounding neighborhood.

Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined from the facts and circumstances of each application.

The applicant states the following reasons to explain the need for the variance:

#1 The purpose of this application is to allow: An LED price changer at the McPherson Oil/ Shell Convenience store located at 559 Virginia Street.

#2 What are the conditions, items, facts or reasons which prevent you from complying with the requirement of the zoning ordinance? The newly adopted ordinance states that LED displays are not allowed within 300' of a residence. The sign will be 117' from the nearest residential property. The price changer does not flash, scroll, animate or change color. It has a constant, one color number. The sign will automatically dim to 500 nits at night.

#3 How did the conditions, items, facts or reasons which prevent you from complying with the requirements of the Zoning Ordinance occur? The existing sign has number panels for pricing.

#4 How is this property different from the neighboring properties? Commercial properties are located north and west. A vacant lot is to the east. Residential properties are to the south.

The applicant states that the price changer will not flash, scroll, animate or change color thus arguably suggesting that the sign will not serve as a distraction to passersby. The applicant also states that there are commercial properties located to the north and west, and a vacant lot to the east; with only residential properties to the south. The site is adjacent to a church, a parking lot that is utilized by the church, a school, and a county owned garage facility; however those properties are still classified as residential and the Zoning Ordinances requires 300' from any residentially zoned piece of property.

Within the required 300' buffer, the site is bounded on all sides by R-1, Single Family Residential. It should be noted however that the property to the South of the site is the only adjacent property that has residential dwellings. However, it appears that the proposed sign might be visible from the rear of the residences that face South Dearborn Street, as there is an unobstructed view across the intervening church parking lot.

It should be pointed out that in previous cases regarding digital fuel pricing signs, the Board has ruled in favor of the applicant's request. Most recently at the May 2, 2016 meeting the Board approved a digital fuel pricing sign located along Northeast corner of Azalea Road and Michael, that was within 210' of a residentially zoned property.

Furthermore, although there does not appear to be any hardship associated with the property nor any reason why the applicant cannot install/ or continue to utilize a sign that is manually changed.

Additionally, it should be noted that the adjacent church was denied a request for a digital message board at the August 3, 2015 meeting of the Board.

Finally, an accurate site plan was not provided with the application. Review of the site plan for a 1987 setback variance for the site and a 2001 subdivision plat indicate that the existing sign may be partially within the right-of-way of Virginia Street and South Warren Street.

Thus, while it may be in keeping with the Board's previous approvals to consider the request and hand in a favorable light, the fact that nearby homes may be able to see the proposed sign, the fact that an abutting digital sign was denied in 2015, and the fact that an insufficient narrative and graphic package was provided to provide specific information about the location of the sign, denial may be more advisable.

RECOMMENDATION:

Staff recommends to the Board the following findings of fact for Denial:

- 1) approving the variance will be contrary to the public interest in that the digital sign regulations are to protect residentially zoned property, and residences are within less than 300' from the proposed digital sign, and thus the sign may be visible from the rear of the residences due to no intervening structures or vegetation;
- 2) special conditions do not exist and there are no hardships which exist, such that the literal enforcement of the provisions of the chapter will result in an unnecessary hardship, as the existing pricing sign is located out of the traffic flow of the site and thus can be accessed safely by employees; and
- 3) the spirit of the chapter shall not be observed and substantial justice shall not be done to the surrounding neighborhood by granting the variance because, in this instance, the proposed digital fuel price sign will be a detriment to the neighborhood, and due to the fact that the Board denied a digital message board sign request in 2015 for the site next door to the site in question.

Revised for the February 6th meeting:

This application was heldover from the January 9th meeting so that the applicant could provide the following:

- 1) As-built survey of the property so that the Board can determine if the existing sign structure is within the right-of-way; and*
- 2) Elevation of the sign showing all dimensions.*

As no new information has been submitted, the original recommendation would stand.

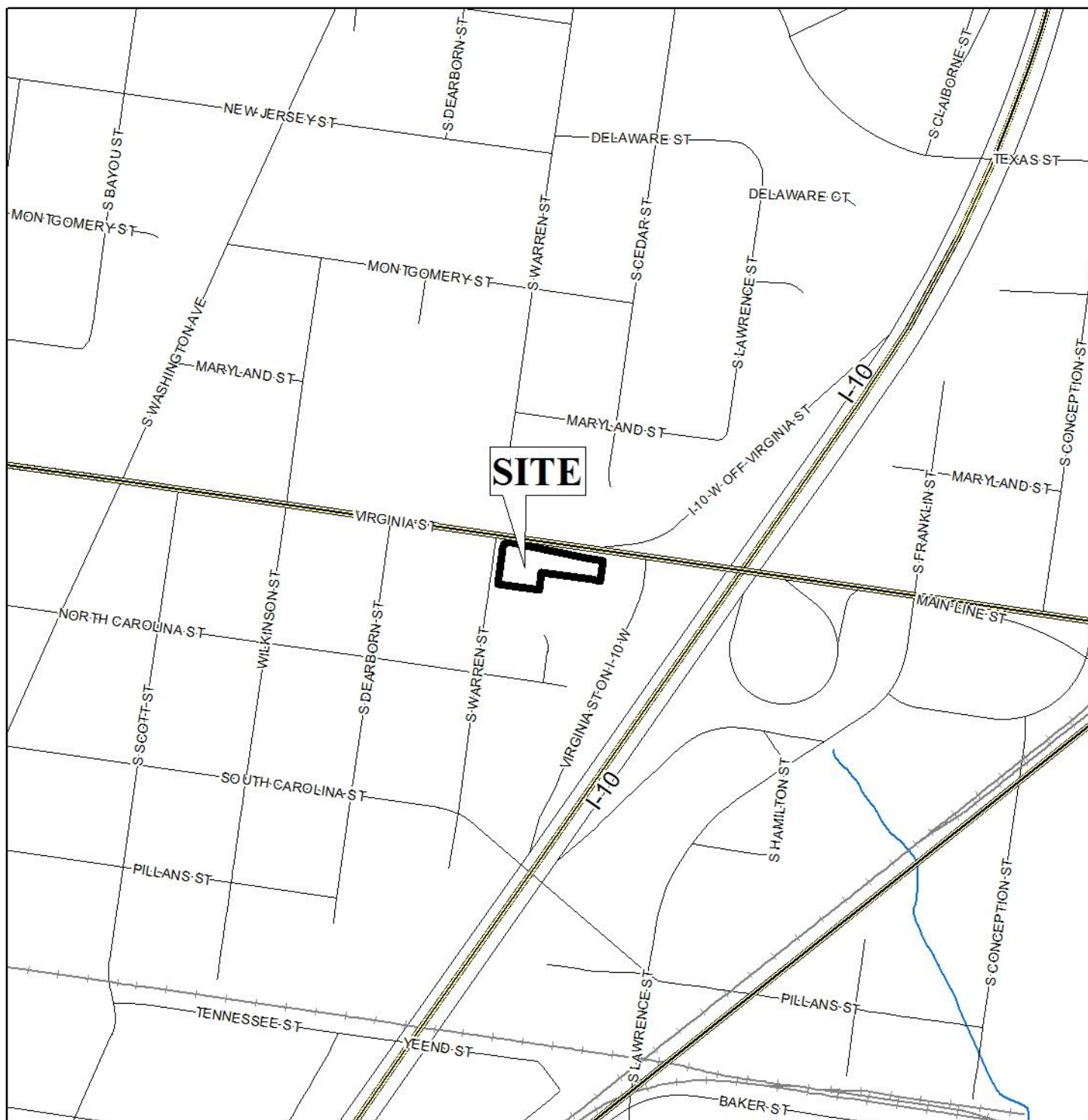
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LOCATOR MAP



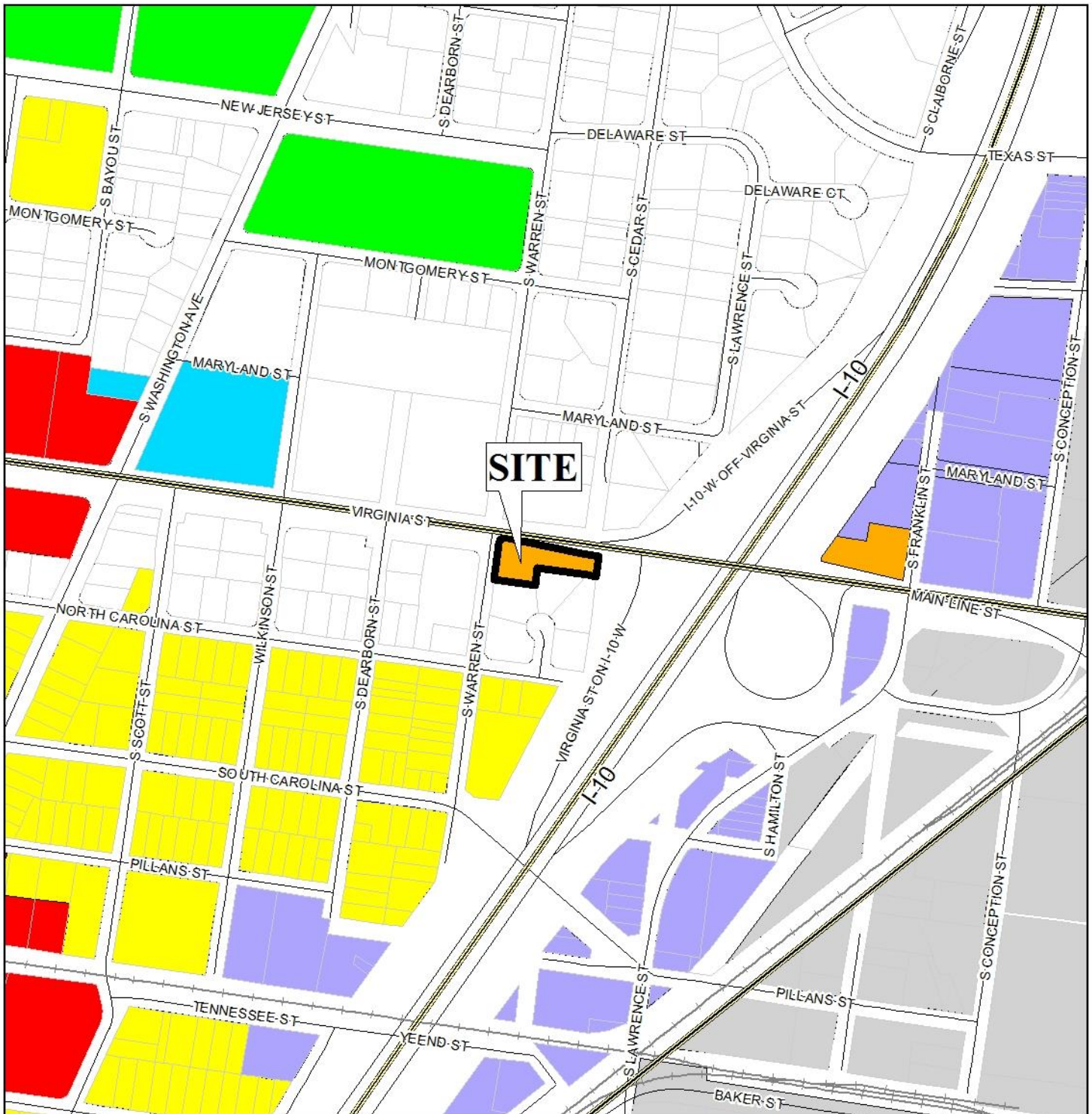
APPLICATION NUMBER 6082 DATE February 6, 2017

APPLICANT Advantage Sign Company (Irv Horton, Agent)

REQUEST Sign Variance



LOCATOR ZONING MAP

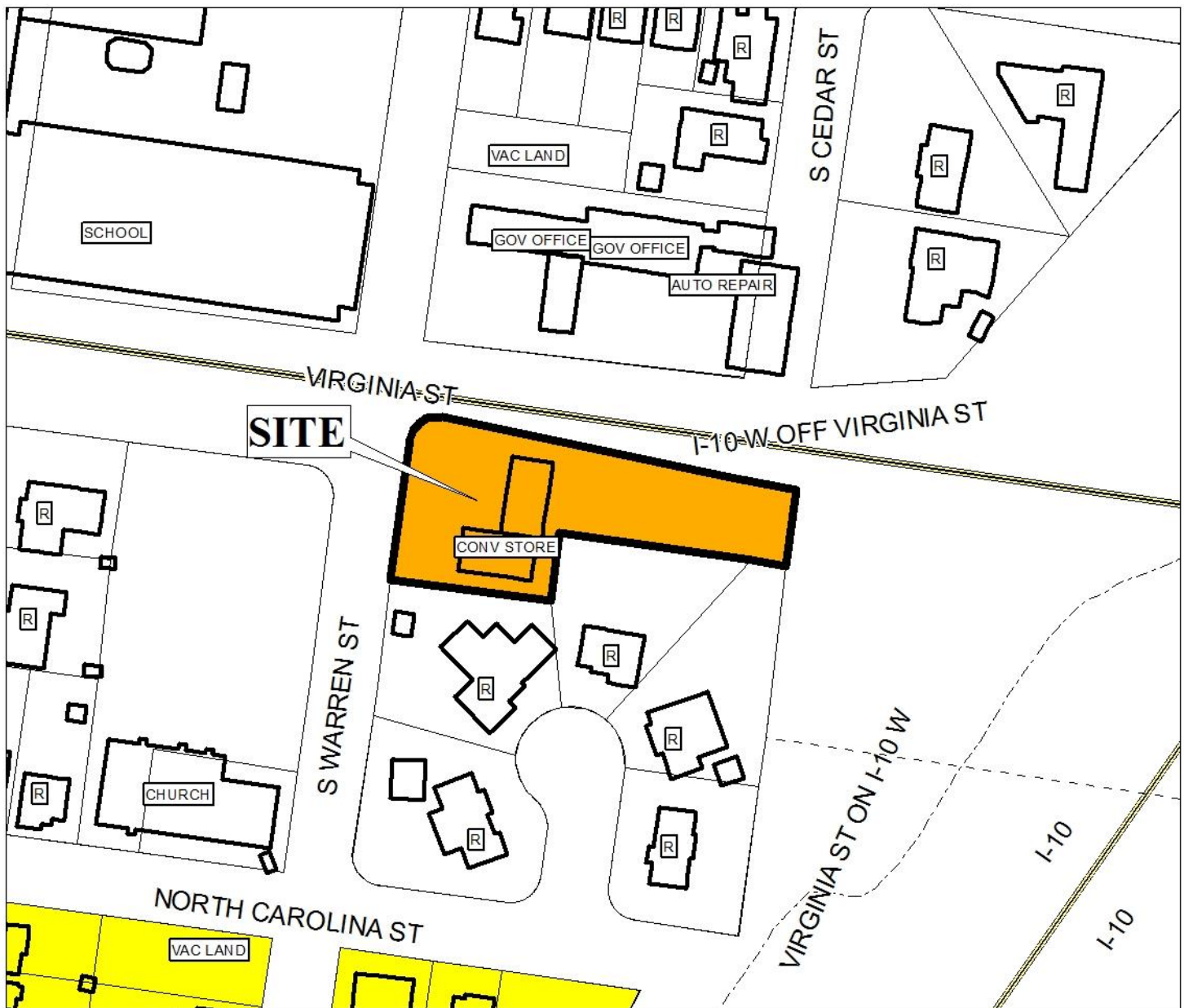


APPLICATION NUMBER 6082 DATE February 6, 2017
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REQUEST Sign Variance



BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units to the south, and commercial and residential units to the north.

APPLICATION NUMBER 6082 DATE February 6, 2017

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REQUEST Sign Variance

R-A	R-3	T-B	B-2	B-5	MUN	SD-WH	T5.1
R-1	R-B	B-1	B-3	I-1	OPEN	T3	T5.2
R-2	H-B	LB-2	B-4	I-2	SD	T4	T6



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL

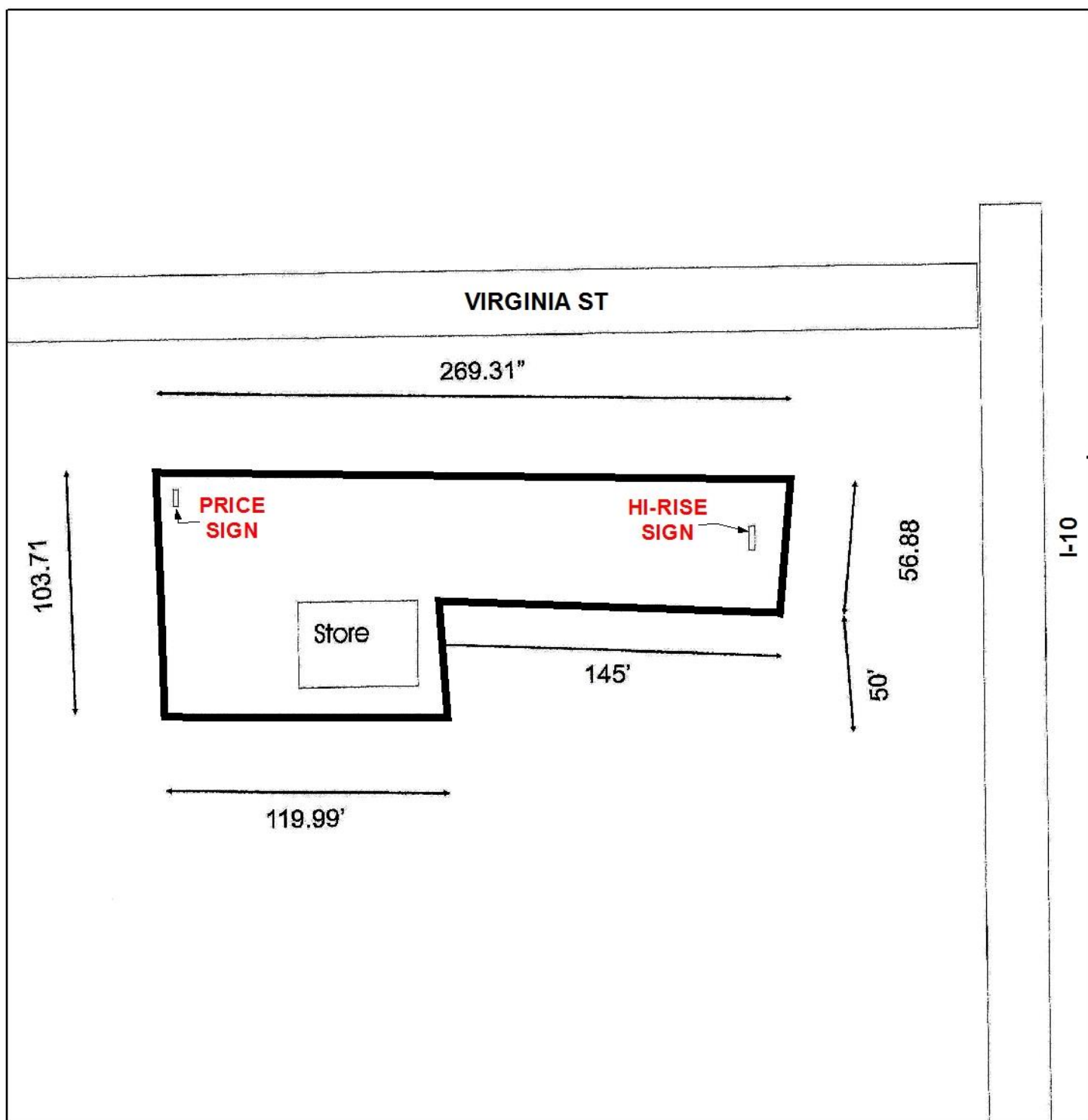


The site is surrounded by residential units to the south, and commercial and residential units to the north.

APPLICATION NUMBER 6082 DATE February 6, 2017
 APPLICANT Advantage Sign Company (Irv Horton, Agent)
 REQUEST Sign Variance



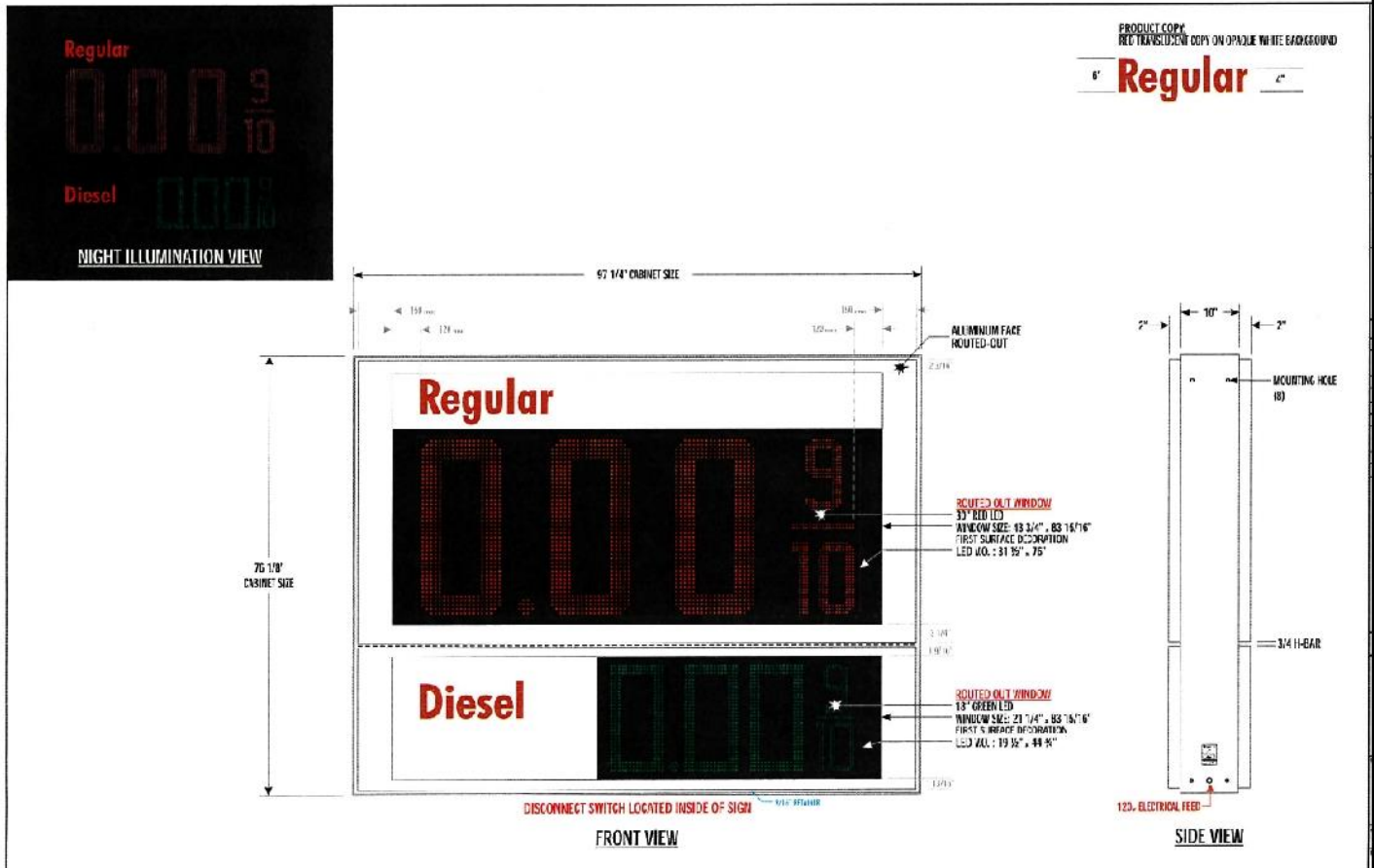
DETAIL SITE PLAN



APPLICATION NUMBER 6082 DATE February 6, 2017
APPLICANT Advantage Sign Company (Irv Horton, Agent)
REQUEST Sign Variance



DETAIL SITE PLAN



APPLICATION NUMBER 6082 DATE February 6, 2017

APPLICANT Advantage Sign Company (Irv Horton, Agent)

REQUEST Sign Variance



NTS