

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: May 2, 2016****CASE NUMBER** 6038 2622 809**APPLICANT NAME** Irv Horton**LOCATION** 399 Azalea Road
(Northeast corner of Azalea Road and Michael Boulevard).**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** 0.87 ± Acres**CITY COUNCIL
DISTRICT** District 5**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 applicant is proposing to install a monument sign with a digital double-faced LED price changer sign. The brand name and the words: gasoline, cash/ chevron card, and ATM will also be displayed on the sign however these items will not be part of the LED message board. The site has frontage on two streets, Azalea Road and Michael Boulevard.

The applicant currently has an existing monument sign that is double sided and depicts gas prices as well as the business logo. The existing sign is illuminated however the pricing aspect is manually changed by changing out the number inserts. The proposed LED sign will be approximately 210' 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 Chevron Convenience store located at 399 Azalea Rd.

#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 210' from the nearest residential property. The price changer does not flash, scroll, animate or change color. It has a constant, one color number.

#3 How did the conditions, items, facts or reasons which prevent you from complying with the requirements of the Zoning Ordinance occur? The owner must update the price sign to white LED's as per Chevron spec 's.

#4 How is this property different from the neighboring properties? There are two residences to the southwest of this property. The other properties are commercial except for the apartments directly behind the store.

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 only two residents to the southwest of this property and the other properties are commercial with the exception of the apartments directly behind the store. It should be pointed out that although the applicant's statement regarding the zoning classifications are correct, the Zoning Ordinances requires 300' from any residentially zoned piece of property, and although apartments may be viewed by the general public as commercial development, they are classified as residential property.

Within the required 300' buffer, the site is bounded to the North and South of Azalea Road by predominantly B-2, Neighborhood Business Districts; to the East by R-3, Multi-Family Residential District; and to the West by a portion of R-1, Single Family Residential and B-2, Neighborhood Business District.

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 July 1, 2015 meeting the Board approved a digital fuel pricing sign located along the East side of U.S. Highway 90, that was within 151' 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 an internally illuminated sign that is manually changed; it would seem that in keeping with the Board's previous interpretation of the Ordinance that an approval would seem appropriate.

RECOMMENDATION:

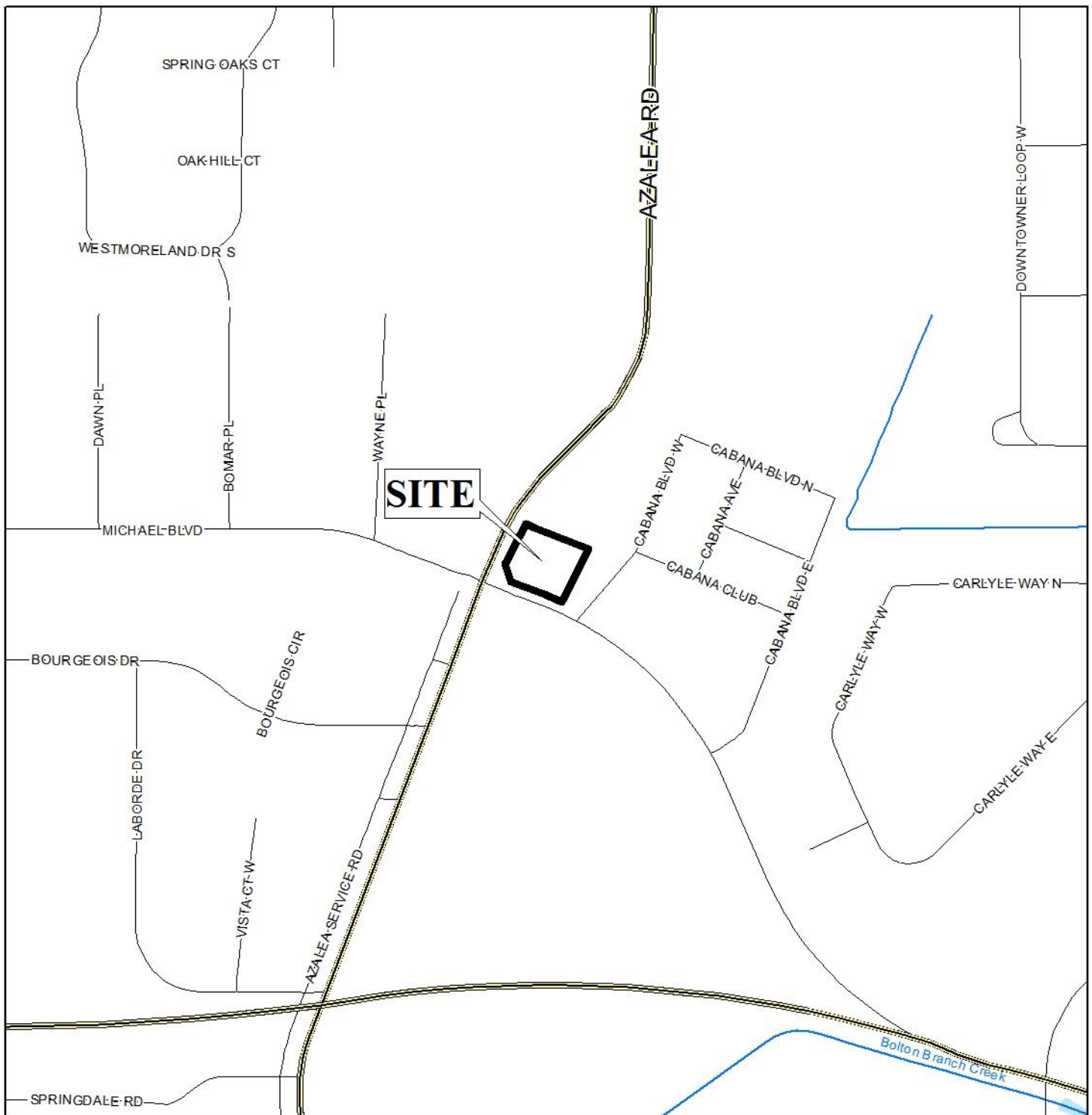
Staff recommends to the Board the following findings of fact for Approval:

- 1) approving the variance will not be contrary to the public interest in that the digital sign regulations are not, in the Board's opinion, applicable to fuel price signs;
- 2) special conditions exist and there are hardships which exist, in that the Board is of the opinion that the digital sign regulations are not applicable to fuel price signs, such that the literal enforcement of the provisions of the chapter will result in an unnecessary hardship; and
- 3) the spirit of the chapter shall be observed and substantial justice shall be done to the surrounding neighborhood by granting the variance because proposed digital fuel price signs will not be a detriment to the neighborhood.

Therefore, this application is recommended for approval, subject to the following conditions:

- 1) submission of a sign permit application;
- 2) submission of a electrical permit; and
- 3) full compliance with Section 64-11 of the Zoning Ordinance, and all other municipal codes and ordinances.

LOCATOR MAP



APPLICATION NUMBER	6038	DATE	May 2, 2016
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REQUEST	Sign Variance		



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial units to the west and residential units to the east.

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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 ZONING

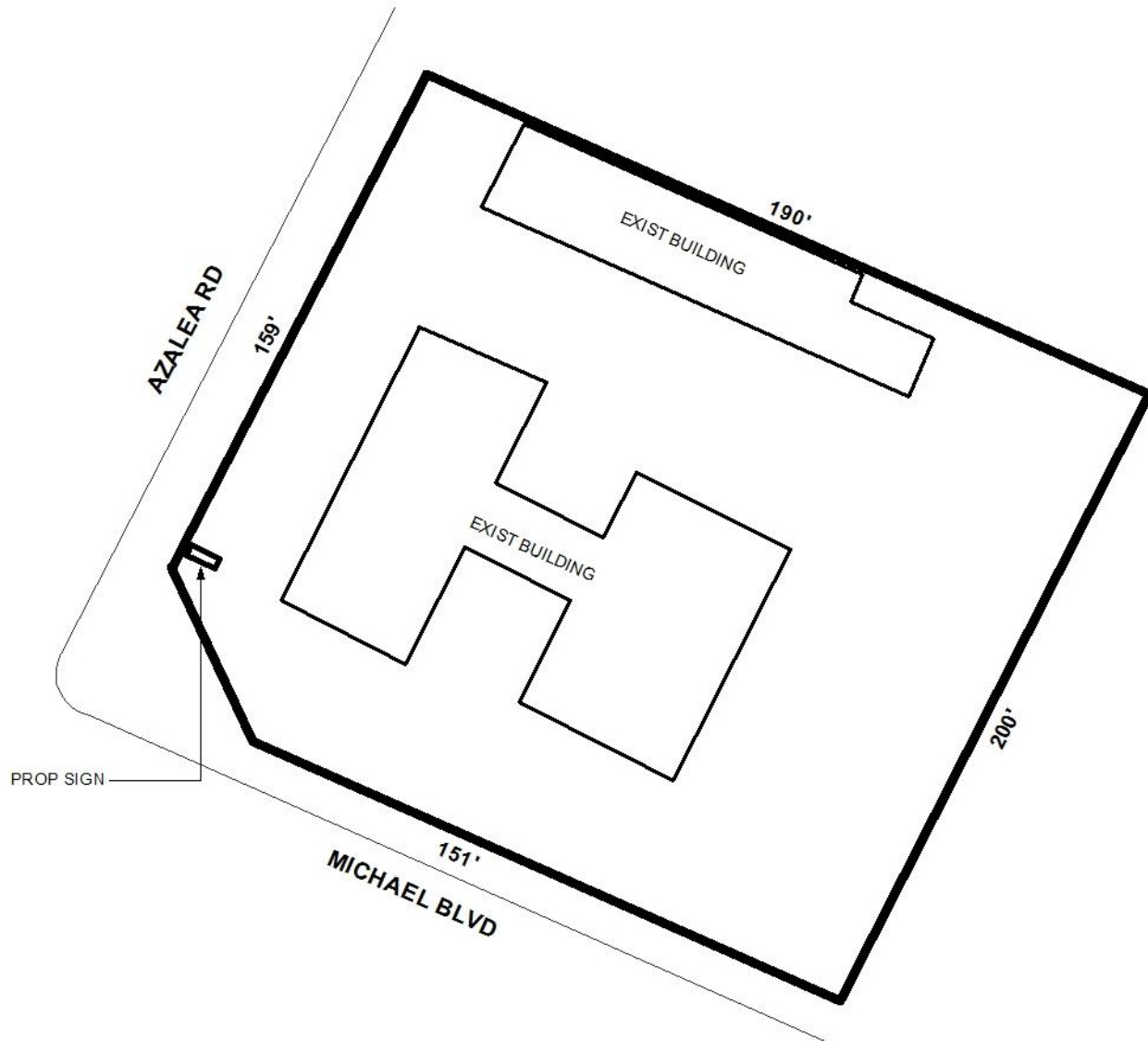


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SITE PLAN

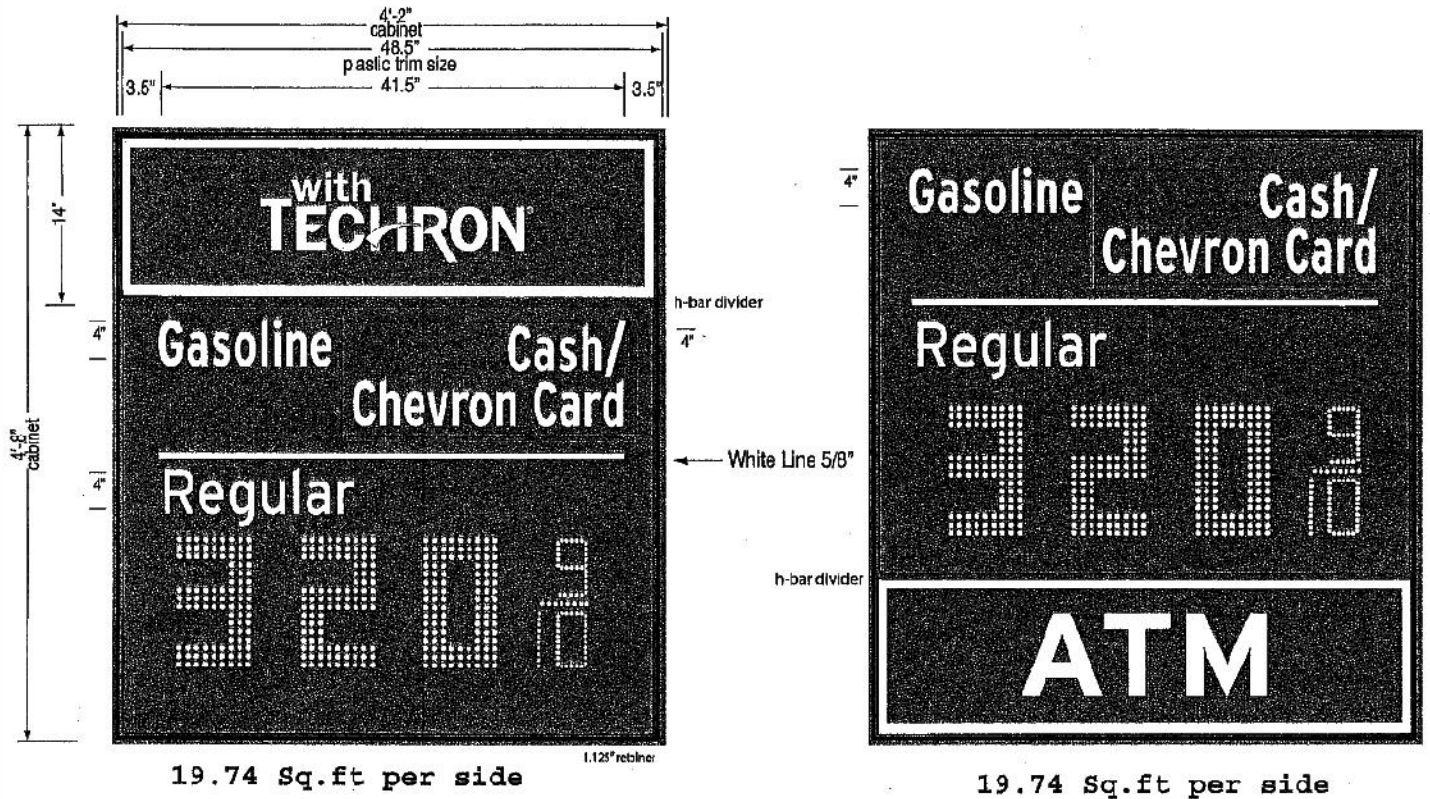


The site plan illustrates the existing buildings and the proposed sign location.

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DETAIL SITE PLAN



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