

ZONING ADMINISTRATOR'S REPORT  
VARIANCE APPLICATION  
1434 Northport Dr.

**Zoning:** NMX

**Owner:** Kwik Trip, Inc.

**Technical Information:**

**Applicant Lot Size:** 146' length x 264' width      **Minimum Lot Width:** N/A

**Applicant Lot Area:** 38,544 square feet      **Minimum Lot Area:** N/A

**Madison General Ordinance Section Requiring Variance:** 28.104(8)(b)

**Project Description:** Applicant requests a variance from the Transit Oriented Development (TOD) Overlay Site Standards for Automobile Infrastructure to construct a gas station canopy and gas station pumps at a convenience store.

Zoning code changes to establish a Transit Oriented Development Overlay District were enacted in January 2023. The overlay is located along high frequency transit lines throughout Madison and requires site and building design which is intended to prioritize transit riders and pedestrians.

In the overlay, automobile infrastructure “shall not be located between the primary street and the plane of the primary street-facing façade...” (MGO 28.104 (8)(b)1.) and “shall be setback from the primary street... equal to or greater than the principal building setback.” (MGO 28.104 (8)(b)2). Automobile infrastructure is defined as “an area used for the storage, parking, or movement of vehicles including, but not limited to, automobile parking, loading, drives, drive aisles, driveways, vehicle access sales and service windows and drives, gas pumps, gas station canopies, car wash vacuum stalls and electric vehicle charging facilities.” (MGO 28.211)

When new automobile infrastructure is proposed, it is required to comply with these provisions. Because removal of the existing gas station canopy and gas pumps and construction of a new canopy and pumps is proposed in an area that would not comply with the overlay requirements, a variance is required. The new canopy and pumps are proposed to be in the same location and of the same size as the existing.

**Gas Station Canopy and Gas Station Pumps Located Between the Principal Building and the Primary Street**

Zoning Ordinance Requirement: 65.2'

Provided Setback: 17.3'

Requested Variance: 47.9'

### **Comments Relative to Standards:**

- 1. Conditions unique to the property:** Conditions unique to the property are the locations of the existing principal building and the underground fuel tanks on the site. The TOD Overlay requires that principal buildings be built closer to the street with automobile infrastructure located no closer to the street than the principal building and not between the building and the street. The existing building is located in the far rear corner of the site, greatly limiting allowable locations for automobile infrastructure. With the location of the existing building, the current only allowable location for a new canopy and pumps would be where the existing overground fuel tanks are located. Additionally, due to the location of the underground fuel tanks, the canopy cannot be pushed back further from the street while still allowing adequate maneuvering for fuel trucks.
- 2. Zoning district's purpose and intent:** The purpose and intent of the automobile infrastructure location standards is to prioritize transit rider and pedestrian access to establishments located within close proximity to high frequency transit. The overlay requires site and building design which would allow pedestrians to enter an establishment without having to cross automobile infrastructure. While the location of the gas station canopy and pumps is contrary to this purpose and intent, it appears that the variance would not be contrary because it would allow continued use of this site for this use in anticipation of full compliance with TOD standards when a full redevelopment of the site occurs.
- 3. Aspects of the request making compliance with the zoning code burdensome:** Compliance with the strict letter of the ordinance would unreasonably prevent use of the property for a permitted purpose or would render compliance with the ordinance unnecessarily burdensome. Gas station canopies are an almost universal site feature for modern convenience stores/gas stations. The canopy is proposed to be rebuilt in the same location and at the same size as the existing. To build a compliant canopy, the existing building would need to be demolished and rebuilt or the existing underground fuel tanks would need to be relocated, which would be unnecessarily burdensome.
- 4. Difficulty/hardship:** See #1 and #3 above. The building was built in 1988 and purchased by the current owner in 2018. Difficulty and hardship are created by the zoning code because replacement of the existing canopy and pumps does not appear to be possible without a more substantial site redevelopment such as demolishing the existing building and rebuilding it in a location closer to the street.
- 5. The proposed variance shall not create substantial detriment to adjacent property:** The existing canopy and gas pumps are located in the same location as the proposed with no known impacts to light and air for adjacent properties. The variance could cause some

detriment by perpetuating auto-centric conditions; however, it seems that the proposed canopy and pumps would not create substantial detriment.

6. **Characteristics of the neighborhood:** The surrounding area is a mix of sites developed in a relatively auto-centric way under the pre-2013 zoning code and some more recently developed sites with more transit-friendly design. While the TOD overlay anticipates that over time these areas near high frequency transit will redevelop in a transit-supportive way, those changes will take time. The variance does not appear to be incompatible with the immediate neighborhood.

**Staff Recommendation:** It appears the standards have been met; therefore, staff recommends **approval** of the variance request, subject to further testimony and new information provided during the public hearing.