



# BOARD OF ZONING APPEALS STAFF REPORT

**To:** Members of the Board of Zoning Appeals

**From:** Tom Vander Woude, Planning Director

**Meeting Date:** July 13, 2021

**Agenda Item:** BZA Docket No. 21-004

**Hearing:** **PUBLIC HEARING**

**Application Type:** Conditional Use Permit

**Summary:** Good Oil Company Inc. requesting a conditional use permit to reuse an existing accessory structure as a car wash at the Marathon gas station at 9451 Calumet Avenue.

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**Applicant:** Good Oil Company, Inc. represented by Justin A. Schramm

**Property Address:** 9451 Calumet Avenue

**Current Zoning:** CD-4.A General Urban Character District

**Adjacent Zoning:** North: CD-4.A  
South: CN Railroad  
East: CD-4.R-4/CD-3.R-1  
West: Maple Leaf Crossing PUD

**Action Requested:** Favorable recommendation to the Town Council

**Additional Actions Required:** Findings of Fact  
Town Council Approval

**Staff Recommendation:** **Approval with conditions**

**Attachments:** Letter from Don Good of Good Oil Co Inc.  
BZA 21-004 variance application  
Site plan prepared by Hamstra Builders, Inc. dated 06.28.2021



Figure 1: Subject property with proposed car wash outlined in red.

## BACKGROUND

Good Oil Company Inc. is the owner of the property located at 9451 Calumet Avenue. The site contains two buildings: a Marathon gas station and convenience store with an attached automobile service center and a 965 square foot accessory building that was formerly used as a car wash, but most recently as an alignment bay for the automobile service center. The gas station and convenience store are operational; the service center and accessory building have not been in use for more than a year.

The applicant is proposing to remove the vehicle lifts and other equipment from the accessory building and to reuse it as a car wash.

The subject property received variances in 2013 from the parking lot fencing requirements, landscape irrigation requirements, and internal landscaping requirements of the Munster Zoning Ordinance.

The accessory building does not meet the minimum setback requirements of the CD-4.A district. An application has been submitted for a variance which must be granted in addition to the conditional use.

The petition was presented to the BZA at a preliminary hearing on June 8, 2021. At that hearing, the BZA asked the applicants an updated rendering of the site plan depicting current conditions including the closure of 45<sup>th</sup> Street, a copy of the lease between the owner and the operator of the gas station and proposed car wash, and either an appearance by the tenant at the public hearing or an affidavit of representation.

The applicant provided a revised site plan, which is attached to this memo. The applicant has provided a copy of the lease with the operator, which has been reviewed by BZA attorney Dave Wickland; he has found it to be sufficient for the purposes of authorizing the applicant to apply for the conditional use.

## DISCUSSION

A car wash is classified as a Motor Vehicle Shop Maintenance / Repair / Service / Cleaning use in the Munster Zoning Ordinance, which Table 26-6.405.A-6 identifies as a Conditional Use in the CD-4.A district.

The Munster zoning ordinance TABLE 26-6.405.A-6 DISTRICT STANDARDS Screens requires Parking Lots and Parking Areas at Frontage in 1st or 2nd Lot Layer be screened by a 3'-3.5' Wall or Enhanced Hedge. Staff suggests that the queuing area for the car wash be screened accordingly.

### Conditional Use Criteria for Approval

Sec. 26-6.405.L.g of the Munster Municipal Code states that no conditional use shall be granted by the board of zoning appeals unless the conditional use:

- i. It is in fact a Conditional Use ("CU") listed for the applicable Zoning District involved;
- ii. It will be harmonious with and in accordance with the general and specific intent, purposes and objectives of this Article as stated in Section 26-6.105 and the Town's Comprehensive Plan;
- iii. It will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the same area;
- iv. It will not be hazardous or disturbing to existing neighboring uses;
- v. It will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;
- vi. It will not create excessive additional requirements at public expense for public facilities and services and will not be detrimental to the economic welfare of the community;
- vii. It will not involve uses, activities, processes, materials, equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors;
- viii. It will have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares; and
- ix. It will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.

**RECOMMENDATION**

The Board of Zoning Appeals may wish to consider the following motion:

*Motion to forward to the Town Council a favorable recommendation to approve a conditional use permit for a car wash at 9451 Calumet Avenue.*

Staff recommends the following conditions:

1. *The car wash is to be located in the existing accessory building.*
2. *The car wash is to be an accessory use to the existing Marathon gas station.*
3. *The car wash queuing area is to be screened by a 3'-3.5' Wall or Enhanced Hedge in accordance with Munster zoning ordinance TABLE 26-6.405.A-6 DISTRICT STANDARDS Screens.*
4. *The Board of Zoning Appeals approves a variance from the setback standards of TABLE 26-6.405.A-6.*

# *Good Oil Co Inc*

1201N US35 -:- Winamac, Indiana 46996

*DON A. GOOD*

Phone: [574] 946-4863 - [574] 946-3742 — Fax: [574] 946-4563

*DEAN K. GOOD*

We agree wholeheartedly that the site is not what we want it to be. It is not representative of the type of facility we want to represent our 80+ year legacy or our family business. We also acknowledge that in part this has been due to a failure on our part to maintain a top-level operator in the facility.

We do want to shed some light on what has been the main factors that have made us hesitant in investing the time and capital in the site to bring it up to the level we want to represent us or what you are wanting for your community. This is not intended to make excuses but to shed light so that perhaps we can reach a point where we can look forward vs basing decisions on what the perception of who we are and what we represent.

We have been in a holding pattern on this site from the time we purchased it from Marathon Petroleum. Marathon disclosed to us when they divested the site that they were doing so as they were informed there was an underpass project being planned on Calumet Ave to go under the railroad tracks that would make the site inaccessible and therefore condemn the site. They indicated while they could not give a timeline or even the probability that the project would happen, they had made the decision to not invest in the site because of the possibility and their intent to exit dealer operations.

With that knowledge we made the decision to go ahead with the purchase and work with and lease the site to the occupant who had a successful repair operation at the location while we waited for the direction timeline of the underpass to develop. The operator ran a quality business and did well until problems with his health and personal life forced him to leave the business.

For the next couple years, we had different a operator in the location who ran bay operations. Eventually we learned that 45<sup>th</sup> street was going to be rerouted which resulted in the dealer asking to be released from his lease as he had concerns the loss of access from 45<sup>th</sup> St would cause a significant loss of business and he wanted to relocate. We agreed to release him and made arrangements to lease the front of the store for convenience and gas with the intentions of remodeling the location for such purposes.

While we were in the process of developing and bidding the project, we were informed Calumet was going to undergo extensive and lengthy construction in front of the store. We have copies of the plans that were started for the remodel to verify this was in process. The construction on Calumet basically made the site inaccessible from Calumet and with 45<sup>th</sup> St closed the site was basically dead. We then allowed the dealer in the site to exit his lease as there was no way for business to get in and out of the site.

The site has been either under the threat of condemnation from the underpass, impacted by the closure of 45<sup>th</sup> St, and or construction on Calumet from the time we bought it. While we understand the underpass has not been removed from possibility, we are more comfortable with some of the investment and changes in the area it is not likely to be eminent and therefore we are more comfortable with investing in the site from that perspective.

However, what we do not know is if the closure of 45<sup>th</sup> St has impacted the site to the point where it is not viable. We do know it impacted the site significantly but are unsure if it is fatal or not. The construction on Calumet occurred close enough for us not to be able to get a good feel as to true impact.

What we are asking for is the opportunity to operate the site at an acceptable level to determine if it does in fact justify making a significant investment in it. In order to do so we would ask we be allowed to open the carwash and make reasonable cosmetic improvements to the location and to operate it for a period of 24 months on a provisional basis. At or before the end of the 24-month period we will make the decision to either invest significant capital to raise the quality of the offer or work on an exit plan from the site.

A relevant part of our purchase agreement with Marathon provides that if we sell the site for a non-petroleum use Marathon has the right to require a sharing of any difference between what we paid them for the property and the selling price. This makes exiting the property before we make the determination that it is or isn't viable very difficult. In essence we would probably be better allowing the site to limp along rather than than exit but we won't know that until we try to operate with 45<sup>th</sup> St closed, Calumet open, and pushing to maximize site potential including the carwash. . It is quite possible with 45<sup>th</sup> closed we may find exiting is the right avenue for us, we just don't know that at this time.

Our options are to just continue as investing the minimum required to stay open and in compliance or make modest improvements including opening the carwash in an effort to determine if the site can be viable. If we determine it is not viable after trying it with the full facility and long term infrastructure completed the logical next step is to exit. If we determine it can be viable, we are willing to commit the capital to bring the site up to our standards, one that Munster will find acceptable, and to the level you feel reflects well on the community.

A handwritten signature in black ink, appearing to read "Don J. Howard". The signature is fluid and cursive, with a large initial "D" and "H".



Petition BZA \_\_\_\_\_ - \_\_\_\_\_

Date: \_\_\_\_\_

Application Fee: \$ \_\_\_\_\_

Sign Fee: \$ \_\_\_\_\_

### Town of Munster Board of Zoning Appeals Petition Application

#### OWNER INFORMATION:

Name of Owner GOOD OIL COMPANY INC 574-946-4863  
Phone Number

1201 N. U.S. HIGHWAY 35, WINAMAC, IN 46996  
Street address, City, ST, ZIP Code donagood@goodoilcompany.com  
Email address

#### APPLICANT OR PETITIONER INFORMATION (if different than above):

Name of Applicant/Petitioner \_\_\_\_\_ Phone Number \_\_\_\_\_

Street address, City, ST, ZIP Code \_\_\_\_\_ Email address \_\_\_\_\_

#### PROPERTY INFORMATION:

GOOD OIL COMPANY, INC.  
Business or Development Name (if applicable)

9451 CALUMET AVE, MUNSTER IN 46231  
Address of Property or Legal Description

CD-4A  
Current Zoning

#### APPLICATION INFORMATION:

Please select what this Application is for:

- ☐ Variance If yes, select one of the following: ☐ Use ☐ Developmental Standards  
☒ Conditional Use  
☐ Administrative Appeal

Brief Description of Project and List of Variances or Conditional Uses Being Requested (if applicable):

PLEASE SEE ATTACHED DOCUMENTATION

Name of Registered Engineer, Architect or Land Surveyor \_\_\_\_\_

Phone Number \_\_\_\_\_

Street address, City, ST, ZIP Code \_\_\_\_\_

Email address \_\_\_\_\_

4-22-2021

## Conditional Use Conditions of Approval – Car Wash

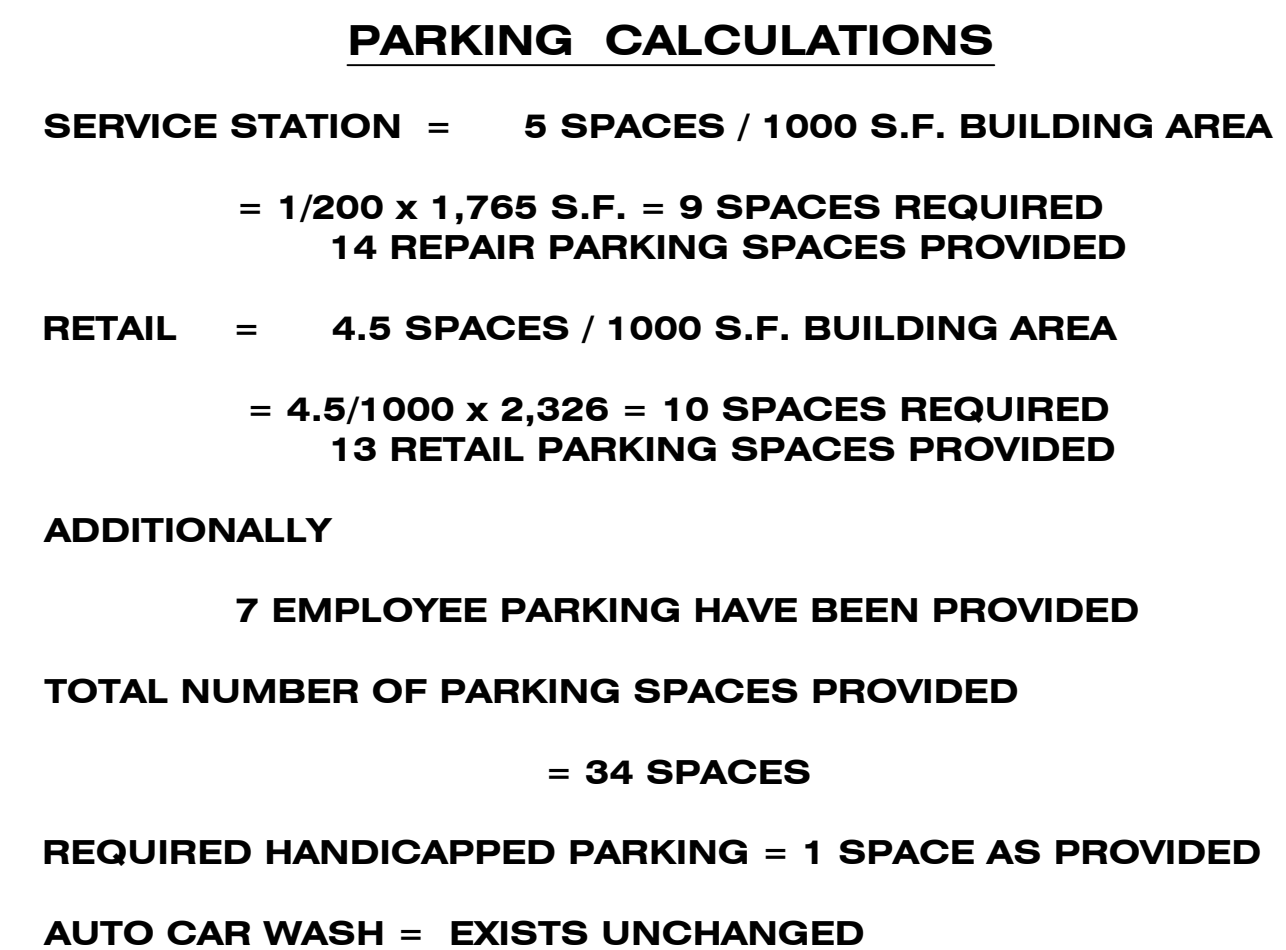
### Brief description of project:

The property is a Marathon gas/convenience store. An existing standalone car wash sits on the property. Currently, the building is unsightly and was used improperly by the prior lessee as recognized by the new lessee and Good Oil Company, Inc. Both the Lessee and Good Oil acknowledge the need for cosmetic upgrades and the lessee agrees to restore the building to its intended use. Further, Good Oil and the lessee will partner together to set goals for this property and will make monthly sight inspections as to the progress of the goals. Good Oil and lessee recognize Munster has redeveloped this area which has added value to the Town. The car wash will be an added service to this area. Good Oil and the new lessee will work together to upgrade the operation and image guidelines developed by Good Oil.

### Conditional Use Conditions of Approval:

1. Calumet Avenue is a main thoroughfare through Munster and will be a convenience to the Townspeople.
2. The car wash will be reinstalled in the existing building to its originality therefore not changing the essential character of the area.
3. There will be no hazardous waste on the property and all precautions for proper drainage will be utilized.
4. The building has parking space around the building allowing for repairs/upgrades to the building without disturbing the traffic flow.
5. There will be no excessive additional requirements with the car wash. The car wash will generate additional revenue for the lessee and the Town of Munster through local income taxes.
6. The equipment to run the car wash will be within the confinements of the building. There will be no equipment located outside of the car wash building, which would cause unnecessary mess or encumbrance.
7. The building is conducive with the flow of traffic in its present location. There are four (4) points of entry: two from Calumet Ave., one from 45<sup>th</sup> Street, and one from Columbia Ave. There is adequate room on the property for vehicles to enter and exit the establishment safely.
8. The current landscape around the building will be upgraded per the guidelines as established by Good Oil.





Know what's **below**.  
**Call** before you dig.

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*Harry L. Mohler*

**MOHLER  
ARCHITECTS**



**A Professional Corporation**  
*Architects - Engineers - Interior Designers*

U.S. Postal Address: P.O. Box 86, Lafayette, Indiana 47902  
Shipping Address: 630 South Street, Suite 625, Lafayette, Indiana 47901  
Email: [bat@mohlerfirm.com](mailto:bat@mohlerfirm.com) / Web Site: [www.mohler.com](http://www.mohler.com)

**project no.** 32-081

**REMODEL OF C-STORE**  
**GOOD OIL COMPANY**  
**9451 CALUMET AVE.**  
**MUNSTER, INDIANA 46321**

# SITE PLAN



**HAMSTRA**  
**BUILDERS, INC.**  
CONTRACTORS & DEVELOPERS  
12028 NORTH 200 WEST • WHEATFIELD, INDIANA 45392  
PHONE: (219) 956-3111 • FAX: (219) 956-3570  
WEB SITE: <http://www.hamstragroup.com>

**C01**