

**Date of Meeting:** July 7, 2016  
**Subject:** Variance to waive the requirement for a sidewalk  
**Project Name:** Speedy Splash Carwash  
**Location:** 4810 W 6<sup>th</sup> Ave

### **BACKGROUND**

A building permit has been issued for the construction of an addition to the Speedy Splash Carwash. The approved site plan includes a 6 foot sidewalk along 5<sup>th</sup> Ave and the frontage adjacent to the carwash along Country Club Rd, as required by the ordinance. The applicant seeks a variance to waive the requirement to construct the sidewalk.

Country Club Rd was recently rebuilt and widened adjacent to the subject property. As a part of the project, sidewalks along the west side of Country Club Rd were omitted in favor of providing a 10 foot wide multi-use trail on the east side of the road to provide bicycle and pedestrian access. The road widening did not provide adequate area in the right-of-way for a sidewalk, requiring that a pedestrian easement be granted. No sidewalk facilities are currently located on the west side of Country Club Rd. Additional development along Country Club Rd is likely in the future due to the roadway improvements.

5<sup>th</sup> Avenue is a minor local street providing rear access (functioning similar to an alley) to businesses fronting 6<sup>th</sup> Ave and providing access to Westpark Ct, a private local street with a cul-de sac. No sidewalk facilities are located along 5<sup>th</sup> Ave or within the Westpark Commercial development.

The Transportation Department would like to have a sidewalk on the west side of Country Club Ave from 6<sup>th</sup> Avenue north to provide pedestrian access to businesses and properties as they develop or to improve pedestrian access in the area in other ways.

### **CODE APPLICATION**

Sec. 23-356. - Sidewalks.

- (a) Required on both sides of the street. Sidewalks shall be required on both sides of all arterial and collector four-lane and arterial two-lane streets except as provided herein. Sidewalks shall only be required on one side of all other streets as set forth herein. All sidewalks shall be constructed in accordance with applicable standard specifications of the city.
- (b) Not required. A sidewalk shall not be required:
  - (1) On collector or local streets in those areas zoned and used for industrial purposes;
  - (2) In any subdivision wherein the minimum lot size is 20,000 square feet; or
  - (3) Whenever a cul-de-sac is shorter than 500 feet in length.

**Any request for relief from the requirements set forth in this section shall be through an application for a variance to the board of adjustment.** The criteria for granting a variance herein shall be the same as set forth in 11 O.S. § 44-107. Denial of a request for relief under

this section by the board of adjustment shall be immediately appealable to the district court of the county in accordance with [section 23-69](#).

(c) Fee in lieu of construction if determined by director. A developer or builder may pay a fee to the city in lieu of construction of a sidewalk required under this section whenever the development services director determines that existing conditions make construction impractical. The fee shall be based on the amount of linear feet of sidewalk required and sufficient to pay for the construction of the sidewalk. The city council shall have the authority to establish a schedule of any such fees by resolution and the fee schedule shall be reviewed at least annually. A fee collected under this section shall be placed in a separate escrow account and shall not be used to construct a sidewalk anywhere but on the property for which the fee was paid.

(d) Sidewalk requirements. The following are the requirements for sidewalks:

Street Classification and Number of Lanes	Residential One- and Two-Family	All Others
Arterial or collector, three lanes or more	Both sides, six feet	<b>Both sides, six feet</b>
Arterial or collector, two-lane	One side, six feet	Both sides, six feet, unless the comprehensive arterial sidewalk map indicates that the sidewalk shall only be on one side of the street; sidewalks located on one side of an arterial shall be eight feet wide
Local	One side, four feet	<b>Both sides, six feet</b>

### **DISCUSSION/ANALYSIS/FINDINGS**

City Code Section 23.23. Variances.

A variance from the terms, standards and criteria that pertain to an allowed use category within a zoning district as authorized by Chapter 23, Article 7 may be granted, in whole, in part, or upon reasonable conditions as provided in this Article, only upon a finding by the board of adjustment that:

- (1) The application of the ordinance to the particular piece of property would create an unnecessary hardship;

Staff cannot identify a particular hardship related to the request. The sidewalks physically can be built, according to the approved site plans.

- (2) Such conditions are peculiar to the particular piece of property involved;

The conditions of the request are unique due to the new construction of a multi-use sidewalk across the street. 5<sup>th</sup> Avenue is about 600 feet in length and does not provide pedestrian access to any businesses.

- (3) Relief, if granted, would not cause substantial detriment to the public good, or impair the purposes and intent of the ordinance or the Comprehensive Plan; and

The complete waiver of the sidewalk requirement on Country Club Rd could be detrimental to the public good, as businesses would not have pedestrian access on the west side of Country Club Rd now or in the future as the area is developed. The intent of the ordinance is that pedestrian access be provided to all commercial properties.

Waiving the sidewalk requirement on 5<sup>th</sup> Ave should not have a detrimental impact to the public or impair the intent of the ordinance because very limited pedestrian access is needed now or in the future.

- (4) The variance, if granted, would be the minimum necessary to alleviate the unnecessary hardship.

Staff cannot identify a specific hardship; however, the request is the minimum necessary to retain the existing level of pedestrian access to the area.

### **MINIMUM RELIEF NECESSARY**

The minimum relief necessary for the request is to approve the waiving of the requirements for sidewalks along both Country Club Rd and 5<sup>th</sup> Ave. Other options to allow partial relief include:

- 1) Granting a variance to the required sidewalk width to allow a 4 foot sidewalk along Country Club Rd and/or 5<sup>th</sup> Ave to reduce the cost of construction while still providing pedestrian access.
- 2) Granting a variance to waive the requirement for the sidewalk along 5<sup>th</sup> Ave only.
- 3) Granting the variance to waive the requirement for the sidewalk along 5<sup>th</sup> Ave if sidewalk is provided along the entire property frontage along Country Club to the sidewalk crossing at 6<sup>th</sup> Ave to provide pedestrian access along the west side of Country Club Rd for current and future development.
- 4) Granting the variance to waive the requirement to construct sidewalks along 5<sup>th</sup> Ave and/or Country Club Rd with a condition that the applicant must make improvements to the multi-use sidewalk such as street trees, benches, pedestrian lighting, crosswalk at 5<sup>th</sup> Ave, ect. on the east side of Country Club Rd in the same monetary amount as the sidewalk would have cost in order enhance the pedestrian access in the area.

### **RECOMMENDATION**

After reviewing the four (4) criteria as indicated above, staff finds that the applicant has met items 2 (both streets) and 3 (5<sup>th</sup> Ave sidewalk only). Staff would recommend that the Board further review items 1 and 4 to determine, if in the Board's opinion, the information provided in the report and by way of testimony, allows the Board to make findings in the applicant(s) favor and grant the request. The Board may find in favor of the request and allow partial relief by approving the variance with conditions or lessening the development requirements if the criteria for approval of a variance are met.

**Prepared by:** Tom Coots, Planner I  
**Date of Preparation:** June 28, 2016  
**Attachments:** Area Map, Applicant's Criteria, Approved Site Plan  
**Map Designation:** NW