



## CITY OF TONTITOWN PLANNING OFFICE

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Meeting: **March 28, 2023**  
Project: **Copart Variance**  
Planner: Courtney McNair, Garver

### BOARD OF ZONING ADJUSTMENTS AGENDA ITEM

## PH 1, BZA 1

### VARIANCE REQUEST

W. Henri de Tonti Blvd. (W. Hwy. 412) (north of 2902 W HDT)  
Parcel # 830-37909-001, 830-37897-007, 830-37897-006

**SUMMARY:** The applicant is requesting a variance to reduce the required buffer from 100 feet to twenty-five (25) feet.

**CURRENT ZONING:** I -Industrial, this use is allowable with a Conditional Use Permit.

**CITY WARD:** 3- Mike Washkowiak, Tim Burress

**FLOODPLAIN:** No

**INFRASTRUCTURE SERVICE AREAS** (not a guarantee of service availability):

**Water:** Tontitown Water, existing 6" waterline

**Electric:** Ozarks Electric

**Sewer/Septic:** Individual Septic System

**Phone:** AT&T

**Natural Gas:** Black Hills Energy

**Cable:** Cox Communications

**School District:** Springdale

### PROJECT SYNOPSIS:

Copart is requesting Preliminary LSD approval to construct a Wrecking/Salvage/Junkyard for vehicle storage on 25 acres of land. They plan to have a small 10-foot by 40-foot operations trailer and a parking lot for customer/employee parking.

The developer is also requesting:

- Conditional Use Permit to allow the requested use.
- Variance to reduce the required buffer from 100 feet to 25 feet.
- Waiver from the requirement that parking areas and drives and landscaping shall be curbed.

## **VARIANCE REQUEST 1:**

**Reduction of the required buffer from 100 feet to twenty-five (25) feet.**

*Section 153.262 Powers and Duties:*

*(B) To authorize upon appeal, in specific cases, such variance from the terms of this zoning chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations would result in unnecessary hardship that would deprive the owner of any reasonable use of the land or building involved. **A variance from the terms of these zoning regulations, shall not be granted by the Board of Zoning Adjustment unless and until:***

- (1) The applicant demonstrates that special conditions and circumstances exist which are

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peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district.

**Applicant's Letter:**

"The Copart Facility main access driveway will access off US Highway 412 and will include an approximate 400 SF operations trailer. Adjacent to the trailer will be a paved parking lot for employees and customers. Also, adjacent and behind the building and parking lot will be an Asset shipping/receiving area, also known as the droplot or bullpen. The remaining usable space of the property will be utilized for short-term Asset storage, stormwater ponding, and green space to meet the development requirements.

Copart is requesting a Variance to the City of Tontitown, Arkansas Code of Ordinances Title XV, Ch. 153.162 (Wrecking, Salvage, and Junkyards). This section of the ordinance states "Because of the nature and character of their operations, motor vehicle and salvage yards, junkyards, and similar uses of land can have a serious detrimental affect upon surrounding properties. Salvage and wrecking yards tend to create problems of noise, dust, traffic, and health hazards, and may adversely affect property values by their general appearance." This section further states "Because of the tendency of salvage yards to promote the breeding of vermin, no such operation shall have less than a 300-foot buffer zone to any residential district, or 100-foot buffer zone from commercial and industrial zoned property(s) and streets."

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"The entire property perimeter contains a security and screening metal panel fence. Access to the storage yard is only via a locked gate. The standard Copart metal panel fence is typically colored white (enclosed), however, Copart would like to offer upgrading to a green metal panel fence (enclosed example) to further soften the appearance of the fence and facility to neighboring properties.

The unique shape and size of these parcels poses a special condition to the project. The long narrow area of the south parcel does not allow any use other than a driveway, due to its width. The numerous property corners increase the area of the buffer zone, further reducing the usable space for Copart."

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"In Summary, Copart is requesting the 100-foot buffer zone be reduced to a 25-foot buffer zone in order to increase the usability of the property and make the development of this property economical. A green screening fence and landscape plantings have been incorporated to soften the view of the facility from all properties and adjacent streets.

Lastly, Copart's use fits the planned surrounding uses. The existing uses to the south include RV sales and a Veterinary Care Center, uses directly adjacent to this parcel include RV and car storage and sales, and uses to the north include a substation and electricity facility."

**Staff's Response:** The southern parcel is too narrow to use for anything other than a driveway, and the remainder of the site is primarily surrounded by Industrial uses.

that literal interpretation of the provisions of these regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the

terms of these regulations.

**Staff's Response:** This site could be developed even with the buffer requirements. The use requested by the applicant does require larger buffer areas.

that special conditions and circumstances do not result from the actions of the applicant.

**Staff's Response:** The applicant purchased an existing parcel of land. The shape and layout of the land is not a result of the applicant's actions.

and that granting the variance requested will not confer on the applicant any special privilege that is denied by the zoning regulations to other lands, structures, or buildings in the same district.

**Staff's Response:** Granting this waiver will not prevent the orderly subdivision or development of other land in the area.

- (2) *No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.*

**Staff's Response:** There are no nonconforming uses in the surrounding area.

- (3) *The Board of Zoning Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of land, building, or structure.*

**Staff's Response:** The lots are in conformance with the required lot size for this zoning district.

- (4) *The Board of Zoning Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of these zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.*

**Staff's Response:** Granting this waiver will not be injurious to the neighborhood. The applicant is providing upgraded fencing and vegetative buffering.

- (5) *In granting any variance, the Board of Zoning Adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of these regulations.*

**Staff's Response:** Based on the applicant's proposal, staff recommends that the fencing and landscaping be installed per the applicant's letter.

- (6) *Under no circumstances shall the Board of Zoning Adjustment grant a variance to allow a use not permissible under the terms of these zoning regulations in the district involved, or any use expressly, or by implication, prohibited by the terms of these regulations in said district.*

**Staff's Response:** Granting this request will not allow a use that is not permissible by code.

**STAFF RECOMMENDATION:**

Staff recommends **APPROVAL** of the applicant's variance request to reduce the required buffer from 100 feet to twenty-five (25) feet.

**CONDITIONS RECOMMENDED FOR APPROVAL:**

1. The fencing and landscaping shall be installed per the applicant's letter.