

**Agenda**  
Board of Zoning Appeals

Date: May 9, 2024

To: Board of Zoning Appeals

From: Mark Easterling, Deputy Planning & Zoning Administrator

Re: **Items for the May 13, 2024 Meeting**

1. Call to Order - 5:30 PM
2. Roll Call
3. Approval of April 15, 2024 Meeting Minutes
4. Administer Oath
5. Zoning Permit Obligation
6. New Business

**APPLICATION 16-24**

PETE HUFFMAN IS REQUESTING A ZONING VARIANCE TO REDUCE THE FRONT YARD SETBACKS TO ALLOW FOR THE CONSTRUCTION OF AN ADDITION TO THE PRIMARY STRUCTURE. THE PROPERTY IS LOCATED AT 600 LOUISIANA AVENUE AND IS ZONED R-3 (SINGLE FAMILY RESIDENTIAL).

**NOTE:** CHAPTER 1230.01 INTENSITY AND DIMENSIONAL STANDARDS

R-3 ZONING:

FRONT YARD = 35'

(LOUISIANA AVE. AVG. 17', W. SIXTH AVG. 14')

REAR YARD = 35'

SIDE YARD MIN = 8'

SIDE YARD TOTAL = 20'

1. THE APPLICANT IS REQUESTING A VARIANCE FOR FRONT YARD SETBACK RELIEF TO ALLOW FOR AN ADDITION TO THE HOME. THE STRUCTURE IS CURRENTLY FIVE (5) FEET FROM THE FRONT YARD PROPERTY LINE ALONG EAST SIXTH STREET AND FIVE (5) FEET FROM THE FRONT PROPERTY LINE ALONG LOUISIANA AVENUE.

**Recommendation:**

1. The Deputy Administrator recommends approval of the zoning variances based on meeting the criteria B, C, D, and F of Chapter 1275.02(c)(3). The original structure was built in a location that does not meet the current standard of the code and the addition to the primary structure will be set back fifteen (15) feet from the property line. The addition would meet the minimum requirement for the side yard setback.

**APPLICATION 17-24**

MATTHEW TEMBY IS REQUESTING A ZONING VARIANCE TO REDUCE THE SETBACK OF A NEW FREESTANDING SIGN IN THE FRONT YARD. THE PROPERTY IS LOCATED AT 13000 ECKEL JUNCTION ROAD AND IS ZONED I-2 (GENERAL INDUSTRIAL).

**NOTE:** CHAPTER 1250.33(A) PERMANENT FREESTANDING SIGNAGE  
I-2 ZONING DISTRICT:  
MAXIMUM HEIGHT: 10'  
MAXIMUM SIZE: 72 SQUARE FEET  
LOCATION: 25' SETBACK  
QUANTITY: 1 PER STREET FRONTAGE

**NOTE:** CHAPTER 1250.39 VARIANCES  
THE BOARD OF ZONING APPEALS MAY GRANT A VARIANCE ONLY IF IT FINDS THAT ALL OF THE FOLLOWING APPLY:

(A) THAT THE LITERAL ENFORCEMENT OF THE REQUIREMENTS OF THIS CHAPTER WOULD INVOLVE PRACTICAL DIFFICULTIES BASED ON THE PRESENCE OF SPECIAL CONDITIONS AND CIRCUMSTANCES WHICH ARE PECULIAR TO THE LAND OR STRUCTURE INVOLVED AND WHICH ARE NOT APPLICABLE TO OTHER LANDS OR STRUCTURES IN THE SAME ZONING DISTRICT. A FINDING OF SUCH SPECIAL CONDITIONS OR CIRCUMSTANCES SHALL BE BASED ON A REVIEW OF FACTORS INCLUDING BUT NOT LIMITED TO THE FOLLOWING:

(1) EXCEPTIONAL NARROWNESS, SHALLOWNESS OR SHAPE OF A SPECIFIC PROPERTY ON THE EFFECTIVE DATE OF THIS CHAPTER OR AMENDMENT; OR

(2) EXCEPTIONAL TOPOGRAPHIC OR ENVIRONMENTAL

CONDITIONS OR OTHER EXTRAORDINARY SITUATION ON THE LAND, BUILDING OR STRUCTURE; OR

(3) THE IMPACT ON THE PROPERTY OF USES OR DEVELOPMENT OF IMMEDIATELY ADJOINING PROPERTY OR PROPERTIES.

(4) WHETHER THE APPLICANT WAS AWARE OF THE RELEVANT CODE LIMITATION WHEN THE PROPERTY WAS SOLD OR LEASED TO IT.

(5) WHETHER THE PROPERTY IN QUESTION WILL YIELD A REASONABLE RATE OF RETURN IN THE ABSENCE OF THE PROPOSED VARIANCE, OR WHETHER THERE CAN BE ANY BENEFICIAL USE OF THE PROPERTY WITHOUT THE PROPOSED VARIANCE.

(6) WHETHER THE ISSUE COULD BE RESOLVED BY SOME OTHER METHOD, EVEN IF THIS ALTERNATE METHOD IS LESS CONVENIENT OR MOST COSTLY TO ACHIEVE.

(B) THAT GRANTING THE VARIANCE WILL NOT CAUSE A SUBSTANTIAL ADVERSE EFFECT TO PROPERTY OR IMPROVEMENTS IN THE VICINITY OR WILL NOT MATERIALLY IMPAIR THE INTENT AND PURPOSES OF THE REQUIREMENT BEING VARIED OR OF THIS CHAPTER AND IS THE MINIMUM VARIANCE NECESSARY TO PROVIDE RELIEF.

(C) THAT THE VARIANCE WOULD NOT ADVERSELY AFFECT THE DELIVERY OF GOVERNMENTAL SERVICES (E.G., WATER, SEWER, GARBAGE).

(D) THAT THE VARIANCE AS GRANTED WOULD NOT CONFER ON THE APPLICANT ANY SPECIAL PRIVILEGE, OR DEPRIVE THE APPLICANT OF RIGHTS, WHEN COMPARED WITH THOSE RIGHTS COMMONLY ENJOYED IMMEDIATELY ADJOINING PROPERTIES;

(E) THAT THE VARIANCE REQUEST IS NOT ONE WHERE THE SPECIFIC CONDITIONS PERTAINING TO THE PROPERTY ARE SO GENERAL OR RECURRENT IN NATURE AS TO MAKE THE FORMULATION OF A GENERAL REGULATION FOR THOSE CONDITIONS

REASONABLY PRACTICABLE.

1. THE APPLICANT IS REQUESTING A VARIANCE TO INSTALL A FREESTANDING SIGN ONE (1) FOOT FROM THE SIDEWALK.

**Recommendation:**

1. The Deputy Administrator recommends denial as the request does not meet all the conditions required to grant a variance outlined in Chapter 1250.39. The requested location, at a minimum, would need to be moved back as the property line is four (4) feet from the sidewalk. No structure would block the location of a freestanding sign at a permissible location as the closest structure is over three hundred (300) feet away. In addition, a business of the same use previously at this location operated with only a wall sign.

**APPLICATION 18-24**

MATT DEWOOD IS REQUESTING TWO ZONING VARIANCES TO MAKE CHANGES TO EXISTING FREESTANDING SIGNS IN THE FRONT YARD. THE SUBJECT PROPERTY IS LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF LOUISIANA AVENUE AND SOUTH BOUNDARY ST. (PARCEL NUMBERS; Q61-400-080102003000 AND Q61-400-080102006000) WITH THE CLOSEST ADDRESS BEING 110 W. SOUTH BOUNDARY ST. THE SUBJECT PROPERTY IS ZONED C-3 (COMMUNITY SHOPPING).

**NOTE:** CHAPTER 1250.33(A) PERMANENT FREESTANDING SIGNAGE  
C-3 ZONING DISTRICT:  
MAXIMUM HEIGHT: 10'  
MAXIMUM SIZE: 72 SQUARE FEET  
LOCATION: 10' SETBACK  
QUANTITY: 1 PER STREET FRONTAGE

**NOTE:** CHAPTER 1250.39 VARIANCES  
THE BOARD OF ZONING APPEALS MAY GRANT A VARIANCE ONLY IF IT FINDS THAT ALL OF THE FOLLOWING APPLY:

(A) THAT THE LITERAL ENFORCEMENT OF THE REQUIREMENTS OF THIS CHAPTER WOULD INVOLVE PRACTICAL DIFFICULTIES BASED ON THE PRESENCE OF SPECIAL CONDITIONS AND CIRCUMSTANCES WHICH ARE PECULIAR TO THE LAND OR STRUCTURE INVOLVED AND

WHICH ARE NOT APPLICABLE TO OTHER LANDS OR STRUCTURES IN THE SAME ZONING DISTRICT. A FINDING OF SUCH SPECIAL CONDITIONS OR CIRCUMSTANCES SHALL BE BASED ON A REVIEW OF FACTORS INCLUDING BUT NOT LIMITED TO THE FOLLOWING:

(1) EXCEPTIONAL NARROWNESS, SHALLOWNESS OR SHAPE OF A SPECIFIC PROPERTY ON THE EFFECTIVE DATE OF THIS CHAPTER OR AMENDMENT; OR

(2) EXCEPTIONAL TOPOGRAPHIC OR ENVIRONMENTAL CONDITIONS OR OTHER EXTRAORDINARY SITUATION ON THE LAND, BUILDING OR STRUCTURE; OR

(3) THE IMPACT ON THE PROPERTY OF USES OR DEVELOPMENT OF IMMEDIATELY ADJOINING PROPERTY OR PROPERTIES.

(4) WHETHER THE APPLICANT WAS AWARE OF THE RELEVANT CODE LIMITATION WHEN THE PROPERTY WAS SOLD OR LEASED TO IT.

(5) WHETHER THE PROPERTY IN QUESTION WILL YIELD A REASONABLE RATE OF RETURN IN THE ABSENCE OF THE PROPOSED VARIANCE, OR WHETHER THERE CAN BE ANY BENEFICIAL USE OF THE PROPERTY WITHOUT THE PROPOSED VARIANCE.

(6) WHETHER THE ISSUE COULD BE RESOLVED BY SOME OTHER METHOD, EVEN IF THIS ALTERNATE METHOD IS LESS CONVENIENT OR MOST COSTLY TO ACHIEVE.

(B) THAT GRANTING THE VARIANCE WILL NOT CAUSE A SUBSTANTIAL ADVERSE EFFECT TO PROPERTY OR IMPROVEMENTS IN THE VICINITY OR WILL NOT MATERIALLY IMPAIR THE INTENT AND PURPOSES OF THE REQUIREMENT BEING VARIED OR OF THIS CHAPTER, AND IS THE MINIMUM VARIANCE NECESSARY TO PROVIDE RELIEF.

(C) THAT THE VARIANCE WOULD NOT ADVERSELY AFFECT THE DELIVERY OF GOVERNMENTAL SERVICES (E.G., WATER, SEWER, GARBAGE).

(D) THAT THE VARIANCE AS GRANTED WOULD NOT CONFER ON THE APPLICANT ANY SPECIAL PRIVILEGE, OR DEPRIVE THE APPLICANT OF RIGHTS, WHEN COMPARED WITH THOSE RIGHTS COMMONLY ENJOYED IMMEDIATELY ADJOINING PROPERTIES;

(E) THAT THE VARIANCE REQUEST IS NOT ONE WHERE THE SPECIFIC CONDITIONS PERTAINING TO THE PROPERTY ARE SO GENERAL OR RECURRENT IN NATURE AS TO MAKE THE FORMULATION OF A GENERAL REGULATION FOR THOSE CONDITIONS REASONABLY PRACTICABLE.

1. THE APPLICANT IS REQUESTING A VARIANCE TO MAKE CHANGES TO AN EXISTING SIGN, WITH A ZERO (0) FOOT SETBACK ALONG W. SOUTH BOUNDARY.
2. THE APPLICANT IS REQUESTING A VARIANCE TO MAKE CHANGES TO AN EXISTING SIGN WITH A ZERO (0) FOOT SETBACK ALONG LOUISIANA AVENUE.

**Recommendation:**

1. The Deputy Administrator recommends approval of both variances based on the criteria for variances listed in Chapter 1250.39(a)-(e) and based on meeting the criteria C, D, E, and G of Chapter 1275.02(c)(3). As there are no structural changes to the signs, the removal and replacement of tenant signs would be minimal. Should any structural changes be requested (i.e. making a portion of the sign electronic, making an occupant's section of the sign larger, or changing any of the materials), I would then recommend the sign in its entirety conform with the current standard.

**APPLICATION 19-24**

STEVEN & THERESA CUKIERSKI ARE REQUESTING A ZONING VARIANCE TO REDUCE THE REAR YARD SETBACKS TO ALLOW FOR THE CONSTRUCTION OF AN ADDITION TO THE PRIMARY STRUCTURE. THE PROPERTY IS LOCATED AT 803 CHERRY STREET AND IS ZONED R-3 (SINGLE FAMILY RESIDENTIAL).

**NOTE:** CHAPTER 1230.01 INTENSITY AND DIMENSIONAL STANDARDS

R-3 ZONING:

FRONT YARD = 35'

REAR YARD = 35'

SIDE YARD MIN = 8'

SIDE YARD TOTAL = 20'

1. THE APPLICANTS ARE REQUESTING A ZONING VARIANCE FOR REAR YARD SETBACK RELIEF THAT WOULD ALLOW THEM TO CONNECT THE PRIMARY AND ACCESSORY STRUCTURES.

**Recommendation:**

1. The Deputy Administrator recommends denial of the variance as it does not meet enough factors to be granted a variance. Currently, the primary structure does conform to the code and a fourteen (14) foot addition could be constructed in the side yard without a variance and the home would still meet all setback requirements outlined in Chapter 1230.01.

7. Other Business

8. Adjournment

The next meeting is scheduled for June 10, 2024, at 5:30 P.M. in the Municipal Building, located at 201 W. Indiana Avenue.

cc: Media