

Agenda
Board of Zoning Appeals

Date: Published September 3, 2025
To: Board of Zoning Appeals
From: Mark Easterling, Deputy Planning & Zoning Administrator
Re: **Items for the September 8, 2025 Meeting**

1. Call to Order - 5:30 PM
2. Roll Call
3. Approval of August 11, 2025 Meeting Minutes
4. Administer Oath
5. Zoning Permit Obligation
6. New Business

APPLICATION 32-25

TROY SCHRAMM REQUESTING A ZONING VARIANCE TO CONSTRUCT A FENCE. THE PROPERTY IS LOCATED AT 2116 HURON COURT AND IS ZONED R-3 (SINGLE FAMILY RESIDENTIAL).

NOTE: CHAPTER 1250.42 FENCES, WALLS, STRUCTURAL SCREENS, HEDGES, AND SCREEN PLANTINGS:

R1-R5 ZONING:

- 4' MAXIMUM IN FRONT YARD
- 4' MAXIMUM IN SIDE YARD
- 6' MAXIMUM IN REAR YARD

1. THE APPLICANT IS REQUESTING A VARIANCE TO CONSTRUCT A SIX (6) FOOT FENCE IN THE SIDE YARD BEYOND THE HALFWAY POINT OF THE HOME BY TWO (2) FEET.

Recommendation:

The Deputy Administrator recommends approval of the variance request, as the application meets criteria B, C, D, and G outlined in Chapter 1275.02(c)(3). The subject property needs a very minimal variance (2 feet) to enclose access to the rear of the garage. The location of a six (6) foot fence in this location would not alter the visual appearance of the property of the neighborhood and poses no

visibility or safety concerns.

APPLICATION 33-25

JAMES HORNEY OF H&H CUSTOM SIGNS, ON BEHALF OF ARBY'S, IS REQUESTING A ZONING VARIANCE TO REPLACE A SIGN. THE PROPERTY IS LOCATED AT 26530 N. DIXIE HIGHWAY, IS ZONED C-4 (HIGHWAY COMMERCIAL), AND IS IN THE CORRIDOR OVERLAY DISTRICT.

NOTE: CHAPTER 1250.32(A) PERMANENT FREESTANDING SIGNAGE (10' OR LESS)

ZONING DISTRICT: SPECIAL DISTRICT – CORRIDOR OVERLAY
MAXIMUM HEIGHT: 6'
MAXIMUM SIZE: 48 SQUARE FEET
MINIMUM SETBACK: 10' SETBACK
QUANTITY: 1

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 MORE 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 SETBACK VARIANCE TO REPLACE AN EXISTING FREESTANDING SIGN APPROXIMATELY 4' FROM THE FRONT PROPERTY LINE.

Recommendation:

The Deputy Administrator recommends denial of the variance request as it does not meet all the conditions required for a variance outlined in Chapter 1250.39. The applicant can move the sign back, although it would require a much smaller sign or relocation of an existing light pole. This would not meet the requirement outlined in Chapter 1250.39(a)(6).

APPLICATION 34-25

PETE SCHWIEGERAHT, ON BEHALF OF PIVOTAL DEVELOPMENT LLC, IS REQUESTING A ZONING APPEAL ON THE INTERPRETATION OF CHAPTER 1250.02(R) TO ALLOW FOR A REDUCTION IN THE AMOUNT OF REQUIRED

PARKING OUTLINED IN CHAPTER 1250.03. THIS SECTION REQUIRES THAT THE APPLICANT PROVIDE AT LEAST 140 SPACES. THE PROPERTY IS LOCATED AT 0 W. SIXTH STREET (DIRECTLY NEXT TO THE FORMER AMERICAN STEEL TREATING FACILITY) AND IS ZONED RM (MULTI-FAMILY RESIDENTIAL). THE PARCEL ASSOCIATED WITH THIS APPLICATION IS Q61-000-902305013000.

NOTE: CHAPTER 1275.02(A) ADMINISTRATIVE REVIEW

TO HEAR AND DECIDE APPEALS WHERE IT IS ALLEGED BY THE APPLICANT THAT THERE IS AN ERROR IN ANY ORDER, REQUIREMENT, PERMIT, DECISION OR REFUSAL MADE BY THE ZONING INSPECTOR OR ANY OTHER ADMINISTRATIVE OFFICIAL IN CARRYING OUT OR ENFORCING ANY PROVISIONS OF THIS ZONING CODE.

NOTE: CHAPTER 1250.02(R) ADMINISTRATIVE REVIEW

THE NUMBER OF OFF-STREET PARKING SPACES REQUIRED FOR THE USES LOCATED IN AND PERMITTED IN C- 1, C-3, C-4 AND INS DISTRICTS MAY BE REDUCED UP TO THIRTY-THREE PERCENT (33%) OF THE TOTAL REQUIRED, PROVIDED THAT THE FOLLOWING CONDITIONS ARE MET:

1. THE NUMBER OF OFF-STREET PARKING SPACES REQUIRED FOR THE USE OR USES EXCEED FIFTEEN (15).
2. THE APPLICANT SHALL SUBMIT AN ACCEPTABLE SITE PLAN SHOWING THAT AN ADEQUATE RESERVE OF LAND IS SET ASIDE FOR ADDITIONAL PARKING SPACES, SO THAT THE TOTAL DEPICTED ON THE PLAN IS ADEQUATE TO MEET THE REQUIREMENTS UNDER 1250.03 OF THIS CHAPTER. THE PLAN SHALL INDICATE THE RESERVE AREA SO THAT ALL DIMENSIONAL REQUIREMENTS AS TO SPACES, AISLES AND OTHER APPLICABLE REQUIREMENTS OF THIS CHAPTER CAN BE MET. THE RESERVE AREA SHALL NOT BE USED FOR WATER RETENTION, FOR REQUIRED GREENBELTS OR AS THE LOCATION FOR REPLACEMENT TREES OR OTHER DECIDUOUS OR EVERGREEN TREES REQUIRED BY THIS CHAPTER. THE LANDSCAPE PLAN SUBMITTED FOR THE SITE SHALL INCLUDE A PLAN FOR THE RESERVE AREA.

3. THE CITY HAS DETERMINED THAT THE APPLICANT HAS SUBMITTED SUBSTANTIAL EVIDENCE SHOWING THAT THE PARKING NEEDS OF THE SPECIFIC OCCUPANT WILL BE LESS THAN WOULD BE REQUIRED BY THIS CHAPTER.

4. THE PROPERTY OWNER SHALL EXECUTE AN AGREEMENT PREPARED BY THE CITY LAW DIRECTOR REQUIRING THE CONSTRUCTION OF THE ADDITIONAL SPACES WITHIN ONE HUNDRED AND EIGHTY (180) DAYS OF NOTIFICATION THAT THE CITY HAS DETERMINED A NEED EXISTS FOR SUCH SPACES. THE AGREEMENT SHALL RUN WITH THE LAND, BE BINDING UPON SUCCESSORS AND ASSIGNS AND SHALL BE RECORDED WITH THE COUNTY RECORDER.

5. A PERMIT FOR CHANGE OF OCCUPANCY SHALL NOT BE ISSUED UNTIL THE CITY HAS REEVALUATED THE NEED FOR PARKING BY THE NEW OCCUPANT RELATIVE TO THE NUMBER OF SPACES REQUIRED BY THIS CHAPTER.

1. THE APPLICANT IS REQUESTING AN APPEAL AS THEY BELIEVE THE CODE SECTION OF CHAPTER 1250.02(R) DOES NOT PREVENT THEM FROM APPLYING FOR A PARKING REDUCTION VARIANCE.

Recommendation:

No recommendation provided.

- 7. Other Business
- 8. Adjournment

The next meeting is scheduled for October 13, 2025, at 5:30 PM in the Municipal Building at 201 W. Indiana Avenue.

cc: Media