



ZONING BOARD OF APPEALS
Tuesday, March 15, 2016
5:30 P.M. – City Council Chambers
Rockford City Hall, 425 East State Street

Minutes on Website: <http://rockfordil.gov/community-economic-development/construction-development-services/land-use-zoning/zoning-board-of-appeals.aspx>

Present:

ZBA Members: Alicia DiBenedetto-Neubauer
Scott Sanders
Kimberly Wheeler-Johnsen
Melissa Luciani-Beckford
Dan Roszkowski
Craig Sockwell

Absent: Tom Fabiano

Staff: Scott Capovilla – Zoning and Land Use Administrator
Sandra Hawthorne - Administrative Assistant
Marcy Leach - Public Works
Angela Hammer - Assistant City Attorney
Tim Morris - Fire Department

Others: Kathy Berg - Court Stenographer
Applicants and Interested Parties

|
Sandra Hawthorne explained the format of the meeting will follow the Boards Rules of Procedure generally outlined as:

The Chairman will call the address of the application.

- The Applicant or representative will come forward and be sworn in.
- The Applicant or representative will present their request before the Board
- The Board will ask any questions they may have regarding this application.
- The Chairman will then ask if there are any Objectors or Interested Parties. Objectors or Interested Parties are to come forward at that time, be sworn in by the Chairman, and give their name to the Zoning Board of Appeals secretary and the stenographer
- The Objector or Interested Party will present all their concerns, objections and questions to the Applicant regarding the application.
- The Board will ask any questions they may have of the Objector or Interested Party.
- The Applicant will have an opportunity to rebut the concerns/questions of the Objector or Interested Party

- No further discussion from the Objector or Interested Party will occur after the rebuttal of the Applicant.
- The Board will then discuss the application and a vote will be taken.

It was further explained to the public in attendance, applicants, objectors and interested parties that this meeting is not a final vote on any item. The date of the Codes & Regulations meeting was given as Monday, March 28, 2016, at 5:30 PM in City Council Chambers of this building as the second vote on these items. The public in attendance, applicants, objectors and interested parties were instructed that they could contact the Zoning Office for any further information and the phone number was listed on the top of the agenda which was made available to all those in attendance. The City's web site for minutes of this meeting are listed on the agenda as well.

The meeting was called to order at 5:30 PM. A **MOTION** was made by Kim Johnsen to **APPROVE** the minutes of the February 2016 meeting as presented. The Motion was **SECONDED** by Alicia Neubauer and **CARRIED** by a vote of 5-0 with Scott Sanders abstaining and Tom Fabiano absent.

ZBA 006-16
Applicant
Ward 06

6030 11th Street
Larry Anderson for Naile Elmazi
Zoning Map Amendment from R-1, Single-family Residential Zoning District to C-3, General Commercial Zoning District

The subject property is located at the southeast corner of 11th Street and Blackhawk Road and was recently annexed to the City in January of 2016. Larry Anderson, representing the Applicant, and Mustafa Ajeti were present. Mr. Anderson stated this property is part of an annexation that took place 2 months ago. He explained this property has been a restaurant use for the past 60 years. He stated they have had a beer and wine liquor license and would like that included in this request. Attorney Angela Hammer stated this property is occupied by the tenant who spoke with Legal about a month ago and stated they were not selling alcohol. She explained that an application for liquor license must be submitted in order to sell alcohol. Mr. Ajeti had the liquor license application in his possession at the meeting.

Staff Recommendation is for Approval. No Objectors or Interested Parties were present.

A **MOTION** was made by Scott Sanders to **APPROVE** the Zoning Map Amendment from R-1, Single-family Residential Zoning District to C-3, General Commercial Zoning District at **6030 11th Street**. The Motion was **SECONDED** by Kim Johnsen and **CARRIED** by a vote of 6-0.

ZBA 009-16
Findings of Fact for Approval of a Zoning Map Amendment
From R-1, Single-Family Residential
To C-3 General Commercial Zoning District at
6030 11th Street

Approval of this Zoning Map Amendment is based upon the following findings:

1. The proposed Zoning Map change is consistent with Article II, Intent and Purpose, of the Rockford Zoning Ordinance for the following reasons:

- a. This proposal promotes the health, safety, comfort, convenience, morals and general welfare for the citizens of Rockford because it is consistent with the comprehensive plan and surrounding uses;
 - b. This proposal protects the character, scale and stability of the adjacent residential and commercial because the proposed development will meet all development requirements of this site; and
 - c. The proposed map amendment would allow for a reasonable development to take place consistent with the surrounding neighborhood.
2. The proposed Zoning Map Amendment is consistent with the approved general plan, the Year 2020 Plan, for the area. The 2020 Plan designates this property as CH, Heavy Commercial.

ZBA 007-16

Applicant
Ward 13

621 and 625 West State Street

Rockford Rescue Mission / Sherry Pitney

- (A) Special Use Permit** for a drive-through in conjunction with a café (fast food restaurant)
- (B) Special Use Permit** for a mural on the southeast side of the building
- (C) Variation** to reduce the required stacking spaces from eight (8) to five (5) for a drive-through window
- (D) Variation** to reduce the required 20 feet front yard setback for a parking lot to ten feet along West State Street
- (E) Variation** to reduce the required 20 feet wide frontage landscaping to 10 feet wide along West State Street in a C-3, General Commercial Zoning District

The subject properties are mostly surrounded by commercial uses with the Winnebago County Justice Center to the south and the Rockford Rescue Mission to the west. Ron Billy, Architect, and Brad Vander Heyden, Board Member of Rockford Rescue Mission were present. Mr. Billy presented the requests from the Applicant. He explained that the most logical place for the drive through without doing a drastic remodel of the existing restaurant would require a setback request. They are wanting to increase off street parking for patrons, which is the reason for front yard setback reduction. One of Staff's recommendation was to repave and overlay the alley and Mr. Billy stated they are in objection to doing this. The alley behind the building is 18 feet wide. Mr. Capovilla stated at one time the alley was given a name of Sherwood Court for emergency services, but it is an alley and not a designated street.

Mr. Sanders explained that when the traffic lot is increased on an alley, as in this case and is part of a business, it does need, at least an overlay at minimum. Dan Roszkowski felt the alley was actually being widened and asked if it was necessary to have the back-to-back curb on the alley on the North side. Mr. Billy stated the existing building was right on the alley previously. Mr. Capovilla explained that if they take this curb away, it could easily create a situation where customers coming down the alley would head into the parking lot in the wrong direction.

Staff Recommendation is for Approval of all requests subject to (6) conditions. No Objectors or Interested Parties were present.

Scott Sanders asked what the property immediately north of the building was. Mr. Capovilla stated it was zoned commercial and there are residents living inside the building on the upper floors but was uncertain if the lower space was being utilized at this time.

A **MOTION** was made by Kim Johnsen to **APPROVE** the (A) Special Use Permit for a drive-through in conjunction with a café (fast food restaurant); to **APPROVE** the (B) Special Use Permit for a mural on the southeast side of the building; to **APPROVE** the (C) Variation to reduce the required stacking spaces from eight (8) to five (5) for a drive-through window; to **APPROVE** the (D) Variation to reduce the

required 20 feet; and to **APPROVE** the (E) Variation to reduce the required 20 feet wide frontage landscaping to 10 feet wide along West State Street in a C-3, General Commercial Zoning District at **621 and 625 West State Street**. The Motion was **SECONDED** by Greg Sockwell and **CARRIED** by a vote of 5-0.

Approval is subject to the following conditions:

1. Meet all applicable Building and Fire codes.
2. Must develop site in accordance with Exhibits E and F.
3. Submittal of a parking lot permit for the proposed drive-through and parking lot for Staff's review and approval.
4. Repave and overlay the adjacent alleys.
5. Submittal of final landscaping plan for Staff review and approval.
6. Must submit a sign permit application for Staff review and approval for the proposed murals.

ZBA 007-16
Findings of Fact for Approval of a Special Use Permit
For a Drive-Through in Conjunction With a Café (Fast Food Restaurant)
In a C-3, General Commercial Zoning District at
5621 and 625 West State Street

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the C-3 Zoning District in which it is located.

ZBA 007-16
Findings of Fact for Approval of a Special Use Permit
For a Mural on the Southeast Side of the Building
In a C-3, General Commercial Zoning District at
621-625 West State Street

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.

2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the C-3 Zoning District in which it is located.

ZBA 007-16
Findings of Fact for Approval of a Variation
To Reduce the Required Stacking Spaces From Eight (8) to Five (5)
For a Drive-Through
In a C-3, General Commercial Zoning District at
621 and 625 West State Street

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

ZBA 007-16
Findings of Fact for Approval of a Variation
To Reduce the Required 20 Feet Front Yard Setback
For a Parking Lot to 10 Feet Along West State Street
In a C-3, General Commercial Zoning District at
621 and 625 West State Street

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

ZBA 007-16
Findings of Fact for Approval of a Variation
To Reduce the Required 20 Feet Wide Frontage Landscaping
To 10 Feet Wide Along West State Street
In a C-3, General Commercial Zoning District at
621 and 625 West State Street

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.

4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

ZBA 008-16

Applicant
Ward 12

3338, 33XX and 3318 North Main Street

Attorney Russ Anderson for Kelley Williamson Company

Special Use Permit for a Planned Unit Development consisting of a gas station, convenience store and a car wash

Variation to reduce the required 20 feet front yard setback for a convenience store to 16 feet along North Main Street

Variation to reduce the required 20 feet front yard setback for a gas canopy to 19 feet along North Main Street

Variation to reduce the required 20 feet front yard setback for a parking lot to 5 feet along North Main Street

Variation to reduce the required 20 feet wide frontage landscaping to 5 feet wide for 100 feet along North Main Street

Variation to reduce the required 20 feet wide landscaping to 10 feet wide for 31 feet along North Main Street

Variation to reduced the required 20 feet wide frontage landscaping to 16 feet wide for 42 feet along North Main Street

Variation to reduce the required 5 feet setback from the property line for a freestanding sign to 1 foot in an R-1, Single-family Residential Zoning District and C-1, Limited Office Zoning District

The subject properties are located on the west side of North Main Street and south of Halsted Road and are surrounded by commercial and residential uses. Attorney Russell Anderson was present, representing the Applicant, Kelley Williamson Company as well as Bob Sanders, Kelly Williamson and Jeff Bockhop with Stenstroms. Attorney Anderson explained that a Special Use Permit for a Planned Unit Development was granted in 2002 for a Mobil Gas Station and Convenience Store with packaged liquor. The property is being substantially changed by IDOT improvements on North Main. These changes will impact their operation and the only way they feel they can continue operation in a safe and lawful manner is to acquire additional property and redo the station. The primary problem is the Halsted and North Main area. IDOT is taking an area that extends right to the edge of their underground storage tanks. They do not wish to take the risk of having the integrity of the storage tank compromised during IDOT construction and they need to move these tanks for safety reasons. Attorney Anderson stated the request for Variation for setback reduction for the gas canopy is not required. In checking the figures further, the canopy does meet setback. Regarding the remaining requests for reduction in setbacks, he explained tanker truck flow and traffic flow needed to be considered which required these applications. Without the landscape setbacks it would be unsafe to get tanker trucks in and out. The sign is presently in the area IDOT is taking and will need to be moved. This location will also provide fueling for city vehicles with a diesel island that will be laid out to allow Fire trucks to access. The proposed landmark style sign at the corner of Halsted and Main will also require a variation to setback due to additional land taking by IDOT.

Mr. Capovilla clarified that this request for a (1) foot setback is not a setback from the street, but actually from the R-O-W. Their plans to purchase the additional property as part of this application is contingent upon approval of these Variations. Regarding the existing home on one of the lots, Attorney Anderson explained that the owner was given the opportunity to have this home relocated; however, they indicated and they are not interested in keeping this older building due to concerns of structural issues. A fence will be installed between the Applicant's property and residential parcels. He further clarified that the alley south of lot 4 has been vacated.

Staff Recommendation is for Approval of all applications with (11) conditions. No Objectors or Interested Parties were present.

During discussion, Scott Sanders stated he had no problem with existing and proposed landscaping on the project. He stated the Applicants have met - and in some cases exceeded - landscaping requirements along N. Main Street.

It was agreed that Variation for the gas canopy would be removed as it is not required.

A **MOTION** was made by Alicia Neubauer to **APPROVE** the Special Use Permit for a Planned Unit Development consisting of a gas station, convenience store and a car wash; to **APPROVE** the Variation to reduce the required 20 feet front yard setback for a convenience store to 16 feet along North Main Street; to **APPROVE** the Variation to reduce the required 20 feet front yard setback for a parking lot to 5 feet along North Main Street; to **APPROVE** the Variation to reduce the required 20 feet wide frontage landscaping to 5 feet wide for 100 feet along North Main Street; to **APPROVE** the Variation to reduce the required 20 feet wide landscaping to 10 feet wide for 31 feet along North Main Street; to **APPROVE** the Variation to reduced the required 20 feet wide frontage landscaping to 16 feet wide for 42 feet along North Main Street; and to **APPROVE** the Variation to reduce the required 5 feet setback from the property line for a freestanding sign to 1 foot in an R-1, Single-family Residential Zoning District and C-1, Limited Office Zoning District at **3338, 33XX and 3318 North Main Street**. The Motion was **SECONDED** by Scott Sanders and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. Meet all Building and Fire Codes.
2. Submittal of Building Permits for Staff's review and approval.
3. Submittal of a revised landscape plan that includes the building foundation landscaping being added with plant species and size for Staff's review and approval.
4. Submittal of a Dumpster Enclosure Permit with a dumpster detail and rendering for Staff's review and approval.
5. Must submit fence elevations and Fence Permit for Staff review and approval.
6. Submittal of a photometric plan with fixture details and fixture specifications for Staff's review and approval.
7. Must obtain separate permits for signage and any sign must be constructed to match building design and in accordance with plans approved by Staff.
8. Must develop site in accordance with site and landscaping plan approved by Staff.
9. Must develop building in accordance with elevations approved by Staff.
10. Must submit approval letter from IDO regarding the new access onto North Main Street
11. All conditions must be met prior to establishment of use.

ZBA 008-16
Findings of Fact for Approval of a Special Use Permit for a Planned Unit Development
Consisting of a Gas Station, Convenience Store and a Car Wash
In a R-1 Single-Family Residential Zoning District and
C-1 Limited Office Zoning District at
3338, 33XX and 3318 North Main Street

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the R-1, Single-family Residential Zoning District and C-1, Limited Office Zoning District in which it is located.

ZBA 008-16
Findings of Fact for Approval of a Variation
To Reduce the Required 20 Feet Front Yard Setback For a Convenience Store
To 16 Feet Along North Main Street
In a R-1, Single-Family Residential Zoning District and
C-1, Limited Office Zoning District at
3338, 33XX and 3318 North Main Street

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.

5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

ZBA 008-16
Findings of Fact for Approval of a Variation
To Reduce the Required 20 Feet Front Yard Setback for a Parking Lot
To 5 Feet Along North Main Street
In a R-1, Single-Family Residential Zoning District and
C-1, Limited Office Zoning District at
3338, 33XX and 3318 North Main Street

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

ZBA 008-16
Findings of Fact for Approval of a Variation
To Reduce the Required 20 Feet Wide Frontage Landscaping
To 5 Feet Wide for 100 Feet Along North Main Street
In a R-1, Single-Family Residential Zoning District and
C-1, Limited Office Zoning District at
3338, 33XX and 3318 North Main Street

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

ZBA 008-16
Findings of Fact for Approval of a Variation
To Reduce the Required 20 Feet Wide Frontage Landscaping
To 10 Feet Wide for 31 Feet Along North Main Street
In a R-1, Single-Family Residential Zoning District and
C-1, Limited Office Zoning District at
3338, 33XX and 3318 North Main Street

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.

3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

ZBA 008-16
Findings of Fact for Approval of a Variation
To Reduce the Required 20 Feet Wide Frontage Landscaping
To 16 Feet Wide for 42 Feet Along North Main Street
In a R-1, Single-Family Residential Zoning District and
C-1, Limited Office Zoning District at
3338, 33XX and 3318 North Main Street

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

ZBA 008-16
Findings of Fact for Approval of a Variation
To Reduce the Required 5 Feet Setback From the Property Line
For a Free-Standing Sign to 1 Foot
In a R-1, Single-Family Residential Zoning District and
C-1, Limited Office Zoning District at
3338, 33XX and 3318 North Main Street

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

ZBA 009
Applicant
Ward 10

280 North Phelps Avenue Unit E

Louis Messina

Special Use Permit for the operation of a sexually-oriented bookstore in a C-3, General Commercial Zoning District

The subject property is located 800 feet northeast of the North Phelps Avenue and East State Street intersection and is surrounded by commercial and residential uses. Attorney William Howard and Louis Messina, Applicant, were present. Attorney Howard reviewed the history of this property. He stated there have been no changes to the business in the past five years and very little police activity. The deterioration of the landscaping and parking lot issues that need to be addressed per Staff Report were recognized by Attorney Howard. He stated he knew the landlord personally and he is going to tell him he has to do the improvements as conditioned by Staff.

Staff Recommendation is for Approval with (6) conditions. Objectors or Interested Parties were present. One letter of Objection was received.

Milestone, Inc. submitted a letter of Objection, stating the Milestone Dental Clinic (MDC) at 275 North Phelps Avenue is directly across the street from the subject property. Their concerns were stated as:

“MDC serves hundreds of developmentally disabled children and thousands of developmentally disabled adults. We do not believe an adult book store is an appropriate use for a commercial property located in such close proximity to a medical facility serving children.”

A **MOTION** was made by Melissa Beckford to **APPROVE** the Special Use Permit for the operation of a sexually-oriented bookstore in a C-3, General Commercial Zoning District at **280 North Phelps Avenue Unit E**. The Motion was **SECONDED** by Scott Sanders and Carried by a vote of 6-0.

Approval is subject to the following conditions:

1. That the Special Use Permit shall lapse after 5 years from the date of approval and the use shall be discontinued. The business owner may reapply for the Special Use Permit at that time.
2. Submittal of detailed landscape plan to include a Type B Buffer, perimeter landscaping around the north and west property lines, required shrubs and tree plantings around the building foundation, and the type of species to be planted for Staff’s review and approval.
3. Must develop site in accordance with the landscaping plan approved by Staff.
4. Submittal of a site plan to include improvements to the parking lot for Staff review and approval.
5. Submittal of a Parking Lot Permit for improvements to the parking lot and striping of parking spaces for Staff’s review and approval.
6. The site shall comply with the Stormwater Management Ordinance and the Stormwater Technical Guide.

ZBA 009-16
Findings of Fact for Approval of a Special Use Permit
For the Operation of a Sexually-Oriented Book and Video Store
In a C-3, General Commercial Zoning District at
280 North Phelps Avenue, Unit E

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the C-3 Zoning District in which it is located.

ZBA 010-16
Applicant
Ward 06

2602 South 17th Street

Assets Biz Corporation

Special Use Permit for vehicle towing and outdoor storage of vehicles in an I-1,
Light Industrial Zoning District

This Application was Withdrawn by the Applicant prior to the meeting. No further action will be taken.

With no further business to report, the meeting was adjourned at 6:25 PM

Respectfully submitted,
Sandra A. Hawthorne, Administrative Assistant
Zoning Board of Appeals