

TO: Committee of Adjustments
FROM: Ben Boike, Assistant Comm. Dev. Dir.
DATE: May 17, 2016
SUBJECT: Case #16-03



REQUEST

Venture Pass Partners, LLC is requesting two Variances for the construction of a new Drive-through Restaurant to be located at 1725 Robert St. The restaurant is part of a larger redevelopment plan which will be reviewed by the Planning Commission as a separate item. The two variance requests are as follows:

- 1) To allow for an increase in the Front Yard Building Setback
- 2) To allow for parking in the Front Yard Setback

Attachments:

Application
Draft Findings of Fact
Civil Plans



EXISTING LAND USES

The subject properties currently consists of two bank buildings (one vacant and one soon to be vacant) and a vacant drive-through restaurant. Adjacent properties to the

north, east and south consist of commercial/office uses. Adjacent properties to the west consist of multi-family housing.

ZONING

The subject properties and the adjacent properties to the north are zoned B3, General Business. Adjacent properties to the east and south are zoned B3, General Business and B4, Shopping Center. Adjacent properties to the west are zoned R4, Multiple Family.

BACKGROUND

The applicant is proposing to construct a new 2,854 sq. ft. Drive-through Restaurant at the south end of the subject property (see attached site plan). In conjunction with the Variance application, the applicant has also submitted applications for Site Plan approval, Conditional Use Permit approval, and Plat approval which will all be reviewed by the Planning Commission. Please see the Planning Commission report for more information regarding the overall project.

VARIANCES REQUESTED

1) Variance to allow an increase in the Front Yard Building Setback:

153.032 SITE PLAN APPROVAL PROCEDURE AND DESIGN REQUESTS IN COMMERCIAL AND INDUSTRIAL DISTRICTS.

(D) Drive Aisle, Building, Parking and Curbing Standards.

(4) In the B3, B5, B6 Zoning Districts, off-street parking, building and drive aisle setback standards are as follows:

B-3, B-5, B-6	Building
Front yard	10 to 40 feet

The Zoning Ordinance requires a Front Yard building setback between 10-40 feet from the front property line (east property line). The proposed drive-through restaurant calls for a Front Yard building setback of 51 feet, therefore the applicant is requesting a Variance of 11 feet.

2) Variance to allow Parking (Drive Aisle) in the Front Yard Setback:

153.032 SITE PLAN APPROVAL PROCEDURE AND DESIGN REQUESTS IN COMMERCIAL AND INDUSTRIAL DISTRICTS.

(D) Drive Aisle, Building, Parking and Curbing Standards.

(4) In the B3, B5, B6 Zoning Districts, off-street parking, building and drive aisle setback standards are as follows:

B-3, B-5, B-6	Parking
Front yard	Not permitted

The Zoning Ordinance does not allow parking in front yard setback area. The proposed drive-through restaurant includes a drive aisle in the front setback in order to loop traffic back to the lighted intersection, therefore the applicant is requesting a Variance to allow parking (drive aisle) in the front yard setback.

ANALYSIS

In reviewing Variance requests, the following section of the Zoning Code, Section 153.027, is utilized:

(2) Criteria for Granting a Variance. A Variance may only be granted by the Committee of Adjustments when:

- a. The Variance is in harmony with the general purpose and intent of the Ordinance;
- b. The terms of the Variance are consistent with the Comprehensive Plan; and
- c. The applicant for the Variance establishes that there are practical difficulties in complying with the Zoning Ordinance.

(3) Definition of Practical Difficulties. “Practical Difficulties” as used in connection with the granting of a Variance means that:

- a. The property owner proposes to utilize the Property in a reasonable manner;
- b. The plight of the property owner is due to circumstances unique to the Property that were not created by the property owner; and
- c. The Variance will not alter the essential character of the neighborhood.

(4) Restrictions on Granting Variances. The following restrictions shall be applied when considering granting a Variance:

- a. Economic considerations alone do not constitute practical difficulties.
- b. The Committee of Adjustments may not permit as a Variance any Use that is not allowed in the Zoning Ordinance for Property in the district where the affected person’s land is located (i.e. a Use Variance).

1. Variance to increase the Front Yard building setback:

Staff feels that the above criteria are met with the Variance request. In order to provide connection to the Robert St./Lothenbach intersection, a drive aisle is required in front of the building. As a result, the placement of the building cannot be located within the required setback. Staff does not feel that the request is detrimental to the public nor does it present inconsistency with the comprehensive plan.

2. Variance to allow Parking (Drive aisle) in the Front Yard Setback:

Staff feels that the above criteria are met with the Variance request. In order to locate a drive-through at the site, two access points would be required to avoid the Variance. The proposed plan reduces the total number of curb cuts on Robert St. from four to two. Therefore, the drive aisle is necessary to circulate traffic to the existing access point in order to eliminate the need for a second access point to Robert St. Staff does not feel that the request is detrimental to the public nor does it present inconsistency with the comprehensive plan.

REVIEW

Staff does not believe that the requested Variances will be detrimental to the public welfare, have an impact on the neighborhood, nor are the requests inconsistent with the Comprehensive Plan. A Drive-through Restaurant located in a B3 commercial zoning district is consistent with other surrounding Uses. Therefore, the property owner is proposing to use the property in a reasonable manner.

FINDINGS OF FACT

A proposed Resolution adopting findings of fact for the Variances is attached for your consideration.

STAFF RECOMMENDATION

Based on the above comments, Staff recommends APPROVAL of the requested VARIANCES according to the attached FINDINGS OF FACT and subject to the following conditions:

1. The Variances are contingent upon approval of the corresponding Site Plan, Conditional Use Permit, and Plat applications.