

ZONING BOARD OF APPEALS
Wednesday, February 22, 2012
6:30 P.M. – City Council Chambers
Rockford City Hall, 425 East State Street

Present:

LAB Members: Aaron Magdziarz
Alicia Neubauer
Dennis Olson
Dan Roszkowski
Scott Sanders
Craig Sockwell

Absent: Julio Salgado

Staff: Jennifer Cacciapaglia – City Attorney
Todd Cagnoni, Deputy Director - Construction Services Division
Mark Marinaro – Fire Department
Marcy Leach – Public Works
Sandra Hawthorne - Administrative Assistant

Others: Kathy Berg, 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 are to 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 and address to the Liquor Advisory Board 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 5, 2012, 2012, at 4:45 PM in Conference Room A 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 6:30 PM. A **MOTION** was made by Craig Sockwell to **APPROVE** the minutes of the January meeting as submitted. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 5-0 with Aaron Magdziarz abstaining and Julio Salgado absent.

ZBA 030-11

Applicant
Ward 10

4231 East State Street

Midwest Title Loan – Attorney John Nelson
An appeal of determination of use classification made by the Zoning Officer that Midwest Title Loan is a categorized as a "Pawn Broker" under the City of Rockford Zoning Ordinance.

This item will be Laid Over to the March 20th meeting.

A **MOTION** was made by Craig Sockwell to **LAY OVER** the appeal of determination of use classification made by the Zoning Officer that Midwest Title Loan is a categorized as a "Pawn Broker" under the City of Rockford Zoning Ordinance at 4231 East State Street. The Motion was **SECONDED** by Dennis Olson and **CARRIED** by a vote of 6-0.

ZBA 045-11

Applicant
Ward 8

2611 Broadway

Robia & Miquel Gongora
Special Use Permit for a hand car wash and detail in a C-4, Urban Mixed-Use Zoning District.

LAID OVER FROM JANUARY MEETING

Prior to the meeting a request was received to Lay Over this item to the March 20th meeting.

A **MOTION** was made by Craig Sockwell to **LAY OVER** the Special Use Permit for a hand car wash and detail in a C-4, Urban Mixed-Use Zoning District at 2611 Broadway. The Motion was **SECONDED** by Dennis Olson and **CARRIED** by a vote of 6-0.

ZBA 050-11

Applicant
Ward 10

315 & 319 Wood Road

Amanda Powers
Variation to expand the concrete driveway 12' wide by 35' length into two properties in the required front yard in an R-1, Single Family Residential Zoning District.

LAID OVER FROM JANUARY MEETING

The subject property is located on the east side of Wood Road, 298 feet north of Eastridge Drive. This item was heard at the January meeting and Laid Over to allow the Applicant time to work with Staff. Amanda L. Powers, Applicant, reviewed the request. She stated she is requesting to keep the concrete driveway as is, but is agreeable to removing the concrete in the R-O-W.

Staff Recommendation is for Approval with 3 conditions. No Objectors or Interested Parties were present.

The Board had no questions of the Applicant. Mr. Sanders stated he would like to see another 3-5 feet removed beyond the east side of the sidewalk for plantings to obscure all of the concrete and to bring it more into conformance with the area. Mr. Cagnoni stated if this were desired by the Board, he would suggest requiring 5 feet of concrete be removed to be more visually conforming. Mr. Roszkowski and Ms. Neubauer felt this was a good idea as well. The Board was in agreement to add this as condition (4).

A **MOTION** was made by Scott Sanders to **APPROVE** the Variation to expand the concrete driveway 12' wide by 35' length into two properties in the required front yard in an R-1, Single Family Residential Zoning District at 315 and 319 Wood Road with the addition of condition (4). The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. The pavement within the Right-Of-Way must be removed by April 1, 2012.
2. No outside storage of inoperable vehicles and/or unlicensed vehicles.
3. No more than four (4) vehicles may be stored within each driveway at either property at one time.
4. An Additional 5' section of concrete be removed from the east edge of the public sidewalk going east.

ZBA 050-11
Finding of Facts for a Variation
To Expand the Concrete Driveway 12' Wide by 35' in Length
Into Two Properties in the Required Front Yard
In an R-1, Single-Family Residential District at
315 and 319 Wood Road

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 053-11

Applicant
Ward 10

3720-3780- East State Street

EZPawn Illinois, Inc. Laura Steege

Special Use Permit for a pawn shop in an in a C-2, Limited Commercial District.

Prior to this meeting, written notification was received by the Applicant requesting that this item be **WITHDRAWN**. No further action will be taken on this application.

ZBA 001-12

Applicant
Ward 10

326 North Alpine

KJR Properties LLC

Variation to allow two freestanding signs along North Alpine Road (Billboard/Carpetland Sign) for 5 years in a C-2, Limited Commercial District.

The subject property is located on the southwest corner of Maray Drive and North Alpine Road and is currently retail use. This property received a Variation to allow two free-standing signs in 2007 which had an expiration of 3 years from the August 6, 2007 date of approval. The Applicant was cited last year for noncompliance, which brought about this application. Kevin Rose, Applicant, reviewed his request for Variation. He is requesting to extend the removal date another 5 years. Mr. Rose explained that his lease agreement with Lamar Advertising for the billboard was for 12 years, with an additional roll-over term of 5 years. The actual expiration date of the contract is June 2, 2016. He stated he is required to pay Lamar a penalty of \$40,000.00 if this contract is broken prior to that date.

Ms. Neubauer requested further clarification from the Applicant. Mr. Rose stated he purchased this property from his father approximately 5 years ago and requested a Variation for an additional freestanding sign for his business, which is Carpetland. Mr. Cagnoni explained at the time the Variation was granted, Mr. Rose did not realize there was a clause in his lease agreement with Lamar that required an additional 5 years. Because the Variation has expired, Mr. Rose would be required to remove either the Carpetland sign, or the Lamar billboard. Mr. Rose explained that the lease with Lamar went with the property when he purchased it. He was made aware of the additional 5 year requirement and penalty fee after he sent Lamar a letter stating the billboard would need to be taken down this year.

Mr. Cagnoni stated the recommendation for Denial was based on input from City Council's previous Ordinance. Mr. Sanders asked for further clarification on Aldermen involvement. Mr. Cagnoni clarified that he had not received any input from Aldermen on this specific application, but that their recommendation was based on City Council's approval of the adoption of the new Sign Ordinance. Mr. Rose did state that although he had a copy of the Lamar lease agreement at the time of the original request for Variation, the 5 year renewal clause escaped his attention. This business was built in 1985 and the only sign up until 2007 was on the building. Mr. Rose explained that his 17 foot tall Carpetland sign has created more awareness of his business. The actual sign itself is 12' x 7'. The Board asked Staff if this size sign would meet today's Sign Ordinance and Mr. Cagnoni stated it would not.

Staff Recommendation is for Denial. No Objectors were present. One Interested Party was present.

Anthony Hickey, 5409 Cypress Drive, Milton, Wisconsin, spoke in representation of Lamar Advertising. He stated if Lamar was aware that Mr. Rose was applying for the original Variation, they would have made him aware of the 5 year extension on their billboard at that time. Mr. Hickey further stated they have removed 50 or 60 billboard signs already in Rockford and they wish to keep the existing billboard on Mr. Rose' property.

Mr. Roszkowski asked about the feasibility of reducing the Carpetland sign to the 8 foot monument requirement to allow Mr. Rose to maintain his sign along with the billboard. Mr. Cagnoni stated if this were proposed, the grade would need to be taken into consideration. Because the site and building were at a lower grade from Alpine Road it may not be as feasible.

A **MOTION** was made by Alicia Neubauer to **APPROVE** the Variation to allow two freestanding signs along North Alpine Road (Billboard/Carpetland Sign) for 5 years in a C-2, Limited Commercial District at 326 North Alpine Road. After discussion, the Board felt conditions needed to be specified regarding both signs. An **AMENDED MOTION** was made by Alicia Neubauer to **APPROVE** the Variation to allow two freestanding signs along North Alpine Road (Billboard/Carpetland Sign) for 5 years in a C-2, Limited Commercial District at 326 North Alpine Road with the addition of conditions (1) and (2). The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 5-1 with Scott Sanders voting May.

Approval is subject to the following conditions:

1. That the billboard sign be removed by June 3, 2016.
2. The Carpetland sign be replaced with a monument style sign per the Sign Ordinance.

ZBA 001-12
Findings of Fact for a Variation
To Allow Two Freestanding Signs Along North Alpine Road
(Billboard/Carpetland Sign) for Five (5) Years
In a C-2, Limited Commercial District at
326 North Alpine Road

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, nor increase the danger of fire, nor endanger the public safety, or substantially diminish nor impair the property values within the neighborhood.
8. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

ZBA 002-12 526 East Jefferson Street

Applicant
Ward 3

Dyn Rockford LLC

- (A) **Variation** to eliminate building foundation landscaping
- (B) **Variation** to increase the maximum permitted height for a free-standing sign from 8' to 15' in height, Variation to increase the maximum permitted sign square footage from 64 square feet to 100 square feet
- (C) **Variation** to allow parking to back out onto an alley
- (D) **Variation** to allow a pylon style sign in place of a landmark style sign
- (E) **Variation** to allow a loading dock to be serviced off a public street (Lafayette Ave)
- (F) **Variation** to allow the required shade tree requirement to be located within right-of-way along Lafayette Avenue
- (G) **Variation** to allow reduction in the shade tree planting bed from a minimum of 8' wide to 3.63' and 5.35
- (H) **Variation** in the Design Standards for the proposed building elevation and site plan inclusive of a waiver of the building transparency requirements from 50% to 0% for building facing façade along Lafayette Avenue and a reduction of building transparency requirements for building facing façade along North 3rd Street in a C-4, Urban Mixed-Use District.

The subject property is located on the NW corner of North 3rd Street and Jefferson Street, south of Lafayette Avenue and is currently vacant land and vacant building. The proposed use is a multi-tenant retail strip center. Attorney Marvin Keys, representing the Applicant, reviewed the Variation stating this proposal is for a new development in downtown Rockford. Attorney Keys stated a number of meetings with the City have taken place and modifications have been made that are agreeable to both Staff and the Applicant. This area was been redesigned long-term by the City. Staff clarified that as part of this designation 2nd and 3rd Streets would go back to being two-way streets. Jefferson would remain a one-way street. As a result, the Applicant felt some of the requested Variations were required. Attorney Keys reviewed the Variations; specifically: The loading dock would come off the rear of the building to Lafayette Avenue; The reduction of shade tree planting beds would allow parking for the tenants in the building; The Variation in Design Standards was requested in order to accommodate future tenants. Attorney Keys stated they are trying to accommodate a tenant's requirements for a new development downtown Rockford, when not many people are looking to go in downtown Rockford. A drawing of the east elevation along 3rd Street was shown detailing the style of the façade.

The proposed free-standing sign is 15' high and a total of 100 square feet in size. Mr. Sanders was not comfortable with a sign of this size. He further suggested a wider variety of landscaping trees be considered, pointing out that of those proposed, they are all of the same species. Mr. Cagnoni stated Staff condition (3) dealt with landscaping and Mr. Sanders was comfortable with that.

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

Ms. Neubauer felt this project as proposed was not a good fit with the downtown location. She felt it should be more in line with the Social Security building on Jefferson Street. She stated she is not comfortable with supporting this project as presented this evening.

Mr. Cagnoni stated there have been on-going negotiations with Staff on this proposal. He stated the City recognized in working with the Applicants on this site that the developer needed to balance the needs of their tenants as well in proposing the project. Mr. Olson stated he felt this project was something that is needed in the area. He stated the developer has shown a willingness to compromise and work with the City as well. Mr. Sockwell stated he would support this but was not necessarily in agreement with the size of the sign.

A **MOTION** was made by Aaron Magdziarz to **APPROVE** the **(A) Variation** to eliminate building foundation landscaping; **APPROVE** the **(B) Variation** to increase the maximum permitted height for a free-standing sign from 8' to 15' in height, **APPROVE** the Variation to increase the maximum permitted sign square footage from 64 square feet to 100 square feet; **APPROVE** the **(C) Variation** to allow parking to back out onto an alley; **APPROVE** the **(D) Variation** to allow a pylon style sign in place of a landmark style sign; **APPROVE** the **(E) Variation** to allow a loading dock to be serviced off a public street (Lafayette Ave); **APPROVE** the **(F) Variation** to allow the required shade tree requirement to be located within right-of-way along Lafayette Avenue; **APPROVE** the **(G) Variation** to allow reduction in the shade tree planting bed from a minimum of 8' wide to 3.63' and 5.35'; and **APPROVE** the **(H) Variation** in the Design Standards for the proposed building elevation and site plan inclusive of a waiver of the building transparency requirements from 50% to 0% for building facing façade along Lafayette Avenue and a reduction of building transparency requirements for building facing façade along North 3rd Street in a C-4, Urban Mixed-Use District at 526 East Jefferson Street. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 5-1 with Alicia Neubauer voting Nay.

Approval is subject to the following conditions:

1. Must meet all applicable building and fire codes.
2. Must develop site in accordance with Exhibit D.
3. Submittal of a revised landscape plan to include removal of landscaping within Right-Of-Way along North 3rd Street and plant species for Staff's review and approval.
4. Proposed shade trees along Lafayette must be approved with Public Works.
5. Must obtain separate permits for signage and sign must be constructed to match building design.
6. Submittal of a final plat to be reviewed and approved by Staff and City Council.

ZBA 002-12
Findings of Fact for a Variation
To Eliminate Building Foundation Landscaping
In a C-4, Urban Mixed-Use District at
526 East Jefferson 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 002-12
Findings of Fact for a Variation
To Increase Maximum Permitted Height
For a Free-Standing Sign from 8' to 15' in Height
In a C-4, Urban Mixed-Use District at
526 East Jefferson 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 002-12
Findings of Fact for a Variation
To Increase the Maximum Permitted Sign Square Footage
From 64 Square Feet to 100 Square Feet
In a C-4, Urban Mixed-Use District at
526 East Jefferson 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 002-12
Findings of Fact for a Variation
To Allow Parking to Back Out Onto an Alley
In a C-4, Urban Mixed-Use District at
526 East Jefferson Street

1. **Approval** of this Variation is based upon the following findings:
2. 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.
3. 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.

4. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
5. 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.
6. 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.
7. 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.
8. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

ZBA 002-12
Findings of Fact for a Variation
To Allow a Loading Dock to be Serviced
Off a Public Street (Lafayette Avenue)
In a C-4 Urban Mixed-Use District at
526 East Jefferson 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 002-12
Findings of Fact for a Variation
To Allow the Required Shade Tree Requirement to be Located
Within Right-Of-Way Along Lafayette Street
In a C-4, Urban Mixed-Use District at
526 East Jefferson 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 002-12
Findings of Fact for Variation
To Allow Reduction in the Shade Tree Planting Bed
From a Minimum of 8' Wide to 3.63' and 5.35'
In a C-4, Urban Mixed-Use District at
526 East Jefferson 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.
9. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

ZBA 002-12
Findings of Fact for a Variation
In Design Standards for Proposed Building Elevation
And Site Plan Inclusive of a Waiver of the Building Transparency Requirements
From 50% to 0% for Building Facing Façade Along Lafayette Avenue
-and-
Reduction of Building Transparency Requirements
For Building Facing Façade Along North 3rd Street
In a C-4, Urban Mixed-Use District at
526 East Jefferson 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 003-12

Applicant
Ward 5

310 S. Church Street & 320-324 Chestnut Street

Kelly Hintzsche

Special Use Permit for a non-accessory parking lot

Variation to allow parking spaces to back out onto an alley in a C-4, Urban Mixed-Use District.

The subject property is located on the Southeast corner of Chestnut and South Church Streets. The property consists of (3) separate lots located south of the BMO Harris Metro Center and east of the Federal Courthouse. The lot closest to Church and Chestnut Streets contain a building and the remaining two lots are a parking lot. Kelly Hintzsche, representing Buckley Architects, reviewed the requests for Variation and Special Use Permit. She distributed updated drawings that were not available at the time Zoning Reports were submitted.

Ms. Hintzsche explained they are currently looking at two options to develop the subject property - Option 1 would be to demolish the existing building and using this property for additional parking. This would require a Variation to allow some of the parking stalls to back out into the alley. Option 2 would include a renovation of the existing building which would required the Special Use Permit. Ms. Hintzsche stated they do not have a definite plan at this time which is why they are asking for both the Special Use Permit and Variation. There is a possibility of leasing out the existing building for a coffee shop should they go with Option 2.

Mr. Cagnoni stated Staff's intent in their Report was to give the Applicant the ability to go with either Option proposed. Because they do utilize the parking lot to the South, Staff feels they would be able to control the use of this parking facility by only VIP Harris patrons.

Staff Recommendation is for Approval of both requests with (2) conditions. No Objectors or Interested Parties were present.

A **MOTION** was made by Scott Sanders to **APPROVE** the Special Use Permit for a non-accessory parking lot and to **APPROVE** the Variation to allow parking spaces to back out onto an alley in a C-4, Urban Mixed-Use District at 310 South Church and 320-324 Chestnut Streets. The Motion was **SECONDED** by Dennis Olson and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. Must submit a parking lot permit application including detail landscape plan for staff's review and approval.
2. Should Option (2) be implemented, the removal of the parking spaces at South Church Street and Chestnut Streets need to be removed.

ZBA 003-12
Findings of Fact for a Special Use Permit
For a Non-Accessory Parking Lot
In a C-4, Urban Mixed-Use District at
310 South Church Street & 320, 324 Chestnut 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 c-4 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-4 Zoning District in which it is located.

ZBA 003-12
Findings of Fact for a Variation
To Allow Parking Spaces to Back Onto an Alley
In a C-4, Urban Mixed-Use District at
310 South Church Street & 320, 324 Chestnut 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 004-12

Applicant
Ward 14

4773, 4794, 4795, 4811, 4833, 4857, 4873 and 4875 Manhattan Drive

Manny Abalos

- (A) Variation** to increase the maximum allowed fence height from 6 feet to 8 feet in the rear yard
- (B) Variation** to increase the maximum allowed fence height from 6 feet to 8 feet in the side yard in a C-1, Limited Office Zoning District

The subject property is located east of the East Lawn Drive and Manhattan Drive intersection within the Manhattan Plaza Subdivision. The property consists of office buildings. Thomas Graceffa, and Debra Guske were present. Ms. Guske stated in recent years they have had increased crime and trespassing activity in that area. There is a small wooded section behind this development with apartments and townhouses. She explained that people have been walking from the apartment complex into their parking area asking patrons for money, vandalizing vehicles, and even coming into their office building asking for money. They also cut through to get to State Street rather than walking out to Eastlawn Drive and then up to State. Ms. Guske and Mr. Graceffa felt some of the people they have seen in their parking lot could easily climb a 6 foot fence. The proposed fence would be chain link. Ms. Neubauer felt a chain link fence would be easy to climb and Ms. Guske stated there would also be bushes that would act as a deterrent. Mr. Graceffa stated this fence would force trespassers to walk down to the street rather than cutting through their parking lot.

Staff Recommendation is for Approval of both requests with (1) condition. No Objectors or Interested Parties were present.

A **MOTION** was made by Craig Sockwell to **APPROVE** the **(A) Variation** to increase the maximum allowed fence height from 6 feet to 8 feet in the rear yard and to **APPROVE** the **(B) Variation** to increase the maximum allowed fence height from 6 feet to 8 feet in the side yard in a C-1, Limited Office Zoning District at 4773,4794, 4795, 4811, 4833, 4857, 4873 and 4875 Manhattan Drive. 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 fence location is reviewed and approved by Public Works

ZBA 004-12
Findings of Fact for a Variation
To Increase the Side Yard Fence Height From Maximum Allowed 6 Feet to 8 Feet
In a C-1, Limited Office Zoning District Located at
4773, 4793, 4795, 4811, 4833, 4857, 4873 and 4875 Manhattan Drive

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 004-12
Findings of Fact for a Variation
To Increase the Rear Yard Fence Height From Maximum Allowed 6 Feet to 8 Feet
In a C-1, Limited Office Zoning District Located at
4773, 4793, 4795, 4811, 4833, 4857, 4873 and 4875 Manhattan Drive

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 005-12

Applicant
Ward 14

3457 Merchandise Drive

CJ's- Craig Sockwell

Special Use Permit for a restaurant and nightclub in an I-1, Light Industrial Zoning District.

The subject property is located 200 feet south of the Sandy Hollow Road and Merchandise Drive intersection and is currently a vacant bar and restaurant formerly known as T-Bone Willy's. Craig Sockwell is abstaining from vote on this item as he is one of the Applicant. Craig Sockwell and James Douglas were present. Mr. Sockwell reviewed his request, which is associated with their request for liquor sales on the Liquor Advisory Board this evening.

Staff Recommendation is for Approval with 7 conditions. Objectors or Interested Parties were present.

A **MOTION** was made by Dennis Olson to **APPROVE** the Special Use Permit for a restaurant and nightclub in an I-1, Light Industrial Zoning District at 3457 Merchandise Drive with amended condition 7. The Motion was **SECONDED** by Scott Sanders and **CARRIED** by a vote of 6-0 with Craig Sockwell abstaining.

Approval is subject to the following conditions:

1. Meet all applicable Building and Fire Codes.
2. Submittal of detailed landscape plan to include the type of species to be planted for Staff's review and approval.
3. The hours of operation will be limited to 11:00 A.M. to 2:00 A.M. Monday through Saturday.
4. The hours of operation will be limited to 11:00 A.M. to 12:00 Midnight on Sunday.
5. Security shall be provided at a minimum of 1 per 50 patrons.
6. That the freestanding sign shall be a landmark style sign in accordance with the Sign Ordinance replacing the existing freestanding sign.
7. That the gravel parking area shall be improved with asphalt or concrete by July 15, 2013.

ZBA 005-12

**Findings of Fact for a Special Use Permit
For a Restaurant and Nightclub
In an I-1, Light Industrial Zoning District at
3457 Merchandise Drive**

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 Zoning District in which it is located.

With no further business to come before the Board, the meeting was adjourned at 8:00 PM

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