

McCordsville

ESTD  1988

INDIANA

Board of Zoning Appeals Staff Report

Meeting Date: August 7, 2024

PETITIONER: The Bobber Shop

PETITION: BZA-24-009

REQUEST: Petitioner requests approval of multiple Development Standard Variances to allow additional ground signs and additional window sign coverage.

LOCATION: The property is located at 6346 W Broadway.

ZONING: The property is zoned Commercial Neighborhood (CN) Zoning District.

<u>Zoning</u>	<u>Land Use</u>
North: CN	Brewery & restaurant
South: OT	Office & retail
East: CN	Office
West: CN	Single Family Residential

STAFF REVIEW: The petitioner is seeking variances to allow the signage that is already on-site, without permits. The petitioner's site currently features 3 ground mounted three-dimensional fish statues, a traditional non-illuminated ground sign (mounted to a pergola), and window signs with coverage greater than that allowed by the code. Staff reported these violations in June of this year and began the violation process. The first step to abatement is to either remove the violation to come into compliance or seek a variance(s). The petitioner has chosen to seek variances. Below are the estimated sizes of the signage on the property:

- Large Fish: 56 SF
- Small Fish: 10 SF, Quantity: 2
- Ground Sign: 16 SF
- Window Signs: Staff estimates approximately 50% coverage

The existing signs are shown in Exhibit A (enclosed).

Variance No. 1: Section 154.146(B)

The petitioner requests a variance to allow more than one (1) ground sign on a property or lot.

Variance No. 2: Section 154.142(F)

The petitioner requests a variance to allow a window sign to exceed 10% of the window area.

BZA AUTHORITY: The Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the underlying zoning ordinance. A variance may be approved under Indiana Code § 36-7-4-918.5 only upon a determination in writing that:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
2. The use and value of the area adjacent to the Property included in the variance will not be affected in a substantially adverse manner; and
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject Property.

STAFF RECOMMENDATION: Staff recommends approval of the variance from Section 154.146(B) contingent upon the suggested conditions of approval below.

1. There shall be no more than one (1) ground sign and one (1) wall sign located on the property. However, the existing ground sign mounted to the pergola may be considered a wall sign for the purposes of enforcement of these conditions. In such a scenario, no additional wall signs may be permitted. Additionally, the ground sign may be permitted up to XXX SF.
2. The two (2) small metal fish, may remain on-site, but may not be located closer to the right-of-way of W Broadway than the rear corners of the primary structure.
3. No other wall signs, ground signs, or other statutes shall be permitted on-site.

Staff recommends denial of the variance from Section 154.142(F). The Town's window sign regulations have been well-thought out and have applied throughout the Town since the Zoning Ordinance was adopted in 2011. The Ordinance allows signage to cover up to 10% of the window, so the petitioner, by Ordinance, is allowed window signage. Staff sees no substantive reason to support a request for additional coverage.

The BZA can choose to Approve, Deny, or Continue the petition.

Variance from Section 154.146(B)

Approval: If the Board is inclined to approve the variance from Section 154.146(B), then the Department recommends adopting the staff's suggested conditions of approval above and the findings below.

Recommended Findings for Approval:

1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community: *Finding: It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community. The total number of signs is in keeping with the Town's ordinances.*

2) The use and value of the area adjacent to the Property included in the variance will not be affected in a substantially adverse manner: *Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed variance should not have a negative impact on surrounding properties because the use of the property will not change.*

3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject Property: *Finding: The strict application of this criteria could result in the petitioner in the petitioner moving the pergola mounted sign to the wall of the primary structure. While staff has no issue with this, we also do not see any negative result in allowing the sign to remain attached to the pergola.*

Denial: If the Board is inclined to deny the requested variances, then the Department recommends denying the variances, and tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.

Variance from Section 154.142(F)

Approval: If the Board is inclined to approve the variance from Section 154.146(B), then the Department recommends approving the variances, and tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.

Denial: If the Board is inclined to deny the requested variances, then the Department recommends denying the variances, and adopting the findings below.

Recommended Findings for Denial:

1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community: *Finding: It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community.*

2) The use and value of the area adjacent to the Property included in the variance will not be affected in a substantially adverse manner: *Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. However, the allowance of additional coverage increases the overall sign allowance for this site and will likely be sought by other businesses. This could disrupt the delicate balance of signage necessary to facilitate healthy business operations and unnecessary sign clutter. This could have long lasting implications on the streetscape and aesthetics of the W Broadway corridor as well as other commercial areas in Town.*

3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject Property: *Finding: There is not a practical difficulty with meeting the terms of the zoning ordinance. Window signage is allowed by the code, so this is not an outright prohibition. The business has a number of other sign options available to boost it's visibility. Additionally, staff does not find that strict adherence to the Zoning Ordinance would deprive the petitioner of all reasonable economic use of the tenant space. Lastly, staff does not feel that practical difficulties that are self-imposed, or based on a perceived reduction of, or restriction on, economic gain meet the intent of the state's description of a practical*

difficulty. Therefore, staff does not find there is a practical difficulty.

A public hearing shall be held prior to any vote on this matter.



Parcel ID	30-01-26-101-002.000-018	Alternate ID	30-01-26-101-002.000-018	Owner Address	G T Real Estate LLC
Sec/Twp/Rng	n/a	Class	429 - Other Retail Structures		6314 W Broadway
Property Address	6346 W Broadway	Acreage	n/a		McCordsville, IN 46055
	McCordsville				
District	MCCORDSVILLE TOWN				
Brief Tax Description	HIDAY MC CORD L1, 2, 3, & 4 & VAC ALLEY				
	(Note: Not to be used on legal documents)				

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Exhibit A



