

McCordsville

ESTD  1988

INDIANA

Board of Zoning Appeals Staff Report

Meeting Date: October 2, 2024

PETITIONER: Eric Taylor (Rita's Italian Ice)

PETITION: BZA-24-012

REQUEST: Petitioner requests approval of a Development Standard Variance to allow more than one (1) wall sign for a ground floor tenant space.

LOCATION: The property is located at 5817 Main Street.

ZONING: The property is zoned McCord Square PUD.

Zoning

North: PUD

South: PUD

East: PUD

West: PUD

Land Use

Mixed-use

Vacant

Vacant

Vacant

STAFF REVIEW: Rita's Italian Ice (Rita's) is operating on the ground floor of the Lucas building in McCord Square. The tenant space is approximately twenty-four (24) feet wide. This space will not feature any interior customer space. Patrons will order from the sidewalk. This creates a need for both signage and menu boards to be visible from the exterior.

Currently the tenant space features two (2) menu boards mounted to the exterior of the building. These menu boards are considered wall signs. The petitioner did not file permits for either menu board. Staff denoted these sign code violations and reached out to the petitioner, who we had previously been in contact with regarding sign permit requirements and notified them of the violation. Upon further discussion, the petitioner decided to seek further wall signage and thus this request for a Development Standards Variance from § 154.146 (B) of the Zoning Ordinance (the McCord Square PUD references the Zoning Ordinance for wall signage for ground floor tenants), which limits wall signage to one (1) wall sign per frontage. Rita's has one (1) frontage.

In reviewing this petition, staff would like to summarize all the signage that is either proposed by the petitioner and/or allowed by right:

- Two (2) wall signs (menu boards), each 10 SF (total of 20 SF) and both non-illuminated. (Via variance request)
- One (1) wall sign of 13 SF, which would be reverse channel illumination for the overall sign, with internal illumination of the “gelato cup”, attached to a backer-board. (Via variance request)
- One (1) non-illuminated wall sign under 2 SF. (Via variance request)
- Window signage, up to maximum 10% coverage (of individual window or group of windows that abut each other). (Permitted by right in the Zoning Ordinance)
- An A-frame sign, no larger than 6 SF and 4’ tall can also be placed in front of the space. Such a sign is required to be within 10’ of the structure and must only be posted between the hours of 7:00am and 6:00pm. (Permitted by right in the Zoning Ordinance)
- One (1) pedestrian-oriented blade signs up to 3 SF for each tenant space. (Permitted by right in the McCord SQ PUD)

Staff is concerned with the amount of signage that is requested and/or could be present at this location. This tenant space is 24’ wide, which is a fairly standard tenant space width. It is the lack of interior customer space that is creating the demand from the petitioner for additional signage. Staff understands why exterior ordering signage is being requested. Such a facility was not contemplated at the time McCord Square was zoned. Frankly, this is something that moving forward staff will be taking a closer look at to determine if future rezonings need to include additional language that better addresses such facilities.

Variance Request – 154.146(B)

The code would allow one (1) wall sign at a maximum size of 36 SF. The petitioner seeks a total of four (4) wall signs that total approximately 35 SF.

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 has reviewed the petitioner’s request and while we have concerns, we believe we can mitigate our concerns and support the petitioner’s request with the following suggested conditions of approval (see also Exhibit A):

1. The menu boards shall remain non-illuminated.

2. The artwork/messaging/content of the menu-boards shall be custom sized to fit exactly within the shape and frame of the menu board structure. No portion of the menu board shall be empty (see Exhibit B).
3. The Gelato cup and Rita's wall sign shall be directly mounted to the building and a backer-board shall not be utilized.
4. The window signage allowance is further restricted to only allow up to three (3) signs of a maximum of 6 SF each, for entire window space for the tenant space. No other window signage, or any other window covering shall be installed except for window tint needed to reduce visibility into the interior space. Such tint or covering shall not include any depictions, images, letters, or the like which call attention to the tenant space.
5. No other signage shall be installed for this tenant space other than the existing allowances for an A-frame sign, consistent with the regulations of the sign code, and a pedestrian-oriented blade sign, consistent with the regulations of the McCord Square PUD.
6. The small non-illuminated wall sign shall not exceed 2 SF and shall be centered on the stone column.
7. This variance shall run with the petitioner and not the land.

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.

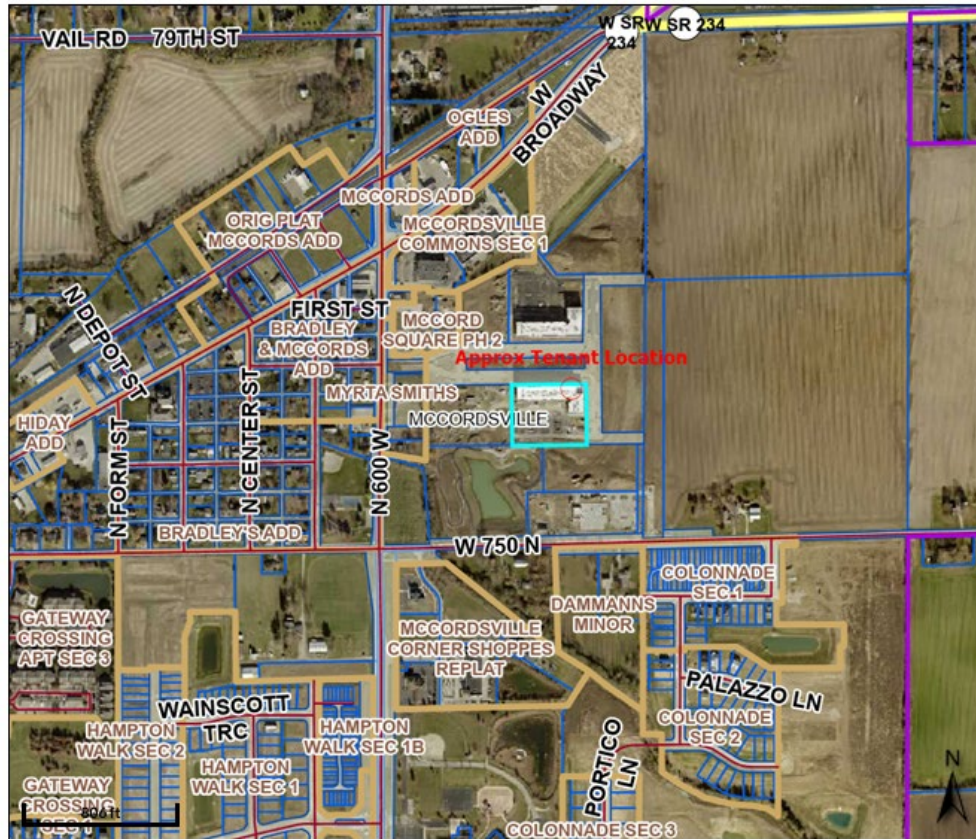
Recommended Findings for Approval:

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 square footage of signage is in keeping with the Town's ordinances.*

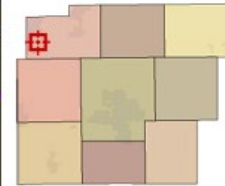
2) The use and value of the area adjacent to the Property included in the variance will not be affected in a substantially adverse manner: *Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed variance should not have a negative 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 petitioner must adhere to the franchises business model which creates a business without interior space. The petitioner is complying with this business model and therefore the strict application of this criteria could result in the petitioner not being able to effectively communicate its product offerings.*

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.



Overview



Legend

Roads

- , PRIVATE
- , PRIVATE
- I, PUBLIC
- S, PUBLIC
- U, PUBLIC
- <all other values>

Subdivisions

Rights of Way

Parcel Search

Corporate Limits Boundary

Parcel ID	30-01-25-200-010.008-018	Alternate ID	30-01-25-200-010.008-018	Owner Address	Pride Rebar McCord Square Apartments LLC
Sec/Twp/Rng	n/a	Class	Vacant - Platted Lot		8700 North Street
Property	N 600 W (rear)	Acreage	2.705		Suite 120
Address	McCordsville				Fishers, IN 46038
District	MCCORDSVILLE TOWN				
Brief Tax Description	McCord Square Lot 8				
	(Note: Not to be used on legal documents)				

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Exhibit A (Illustrative Exhibit Referencing Staff Conditions)

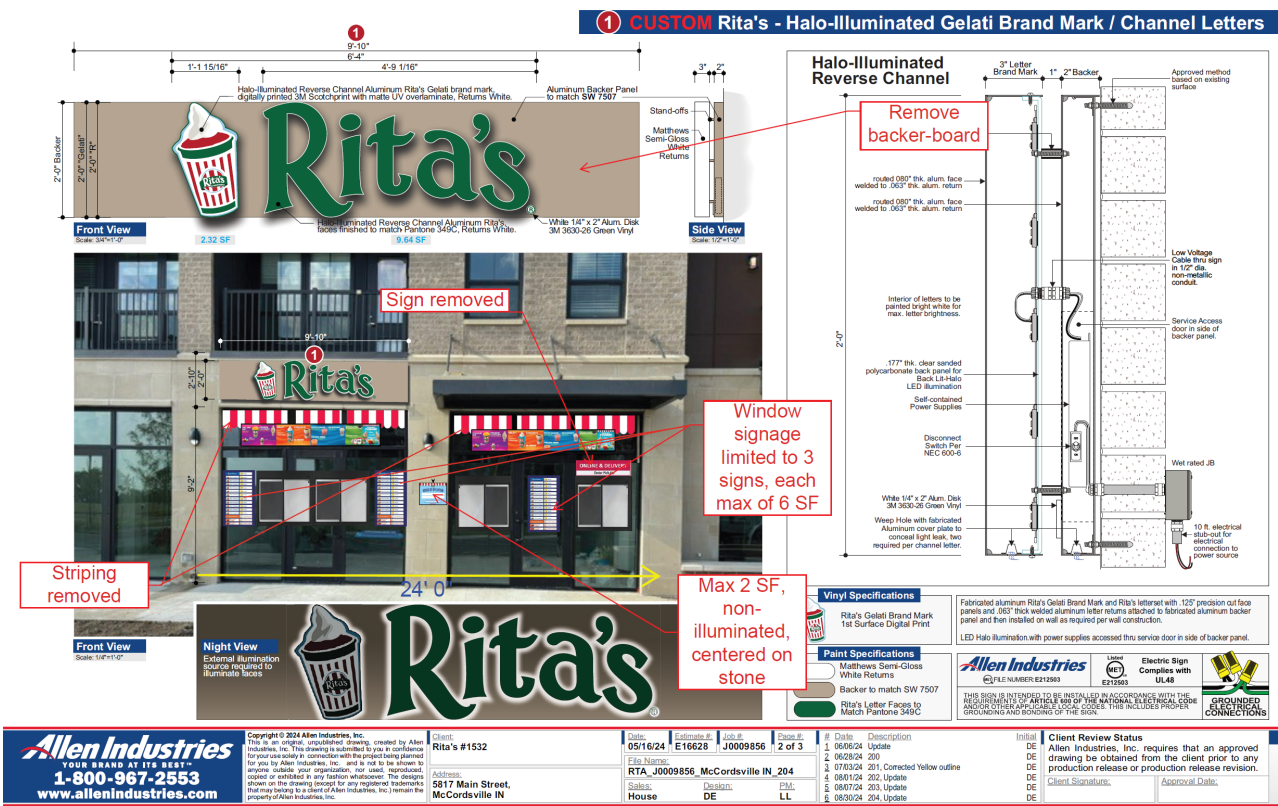


Exhibit B (Existing Menu Boards)

