

Statement of Practical Difficulty

77 Granville Street

The applicant / property owner of the Wendy's restaurant at 77 Granville Street has submitted a variance application to allow for new building signage in conjunction with its significant building upgrades and improvements, consistent with the current Wendy's corporate branding and imaging. Currently the signage on the property consists of a wall sign on the front façade of the building that is approximately 15.5 square feet, and a legal nonconforming bi-pole sign that is 140 square feet.

The applicant is requesting a variance to allow wall signage on the north, east, and west facades of the building, which totals 46.86 square feet, each sign being 15.62 square feet.

Gahanna Zoning Code (GZC) Section 1165.12 Variances and Appeals provides, "[t]he standard for granting a variance which relates solely to area requirements is a lesser standard than that applied to variances which relate to use. An application for an area variance need not establish unnecessary hardship; it is sufficient that the application show practical difficulties. In determining whether a property owner seeking an area variance has encountered practical difficulties, Planning Commission shall consider and weigh the following factors." The factors that are provided thereafter are the practical difficulty standards from the Duncan v. Middlefield case, which is valid case law precedent providing standards to be analyzed during the consideration of a development standard area variance. These factors are hereafter stated in italics and individually addressed:

- A. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance.*

They City would prefer that the existing pole sign be removed. This pole sign is critically important to this restaurant business, it cannot function successfully without the pole sign. The building signage requested is 6.86 square feet over the 40 square foot allowance in this OG-2 Zoning District¹, the signage on each façade is 15.62 square feet. This request for a modest increase in the allowable wall signage square footage, in addition to the existing legal nonconforming pole sign, is critical to having motorists know the location of this business. The development on both sides of the property – east and west – is at a zero setback. The effect therefore is that this business cannot be seen by motorists travelling either direction on Granville Street until nearly in front of the property.

This property cannot, and will not yield a reasonable return without this variance.

- B. Whether the variance is substantial.*

This factor must be analyzed in terms of the existing conditions, and the surrounding circumstances. The relevant conditions and surrounding circumstances are that the existing legal nonconforming pole sign is critically important to the success of this business, both in terms of motorist identification due to the setbacks of both adjacent buildings, and in terms of motorist safety. The building cannot be seen, and the business cannot be identified without the pole sign until a driver is at, or nearly at, the property. The variance requested is to allow reasonable, typical, average wall signage for a business of this type, in addition to its existing pole sign. The variance is to allow wall signage 6.86 square feet greater than the GZC allows is not substantial.

- C. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance.*

The essential character of the neighborhood would not be altered in the least, and certainly not substantially. No adjoining property would suffer any detriment as a result of the variance, and certainly not a substantial detriment.

- D. Whether the variance would adversely affect the delivery of governmental services.*

This variance would not have any impact on the delivery of governmental services unless the pole sign were forced to come down, then emergency services would likely be called to this location for rear end collisions occurring as a result of people stopping too quickly because they were unable to locate the restaurant.

- E. Whether the property owner purchased the property with knowledge of the zoning restriction.*

No. This property has been developed with a Wendy's restaurant since 1973. The applicable zoning restrictions have continued to evolve over time. The applicable sign regulations were last modified in 2007. The entity that currently owns the property has been in title since 1999. The applicable Olde Gahanna Code was last revised in 2011.

- F. Whether the property owner's predicament feasibly can be obviated through some method other than a variance.*

No, it cannot. The surrounding circumstances here, zero setback buildings on either side of the restaurant, severely restrict visibility of the property. This restricted visibility makes signage critical to the viability of any business on this commercially zoned property. No other feasible or reasonable options are available to the property owner.

- G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.*

It would. Restricting reasonable and existing signage on this property is unreasonable, and the request here is perfectly reasonable. The request provides for the preservation of a critically important legal nonconforming sign, and signage slightly more than 7 square feet over the allowance under the City's interpretation. The spirit and intent behind any zoning requirement is to allow for the reasonable use of real property, and the use of real property in a manner that is not a nuisance to surrounding property owners, or the jurisdiction generally. The signage requested is consistent with the Wendy's corporate image across not just central Ohio, but nationally and internationally. Not allowing this reasonable signage would be arbitrary and unreasonable. Further, it would increase the likelihood of traffic accidents along Granville Street because the property would be difficult to see by motorists.

- H. Whether the sign is sufficiently compatible with the architectural and design character of the immediate neighborhood and all graphic design standards for the district.*

The pole sign is not, however the proposed wall signage is compatible with other area signage. It should be further noted that this property, in terms of its development patten and the type of use, is unique

lending itself therefore to disparate treatment in terms of applicability of regulations and appropriate allowances.

- I. *Whether the sign will be hazardous to passing traffic or otherwise detrimental to the public safety and welfare.*

It will not whatsoever. Though if the owner would be forced to remove the pole sign it would clearly become hazardous to passing traffic and be detrimental to public safety and welfare. Because of the setback conditions on adjacent properties signage is critical here, more critical than in most cases, and should be approved as a means of minimizing this condition. Please refer to attached photographs for a visual depiction of this fact.

Having demonstrated compliance with the *Duncan* factors, the requested variance must be approved.

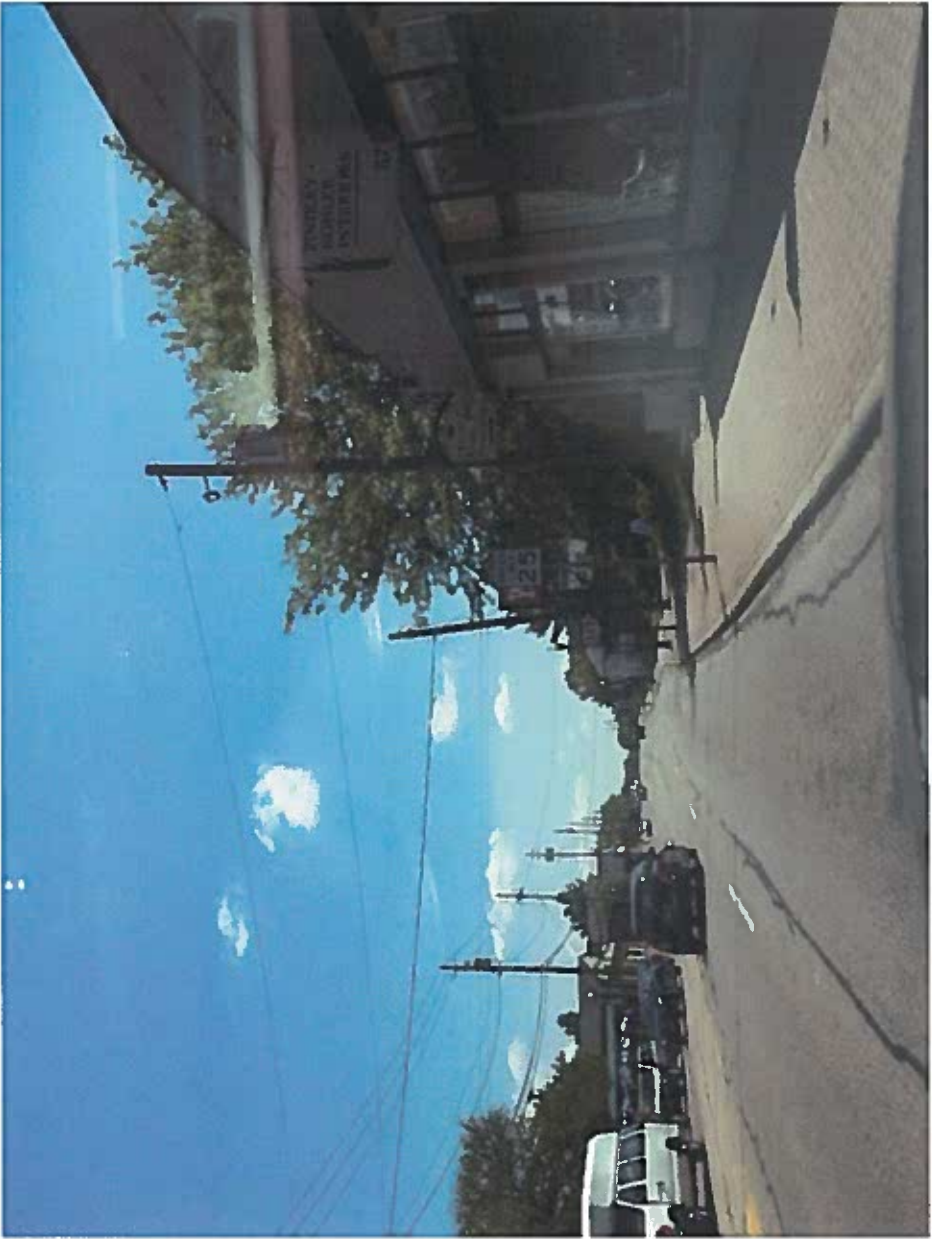
Respectfully submitted,

 - attorney

David Hodge

¹ The Gahanna Zoning Code is unclear and inconsistent in terms of the allowable square footage for this property. Section 1165.08(a) provides a total permitted sign area of 40 square feet. Though Section 1165.06 provides that lots fronting two or more public rights of way are allowed the permitted sign size for each street frontage. Taken together these provisions are vague and ambiguous in terms of the actual allowance and therefore must be strictly construed in favor of the property owner. Here there are 3 right-of-way frontages, and therefore 160 square feet of signage allowed.









Franklin County Auditors Office



May 25, 2016

FCA
Sources: Esri, HERE, DeLorme, Intermap, Incorp. P Corp.,
GEOBCO, USGS, FAO, NPS, NRCAN, Geobase, IGN, Kadaster NL,
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