



Planning and Development

Memorandum

To: Board of Zoning Appeals

From: Richard Oman, Director of Planning and Development

Subject: BZA Docket # 25-001 (1651 E Commercial)

Date: February 10, 2025

ORIGINAL HEARING DATE:

February 13, 2025

BACKGROUND INFORMATION:

PETITIONER(S): Bendsen Signs & DIYA Sandwich (Jimmy Johns)

SITE LOCATION: 1651 E Commercial Ave

EXISTING ZONING: B-2

ANALYSIS OF THE REQUEST:

OVERVIEW:

The Petitioner is requesting the BZA to approve their proposed signage that would exceed the allowable square footage per use. They are requesting a total of 350 square feet, the total allowable per ordinance is 150 square feet. The petitioner is also proposing wall signage that is over the allowed amount of 75 square feet. The petitioner is requesting 212 square feet.

Under the current Town of Lowell Land Use and Development Code 155.104 (A)(1)(a), One square foot of signage shall be allowed for every one foot of the front façade of the building that is occupied by that use. (For example: if a use occupies a tenant space in a commercial building, and that space includes 50 feet of the building's frontage, then 50 square feet of signage would be allowed for the use.) In no instance shall the amount of signage permitted per use exceed 150 square feet." "Any combination of signs may be used as long as they don't exceed the total area allowed per use or are inconsistent with other development standards listed in this section." As a result, to have the total signage as proposed, the Petitioner requires a variance of 200 square feet.

Under the current Town of Lowell Land Use and Development Code 155.104 (A)(1)(b)(1), *Wall sign*. Wall signs shall be located on the facade of the primary structure. No sign shall

exceed 75 square feet in area. The petitioner is requesting wall signage in the amount of 212 square footage, the variance total would be 137 square feet.

REASON FOR REQUESTED CHANGE (DEVELOPMENT OBJECTIVE):

The Petitioner's proposed signage is controlled by the franchise. The amount of proposed signage that the franchise requires is higher. The petitioner has put together a set of plans for the proposed signage for the Commissioner's to review. The total square footage was calculated per the Zoning Ordinance to show the need for the variance. The petitioner is complying with the ordinance requirement of a monument sign.

STAFF RECOMMENDATION AND PROPOSED FINDINGS OF FACT:

1. Staff recommends that the Board of Zoning Appeals APPROVE the Petitioner's variance request to exceed the allowable square feet of signage on its property, and wall signage only if the following limitations are imposed:
 - a) The BZA approval of Sign Package Option A.
2. The Town of Lowell Board of Zoning Appeals shall make written Findings of Fact in accordance with I.C. §36-7-4-915, and the Town of Lowell Zoning Ordinance, as amended from time to time. Based upon its evaluation, Staff recommends that the Board of Zoning Appeals make Findings of Fact as follows:
 - A. Under the current Town of Lowell Land Use and Development Code 155.104 (A)(1)(a)(1), One square foot of signage shall be allowed for every 1 foot of the front facade of the building that is occupied by that use. (For example: if a use occupies a tenant space in a commercial building, and that space includes 50 feet of the building's frontage, then 50 square feet of signage would be allowed for the use.) In no instance shall the amount of signage permitted per use exceed 150 square feet." "Any combination of signs may be used as long as they don't exceed the total area allowed per use or are inconsistent with other development standards listed in this section." Wall signs shall be located on the facade, no sign shall exceed 75 square feet in area. Therefore, Petitioner is required to obtain a Developmental Variance to exceed the maximum amount of signage permitted per use, and wall signage as proposed;
 - B. Approval of Petitioner's variances will not be injurious to the public health, safety, morals, and general welfare of the community;
 - C. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
 - D. Strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of Petitioner's property. However, the Zoning Ordinance may establish a stricter standard than the "practical difficulties" standard prescribed by I.C. 36-7-4-918.5;

- E. The Findings of the Town of Lowell Board of Zoning Appeals are based upon and in accordance with the Town of Lowell Zoning Ordinance and Indiana state statutes, and shall not be construed or interpreted to be a determination by the Town of Lowell Board of Zoning Appeals of compliance, or noncompliance, with covenants, restrictions, or limitations on the real estate defined herein, if any; and,
- F. Petitioner shall comply with all requirements of the Town of Lowell Municipal Code and Indiana state statutes related to the applicable building permits, licensing/registration of contractors, inspections, etc. that are required for construction as permitted herein. Additionally, approval of any variance by the Town of Lowell Board of Zoning Appeals shall not be construed or interpreted as pre-approval or waiver of any such requirement.

PROPOSED MOTIONS:

1. Staff recommends that the Board of Zoning Appeals APPROVE the Petitioner’s requested developmental variance from the requirements of the Town of Lowell Land Use and Development Code 155.104(A)(1)(a) and 155.104(A)(1)(b)(1) in order exceed the allowable square feet of signage on its property, and size of allowed wall signage, subject to the following limitations:

- a) The BZA approval of Sign Package Option A.

2. If the Board of Zoning Appeals agrees with the above recommendations, Staff requests that this report be adopted by the Town of Lowell Board of Zoning Appeals as its written Findings of Fact.

Rich Oman, Director of Planning and Development
 Town of Lowell
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ACTION TAKEN:

1 MOTION/VOTE: ___ IN FAVOR; ___ OPPOSED; ___ ABSTAINED; ___ ABSENT;
 2 MOTION/VOTE: ___ IN FAVOR; ___ OPPOSED; ___ ABSTAINED; ___ ABSENT;

FINDINGS OF FACT/VOTE: ___ IN FAVOR; ___ OPPOSED; ___ ABSTAINED; ___ ABSENT;

DATE: _____

BOARD OF ZONING APPEALS PRESIDENT _____ (SIGN)