



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: Mayor Diane Wolfe Marlin and City Council Members

FROM: John A. Schneider, MPA, Director, Community Development Services Department
Lorrie Pearson, AICP, Planning Manager & Zoning Administrator
Will Andresen, Planning Intern

DATE: June 27, 2019

SUBJECT: **An Ordinance Approving A Major Variance** (201 West University Avenue/ZBA-2019-MAJ-02)

Introduction

Gary Satterlee, on behalf of Culver’s Restaurant, has requested a variance to allow a permitted freestanding sign to include an electronic display component in the B-4, Central Business, Zoning District. The electronic display’s message board is a key component of Culver’s daily operations. Section IX-4.C. of the Urbana Zoning Ordinance allows electronic displays only in the B-3, General Business, and CRE, Conservation-Recreation-Education zoning districts.

At its June 19, 2019, meeting, the Zoning Board of Appeals (ZBA) held a public hearing on this case. No members of the public spoke regarding the case. The ZBA voted five ayes and zero nays to recommend that City Council approve the variance.

Background

Culver’s was issued a sign permit for a freestanding sign for their newly-established restaurant at the corner of West University Avenue and North Race Street on land that is zoned B-4, Central Business District. It is now proposing to include an electronic display component in this freestanding sign. The Zoning Ordinance allows electronic displays only in the B-3, General Business, and CRE, Conservation-Recreation-Education zoning districts.

The previous owner rezoned the property from B-3 to B-4 to increase the parcel’s buildable area by eliminating required yards after a recent right of way acquisition by the Illinois Department of Transportation. The owner is now seeking a major variance to allow the electronic display component in the new B-4 Zoning District.

Description of Site

The 1.336-acre site is located at the southwest corner of West University Avenue and North Race Street (Exhibit A). The property is the site of the newly-established Culver’s restaurant and its parking area. Table 1 (next page) summarizes and Exhibit B maps the zoning and land uses for the subject site and surrounding area:

Table 1. Zoning and Land Use

Location	Zoning	Existing Land Use
Site	B-4, Central Business District	Restaurant (under construction)
North	B-3, General Business	Video Gaming Hall, Consulting Office
South	B-3 General Business	Single-Family Homes
East	B-4, Central Business District	Restaurant, Retail & Services
West	CRE, Conservation-Recreation-Education	Park

Discussion

The proposed sign would adhere to the zoning requirements for electronic displays in the B-3 zoning district. The owner describes the proposed electronic display’s message board as being a key component of Culver’s daily operation. Changing a manual message board can be difficult and may be unsafe in certain conditions, such as when using a long pole near power lines.

Variance Criteria

Section XI-3 of the Urbana Zoning Ordinance requires the Zoning Board of Appeals to make findings based on variance criteria. The following is a review of the variance criteria as they pertain to this case:

The proposed variance will not serve as a special privilege because the variance requested is necessary due to special circumstances relating to the land or structure involved or to be used for occupancy thereof, which is not generally applicable to other lands or structures in the same district.

The lot was recently rezoned from B-3, General Business, to B-4, Central Business District. This was done to bring the subjects property into conformity with the Future Land Use Designation as per the 2005 Comprehensive Plan, and also to gain more buildable area to allow for larger projects. The existing B-3 zoning would not have allowed sufficient buildable area for the current tenant’s business, due to recent right-of-way expansion.

The variance request is not the result of a situation or condition having been knowingly or deliberately created by the Petitioner.

The petitioner did not rezone the property to B-4 where there are restrictions on electronic displays; the situation was not knowingly created by the current owner

The variance will not alter the essential character of the neighborhood.

The proposed variance should not alter the essential character of the neighborhood, as there are numerous electronic displays in the area (Exhibit C). The proposed electronic display would have been permitted by right in the existing B-3, General Business zoning district, and fits with the surrounding land use. Finally, the proposed electronic display – and the other existing electronic displays along University Avenue – are not in the core of the Central Business District, but along its periphery, and should not impact the historic character of the downtown commercial district.

The variance will not cause a nuisance to the adjacent property.

This variance should not cause a nuisance to adjacent properties because the proposed electronic display will be similar to nearby electronic displays (Exhibit C), and it will comply with all other zoning regulations that apply to electronic displays in the adjacent B-3 Zoning District, including frequency of message change, and brightness and dimming requirements.

The variance generally represents the minimum deviation from requirements of the Zoning Ordinance necessary to accommodate the request.

The minimum deviation from the requirements of the Zoning Ordinance would be to allow an electronic display in the B-4 Zoning District. The proposed electronic portion of the sign not only complies with the required dimensions for an electronic display in the adjacent B-3 Zoning District, it would be smaller in area than the maximum allowed. The Zoning Ordinance limits the electronic portion of a sign to 50% of the total sign area. The petitioner is proposing a 16'-tall sign with a total sign area of 74.57 sq. ft., which would normally allow an electronic display portion up to 37.5 sq. ft. The proposed sign would limit the electronic display portion to 23.86 sq. ft., which is only 32% of the total sign area (Ordinance Attachment A).

The variance requested is the result of practical difficulties or particular hardship in the way of carrying out the strict letter of the Zoning Ordinance relating to the use, construction, or alteration of buildings or structures or the use of land.

Strict application of the zoning ordinance would prohibit the applicant from utilizing their primary sign to its fullest extent with regard to advertising and message conveyance. Although the applicant could operate without the electronic message board, it plays an integral role in Culver's daily operations.

Zoning Board of Appeals

Discussion at the June 19, 2019, ZBA Meeting included which direction the sign would face, the location of the sign on the property, and whether or not the sign would obstruct drivers' views at the intersection. Staff clarified the sign would face east and west; that would be no less than 26 feet from the right-of-way, meeting the minimum setback of 16 feet; and would be outside the regulated Visibility Triangle.

The board voted five ayes and zero nays to forward this case to the Urbana City Council with a recommendation to APPROVE the request with the condition as presented.

Summary of Staff Findings

1. Gary Satterlee, on behalf of Culver's, requests a Major Variance to allow an electronic display in the B-4, Central Business, Zoning District.
2. Section IX-4.C. of the Urbana Zoning Ordinance allows electronic displays only in the B-3, General Business, and CRE, Conservation-Recreation-Education zoning districts.
3. The request is due to the special circumstances created by recent right-of-way expansion that led to the recent B-4 rezoning to increase the parcel's buildable area. Strict application of the Zoning Ordinance now prohibits any electronic displays in the new B-4 district.
4. The petitioner did not rezone the property to B-4, where electronic displays are restricted.
5. The variance request would not alter the essential character of the neighborhood, as there are several other electronic displays in this area along the periphery of the Central Business District.
6. The proposed sign will not be a nuisance to the neighborhood because it would adhere to the

neighboring B-3 district's electronic display regulations, and would be smaller than normally allowed.

7. The request is a result of strict application of the zoning ordinance, which prohibits the applicant from utilizing their primary sign to its fullest extent with regard to advertising and message conveyance.
8. At the June 19, 2019, meeting, the Urbana Zoning Board of Appeals held a public hearing and voted with five ayes and zero nays to forward the case to the City Council with a recommendation of approval with a condition that the proposed electronic display's location and size generally conform to the site plan and specifications in Ordinance Attachment A.

Options

The Urbana City Council has the following options for this case:

1. **Approve** the variance based on the findings in this memo; or
2. **Approve the variance with certain terms and conditions**, and if so, articulate all terms and conditions, and findings; or
3. **Deny** the variance request, and if so, articulate findings supporting the denial.

Recommendation

At the June 19, 2019, meeting, the ZBA voted five ayes and zero nays to forward this case to the Urbana City Council with a recommendation to **APPROVE** the request, with one condition (Exhibit E). City staff likewise recommends approval with the following condition:

- The proposed electronic display's location and size generally conform to the site plan and specifications in Ordinance Attachment A.

Attachments: A: Location Map
B: Zoning Map
C: Existing Electronic Displays
D: Variance Application
E: ZBA Meeting Minutes – DRAFT

ORDINANCE NO. 2019-07-037

**AN ORDINANCE APPROVING A MAJOR VARIANCE
(201 West University Avenue / ZBA Case No. 2019-MAJ-02)**

WHEREAS, the Urbana Zoning Ordinance provides for a major variance procedure to permit the Zoning Board of Appeals and the Corporate Authorities to consider applications for a major variance where there is a special circumstance or condition with a parcel of land or a structure; and

WHEREAS, Gary Satterlee, on behalf of Culver's Restaurant, has submitted a petition for a major variance to allow a permitted freestanding sign to include an electronic display component in the B-4, Central Business Zoning District; and

WHEREAS, the Zoning Board of Appeals held a public hearing on such petition at 7:00 p.m. on June 19, 2019, in ZBA Case No. 2019-MAJ-02; and

WHEREAS, in accordance with Urbana Zoning Ordinance Section XI-10, due and proper notice of such public hearing was given by publication in *The News-Gazette*, a newspaper having a general circulation within the City, on a date at least 15 days but no more than 30 days before the time of the public hearing, and by posting a sign containing such notice on the real property identified herein; and

WHEREAS, the Zoning Board of Appeals voted five (5) ayes and zero (0) nays to forward the case to the Urbana City Council with a recommendation to approve the requested variance with one condition; and

WHEREAS, the City Council finds that the requested variance conforms with the major variance procedures in Article XI, Section XI-3(C)(2)(d) of the Urbana Zoning Ordinance; and

WHEREAS, the City Council has considered the variance criteria established in the Urbana Zoning Ordinance and has made the following findings of fact:

1. Gary Satterlee, on behalf of Culver's, requests a Major Variance to allow an electronic display in the B-4, Central Business, Zoning District.
2. Section IX-4.C. of the Urbana Zoning Ordinance allows electronic displays only in the B-3, General Business, and CRE, Conservation-Recreation-Education zoning districts.
3. The request is due to the special circumstances created by recent right-of-way expansion that led to the recent B-4 rezoning to increase the parcel's buildable area to accommodate the tenant's business. Strict application of the Zoning Ordinance now prohibit any electronic displays in the new B-4 district.
4. The petitioner did not rezone the property to B-4, where electronic displays are restricted.
5. The variance request would not alter the essential character of the neighborhood, as there are several other electronic displays in this area along the periphery of the Central Business District.
6. The proposed sign will not be a nuisance to the neighborhood because it would adhere to the neighboring B-3 district's electronic display regulations, and would be smaller than normally allowed.
7. The request is a result of strict application of the zoning ordinance, which prohibits the applicant from utilizing their primary sign to its fullest extent with regard to advertising and message conveyance.
8. At their June 19, 2019, meeting, the Urbana Zoning Board of Appeals held a public hearing and voted with five ayes and zero nays to forward the case to the City Council with a recommendation of approval with a condition that the proposed electronic display's location and size generally conform to the site plan and specifications in Ordinance Attachment A.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1.

In ZBA Case No. 2019-MAJ-02, the major variance requested by Gary Satterlee, on behalf of Culver's Restaurant, to allow a permitted freestanding sign to include an electronic display component in the B-4, Central Business Zoning District, is hereby approved in the manner proposed in the application with the following condition:

- The proposed electronic display's location and size generally conform to the site plan and specifications in Ordinance Attachment A.

The major variance described above shall only apply to the property located at 201 West University Avenue, more particularly described as follows:

The East 50 feet of Lot 1 of a Subdivision of Outlot 2 of Hooper and Park's Addition to Urbana, except the North 33 feet thereof, as per plat recorded in Book "A" at page 40, situated in the City of Urbana in Champaign County, Illinois, excepting therefrom that part of the land dedicated to the City of Urbana in dedication of right of way for public road purposes recorded October 25, 2011 as Document No. 2011R22066.

PIN: 91-21-08-451-003, more commonly known as 413 North Race Street.

Section 2.

The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities, and this Ordinance shall be in full force and effect from and after its passage and publication in accordance with Section 1-2-4 of the Illinois Municipal Code.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called of a majority of the members of the Council of the City of Urbana, Illinois, at a meeting of said Council.

PASSED BY THE CITY COUNCIL this ___ day of _____, _____.

AYES:

NAYS:

ABSTENTIONS:

Charles A. Smyth, City Clerk

APPROVED BY THE MAYOR this ___ day of _____, _____.

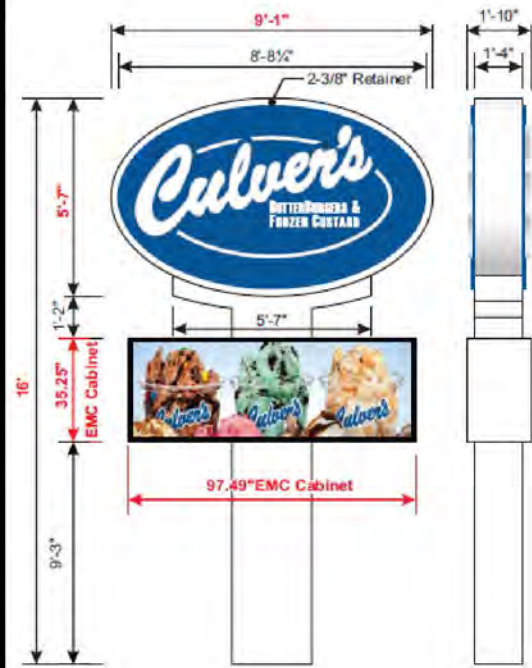
Diane Wolfe Marlin, Mayor

CERTIFICATE OF PUBLICATION IN PAMPHLET FORM

I, Charles A. Smyth, certify that I am the duly elected and acting Municipal Clerk of the City of Urbana, Champaign County, Illinois. I certify that on the _____ day of _____, 2019, the corporate authorities of the City of Urbana passed and approved Ordinance No. _____, entitled “An Ordinance Approving a Major Variance (201 West University Avenue / ZBA-2019-MAJ-2)” which provided by its terms that it should be published in pamphlet form. The pamphlet form of Ordinance No. _____ was prepared, and a copy of such Ordinance was posted in the Urbana City Building commencing on the _____ day of _____, 2019, and continuing for at least ten (10) days thereafter. Copies of such Ordinance were also available for public inspection upon request at the Office of the City Clerk.

DATED at Urbana, Illinois, this _____ day of _____, 2019.

Ordinance Attachment A: Proposed Sign Specifications and Location



PE-50-112

Square Footage:
Main Sign - 50.7 Sq Ft
EMC - 23.8 Sq Ft - cabinet

Side View

D/F Illuminated Pylon Sign

Scale 1/4" = 1'-0"

Specifications:

- Sign Cabinet: Aluminum
- Face Panels: .220 White **Thermoformed SG Polycarbonate** with Translucent film first surface - pan formed & embossed.
- Access: Remove sign face to service inside of sign
- Wind Load: Maximum wind load 30 psf
- EMC Copy Color: Full Color - 16mm
- EMC Electrical Spec: 120 VAC
- EMC Frame Rate: 65 frames per second

Color Specifications:

- Sign Exterior: Matthews N202 White or Equivalent
- Sign Graphics: Color - Blue / PMS - 294c / 3M - Vq109041

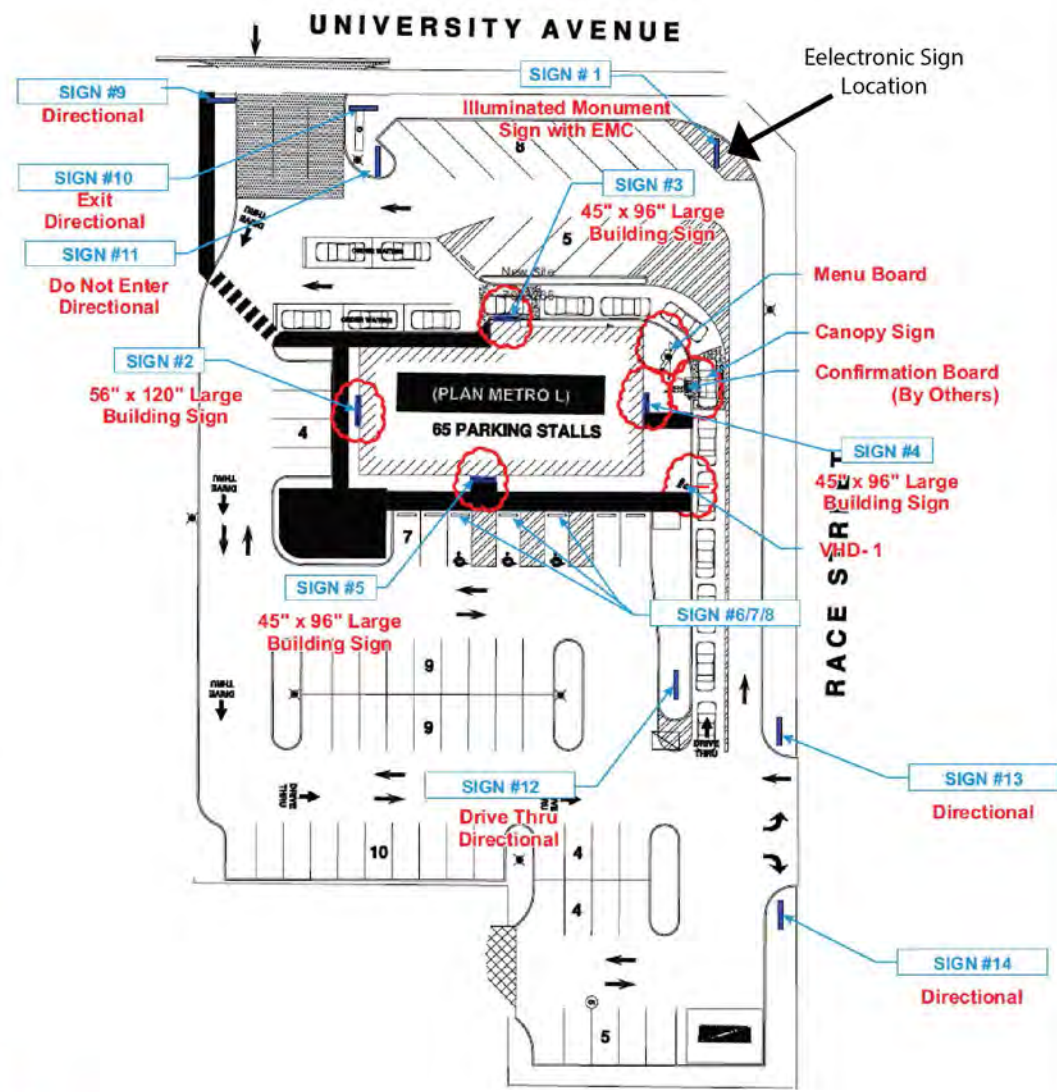


Exhibit A: Location Map



Case: ZBA-2019-MAJ-02
 Subject: Major Variance - Electronic Sign in B4 Zoning District
 Location: 201 West University Avenue
 Petitioner: Gary Satterlee c/o Culver's


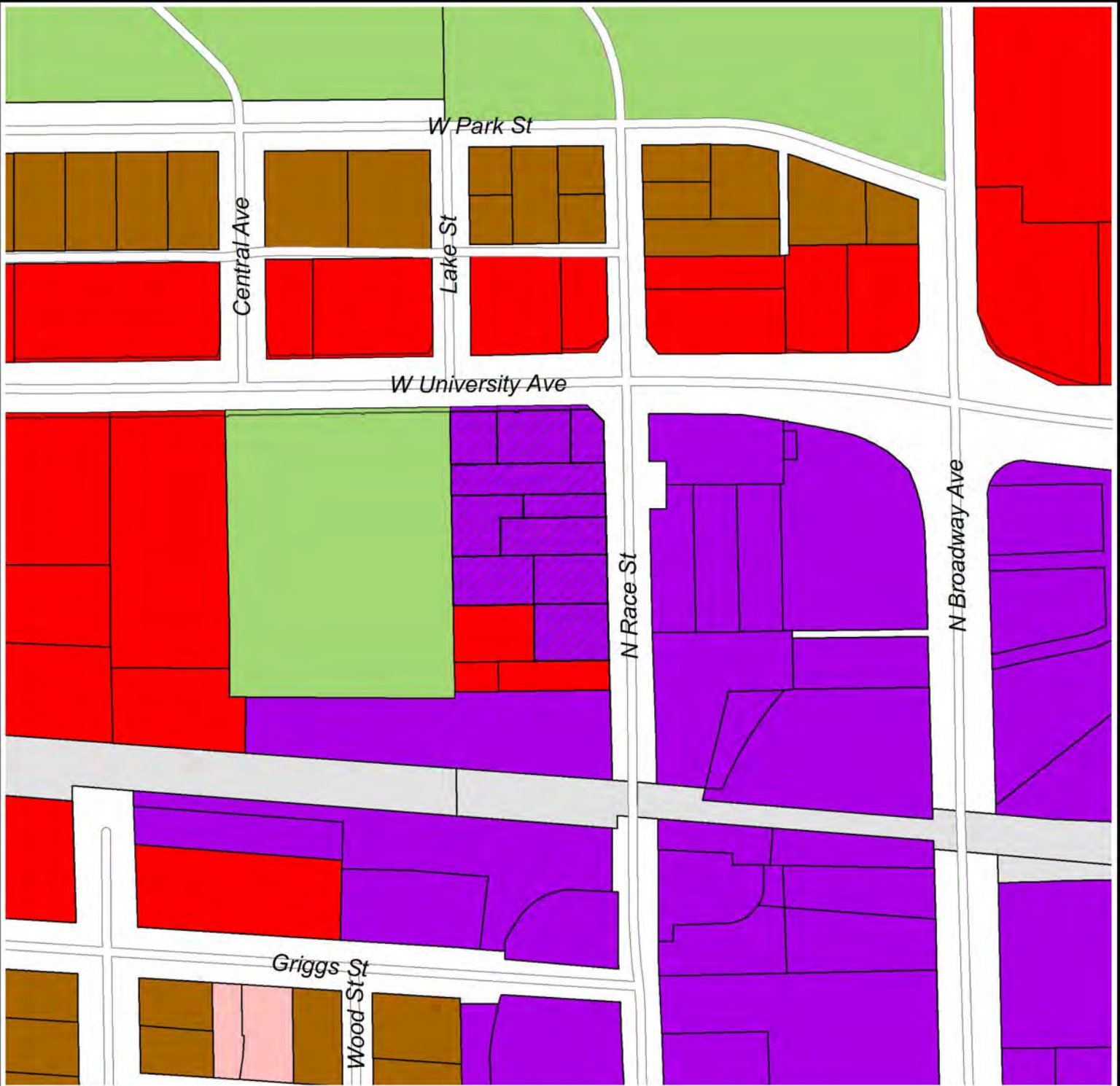
 Subject Property

Exhibit B: Zoning Map



Case: ZBA-2019-MAJ-02
 Subject: Major Variance - Electronic Sign in B4 Zoning District
 Location: 201 West University Avenue
 Petitioner: Gary Satterlee c/o Culver's

B-1
 B-3

B-4
 CRE
 IN-1
 R-5

Exhibit C: Existing Electronic Displays



Dairy Queen
911 W. University Ave



Pawn King
1004 W. Univeristy Ave



Niro's Gyros
1007 W. University Ave



Burger King
1006 W. University Ave

Exhibit D: Variance Application



Application for Variance

ZONING BOARD OF APPEALS

The application fee must accompany the application when submitted for processing. Please refer to the City's website at <http://www.urbanaininois.us/fees> for the current fee associated with this application. **The Applicant is also responsible for paying the cost of legal publication fees.** Estimated costs for these fees usually run between \$75.00 and \$225.00. The applicant will be billed separately by the News-Gazette.

DO NOT WRITE IN THIS SPACE - FOR OFFICE USE ONLY

Date Request Filed 05-30-2019 ZBA Case No. _____
Fee Paid - Check No. 001007 Amount \$200.00 Date ~~5/7/2019~~ 05-30-2019

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION

A VARIATION is requested in conformity with the powers vested in the Zoning Board of Appeals to permit the following variation (*Describe the extent of the Variation Requested*)
Electronic Message Board on the
property described below, and in conformity with the plans described on this variance request.

1. APPLICANT CONTACT INFORMATION

Name of Applicant(s): Culver's/Gary Satterlee Phone: 217-306-4686
Address (*street/city/state/zip code*): 201 W. University, Urbana, IL 61801
Email Address: garjud1@comcast.net
Property interest of Applicant(s) (*Owner, Contract Buyer, etc.*): Owner

2. OWNER INFORMATION

Name of Owner(s): Gary Satterlee/Troy Vodacek Phone: 217-306-4686
Address (*street/city/state/zip code*): 2623 Muirfield Place, Urbana, IL 61802
Email Address: garjud1@comcast.net

Is this property owned by a Land Trust? Yes No
If yes, please attach a list of all individuals holding an interest in said Trust.

3. PROPERTY INFORMATION

Location of Subject Site: 201 W. University, Urbana, IL 61801
PIN # of Location:
Lot Size:

Exhibit D: Variance Application

Current Zoning Designation: B-4

Current Land Use (*vacant, residence, grocery, factory, etc*): Vacant

Proposed Land Use: Restaurant

Legal Description (*If additional space is needed, please submit on separate sheet of paper*): Culver's is a locally owned quick casual restaurant.

4. CONSULTANT INFORMATION

Name of Architect(s): JSM Development/Mike Tankersley Phone: 217-359-5835
Address (street/city/state/zip code): 505 S. Fifth St., Champaign, IL
Email Address:

Name of Engineers(s): MSA Professional Services/Dave Atchley Phone: 217-352-6976
Address (street/city/state/zip code): 201 W. Springfield, Champaign, IL
Email Address:

Name of Surveyor(s): MSA Professional Services/Dave Atchley Phone: 217-352-6976
Address (street/city/state/zip code): 201 W. Springfield, Champaign, IL
Email Address:

Name of Professional Site Planner(s): CFS/Steve Haertel Phone: 608-644-2132
Address (street/city/state/zip code):
Email Address: stevehaertel@culvers.com

Name of Attorney(s): Meyer Capel/Jenny Park Phone: 217-352-1800
Address (street/city/state/zip code): 306 W. Church St., Champaign, IL
Email Address: jpark@meyercafel.com

5. REASONS FOR VARIATION

Identify and explain any special circumstances or practical difficulties in carrying out the strict application of the Zoning Ordinance with respect to the subject parcel.

The electronic message board is a key component in the daily operations of a Culver's restaurant. We use it to display the Flavor of the Day custard and other daily food specials that change throughout the day. The message is changed several times a day as our specials change by daypart. Also, changing a manual board is quite difficult and can be unsafe in certain weather conditions like wind, snow, and ice. Long pole can potentially create a serious hazard around nearby power lines as well.

Exhibit D: Variance Application

Explain how the variance is necessary due to special conditions relating to the land or structure involved which are not generally applicable to other property in the same district. The property was rezoned in order to gain more buildable area to allow for projects that need more space. The previous buildable area would have been too small for this use as a Culver's restaurant.

Explain how the variance is not the result of a situation or condition that was knowingly or deliberately created by you (the Petitioner).

We made an honest mistake and did not realize there was an electronic message board restriction with the B-4 zoning district.

Explain why the variance will not alter the essential character of the neighborhood.

We are on the very edge of the B-4 district. Thus, some of the B-3 district businesses just across the street and down the University Avenue corridor have electronic message boards. There are four different businesses in close proximity to this location that have electronic boards. One is at 911 W. University, another at 1106 W. University, another at 302 E. University, and 505 N. Cunningham.

Explain why the variance will not cause a nuisance to adjacent property.

Other electronic message board signs are nearby already. We will follow the rules that have been established. The message will only change every three minutes and no animation will be used. Auto dimming technology will be active to control the light levels of the sign.

Does the variance represent the minimum deviation necessary from the requirements of the Zoning Ordinance? Explain.

Because the Culver's logo sign will be above the proposed electronic message board, the size of the electronic board will be only a portion of the entire sign. This will ensure the overall look of the sign is not obtrusive in any way.

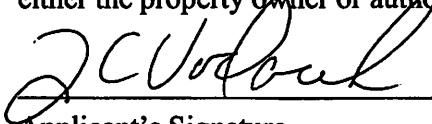
NOTE: If additional space is needed to accurately answer any question, please attach extra pages to the application.

By submitting this application, you are granting permission for City staff to post on the property a temporary yard sign announcing the public hearing to be held for your request.

Exhibit D: Variance Application

CERTIFICATION BY THE APPLICANT

I certify all the information contained in this application form or any attachment(s), document(s) or plan(s) submitted herewith are true to the best of my knowledge and belief, and that I am either the property owner or authorized to make this application on the owner's behalf.



Applicant's Signature

5/30/19
Date

PLEASE RETURN THIS FORM ONCE COMPLETED TO:

City of Urbana
Community Development Department Services
Planning Division
400 South Vine Street, Urbana, IL 61801
Phone: (217) 384-2440
Fax: (217) 384-2367

Exhibit E: ZBA Meeting Minutes - DRAFT

MINUTES OF A REGULAR MEETING

URBANA ZONING BOARD OF APPEALS

DATE: June 19, 2019

DRAFT

TIME: 7:00 p.m.

PLACE: City Council Chambers, 400 South Vine Street, Urbana, IL 61801

MEMBERS PRESENT Matt Cho, Ashlee McLaughlin, Adam Rusch, Nancy Uchtmann, Harvey Welch

MEMBERS ABSENT Joanne Chester, Charles Warmbrunn

STAFF PRESENT Marcus Ricci, Planner II; Will Andresen, Planning Intern

OTHERS PRESENT Gary Satterlee

NEW PUBLIC HEARINGS

ZBA-2019-MAJ-02 – A request by Gary Satterlee, on behalf of Culver’s, for a Major Variance to construct an electronic display at 201 West University Avenue, in the B-4, Central Business District.

Chair Welch opened the public hearing for this case. Will Andresen, Planning Intern, began by presenting the staff report to the Zoning Board of Appeals. He stated the purpose for the Major Variance request, which is to allow a permitted freestanding sign to include an electronic display. Using Exhibit A, he showed the location of the subject property. Exhibit C shows other existing electronic displays along University Avenue in Urbana. He talked about the size of the electronic display and noted that it would be smaller in size than what would be allowed for a regular sign. He summarized City staff findings and stated City staff’s recommendation for approval of the proposed major variance request with the following condition: *the proposed electronic display’s location and size generally conform to the attached site plan and specifications.*

Chair Welch asked if any members of the Zoning Board of Appeals had questions for City staff.

Mr. Welch asked about the chronology of the purchase of the property and the acquisition by the Illinois Department of Transportation for additional right-of-way. Marcus Ricci, Planner II, replied that the acquisition occurred with the previous owner. Culver’s purchased the property after the acquisition of the right-of-way occurred.

Exhibit E: ZBA Meeting Minutes - DRAFT June 19, 2019

Ms. Uchtmann inquired about the shape and direction of the proposed sign. Mr. Andresen responded that his understanding from the plans that were submitted was that the proposed sign would be showing along both sides of University Avenue.

Ms. Uchtmann asked if the proposed sign would obstruct the view of drivers turning left onto University Avenue off Race Street. Mr. Ricci pointed out that the City's Public Works Engineering staff reviewed the plans and determined that the sign would be out of the visibility triangle for the proposed location of the sign. It would be 26 feet from the right-of-way with an additional distance of the sidewalk and the curb.

He introduced Gary Satterlee, the applicant, and stated that he would be available to answer any questions.

Chair Welch opened the hearing for public input. There was none, so Chair Welch closed the public input portion of the hearing and opened the hearing for discussion and/or motion(s) by the Zoning Board of Appeals.

Mr. Rusch moved that the Zoning Board of Appeals forward Case No. ZBA-2019-MAJ-02 to the City Council with a recommendation for approval including the following condition: *the proposed electronic display's location and size generally conform to the attached site plan and specifications*. Ms. McLaughlin seconded the motion.

Roll call on the motion to amend was as follows:

Mr. Cho	-	Yes	Ms. McLaughlin	-	Yes
Mr. Rusch	-	Yes	Ms. Uchtmann	-	Yes
Mr. Welch	-	Yes			

The motion passed by a vote of 5 to 0.

Mr. Ricci noted that this case would be forwarded to City Council on July 1, 2019.