



CASE NUMBER 15-2024 BZA

7893 BEECHMONT AVENUE-CITYBIRD

FOR CONSIDERATION BY THE BOARD OF ZONING APPEALS ON JULY 11, 2024

APPLICANT: Kyle Gardner of Thunderdome Restaurant Group for CityBird Development LLC, on behalf of Cobblestone Street II LLC, property owner.

LOCATION & ZONING: 7893 Beechmont Avenue
(Book 500, Page 203, Parcel 156) – “E” Retail

REQUEST: A variance request for existing wall signs for a combined size of 643 sq. ft., where 250 sq. ft. is the maximum amount of signage allowed, per Article 5.5 G, 2 of the Anderson Township Zoning Resolution.

SITE DESCRIPTION:

<i>Tract Size:</i>	0.814 Acres
<i>Frontage:</i>	Approximately 102’ on Beechmont Avenue and 340’ on King Louis Court
<i>Topography:</i>	Flat
<i>Existing Use:</i>	CityBird Restaurant

SURROUNDING CONDITIONS:

	<u>ZONE</u>	<u>LAND USE</u>
North:	“E-PUD”	Canes / Shopping Center Development
South:	“DD” Residence	Anderson Square Apartments
East:	“E” Retail	Whitewater Car Wash
West:	“E” Retail	Condado

PROPOSED DEVELOPMENT: The applicant is requesting to keep three existing painted wall signs, sizes (1) 12’ x 10’, (2) 13’ x 13’, (3) 15’ x 15’, a total of 514 sq. ft., in addition to the approved wall signage of 129 sq. ft., for a combined total of 643 sq. ft. of signage on the property, where 250 sq. ft. is the maximum amount allowed.

HISTORY: The applicant received a stamp off for interior modifications to the property in October of 2019 and was approved for seven wall signs, total of 129 sq. ft. and three directional signs on February 13, 2020.

The applicant stated that the unpermitted painted signage has also been up since 2020, staff reached out to the applicant in April of 2024 regarding the violation.

ZONING DEFINITIONS: Article 6 of the Anderson Township Zoning Resolution differentiates between murals and signage. The definitions are below:

Mural: is a painting that is directly on an exterior surface of a structure. If the mural contains a noncommercial sign, the mural is exempt from the sign regulations of Article 5.5 of the Anderson Township Zoning Resolution.

Noncommercial sign: A sign that does not propose or promote a commercial transaction or direct attention to a good, product, commodity, business, service, event, or other object that serves as the basis of a commercial transaction.

Sign: Any device and its supporting structure, including any writing, word, number, pictorial, illustration, decoration, emblem, symbol, trademark, flag, banner, pennant, insignia, or similar feature which is placed in a manner that the communication, announcement, message, attraction, advertisement, or promotion inherent to the device is visible or appears to be intended to be visible to persons on adjoining property or nearby public rights-of-way, and is used for purposes of advertisement, announcement, declaration, demonstration, identification or expression.

The applicant is requesting to keep the painted signage that includes the logo of CityBird and slogan, therefore, this is not considered a mural and is included in their overall sign calculation.

FINDINGS:

To authorize a variance after public hearing, the Board of Zoning Appeals shall make the findings that a property owner has encountered practical difficulties in the use of his/her property. The findings shall be based upon the general considerations set forth in Article 2.12, D, 2, b of the Anderson Township Zoning Resolution.

Staff is of the opinion that the variance might be substantial. While the signs are aesthetically pleasing with the façade improvements done by the tenant and consistent with the goals of the Anderson Township Design Guidelines, they are more than 2.5x over the allowed amount of signage for the property.

The essential character of the neighborhood would not be altered. Several businesses within the neighborhood also have painted signs, however, they are within their allotments for signage.

The variance would not adversely affect the delivery of governmental services.

The property owner's predicament may not be feasibly obviated through some method other than a variance. Besides the already approved wall signage, the applicant has 121 sq. ft. of additional signage that could be approved, however, this would only be one of the existing painted wall signs.

Staff is of the opinion that the spirit and intent behind the zoning requirement would not be observed by granting the variance. The Zoning Resolution only

allows for 250 sq. ft. of wall signage and being over 2.5x over the allowed amount would not be consistent with the regulations.

**STANDARDS TO
BE CONSIDERED:**

The aforementioned variance requested should be evaluated on the following criteria:

- (1) The property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance.
- (2) The variance is substantial.
- (3) 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.
- (4) The variance would not adversely affect the delivery of governmental services (i.e. water, sewer, garbage).
- (5) The property owner purchased the property with knowledge of the zoning restrictions.
- (6) The property owner's predicament can be feasibly obviated through some method other than a variance.
- (7) The spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Disclaimer: This staff recommendation is based on the facts known to the author at the time the recommendation was made. Staff attempted to use those known facts to analyze the relationship of those facts to the standards set forth in the Zoning Resolution for the particular issue and property before the BZA, and in keeping with past decisions of the BZA. The BZA members have an obligation to consider all of the evidence that is entered into this case during the BZA hearing through the sworn testimony of the witnesses, as well as the documents submitted as part of the witnesses' testimony. The staff recommendation should be considered as part of the evidence before you. The Zoning Resolution empowers the BZA to make reasonable interpretations of the Zoning Resolution, to judge the credibility and reliability of the witnesses, and to decide each case based on the evidence presented during the BZA hearing process.