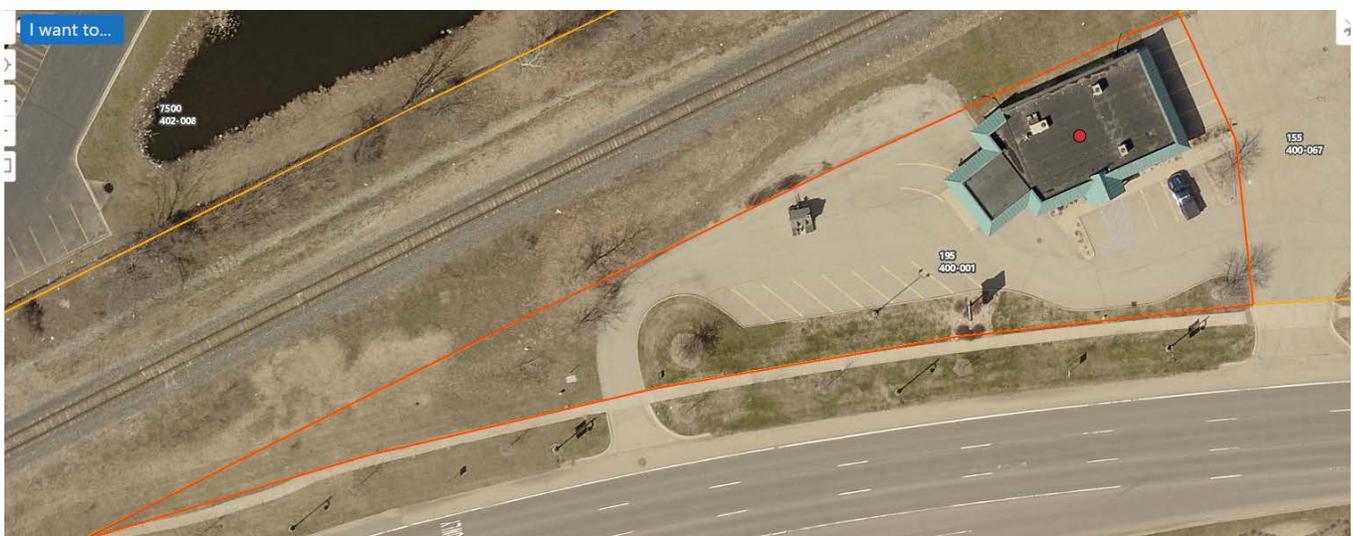


REQUEST

(VAR1906) The Redmond Company, for Members First Credit Union, is requesting to have a front yard setback of 0 feet and to have parking and drives within the front yard setback, a variance of 30 feet from the 30 feet required in Chapter 24; to have a rear yard setback of 0 feet, a variance of 40 feet from the 40 feet required in Chapter 24; and to have 3 stacking spaces for each of the three drive-up lanes, a variance of 1 stacking space for each drive-up lane from the 4 stacking spaces required in Sec. 26.8, in a (CS) Community Service Commercial district, on a parcel of land described as P.P. # 70-14-13-400-001, located at 195 Chicago Dr., Georgetown Township, Ottawa County, Michigan.

The proposal is to extend the existing canopy to have two drive-up windows, plus one drive up ATM, along with a re-designed traffic flow, which triggers site plan review using the current ordinances. This is a very uniquely shaped small parcel bordered by the railroad tracks to the north and Chicago Dr. to the south. To the east is the new Tommy's Express Car Wash. The building is nonconforming.

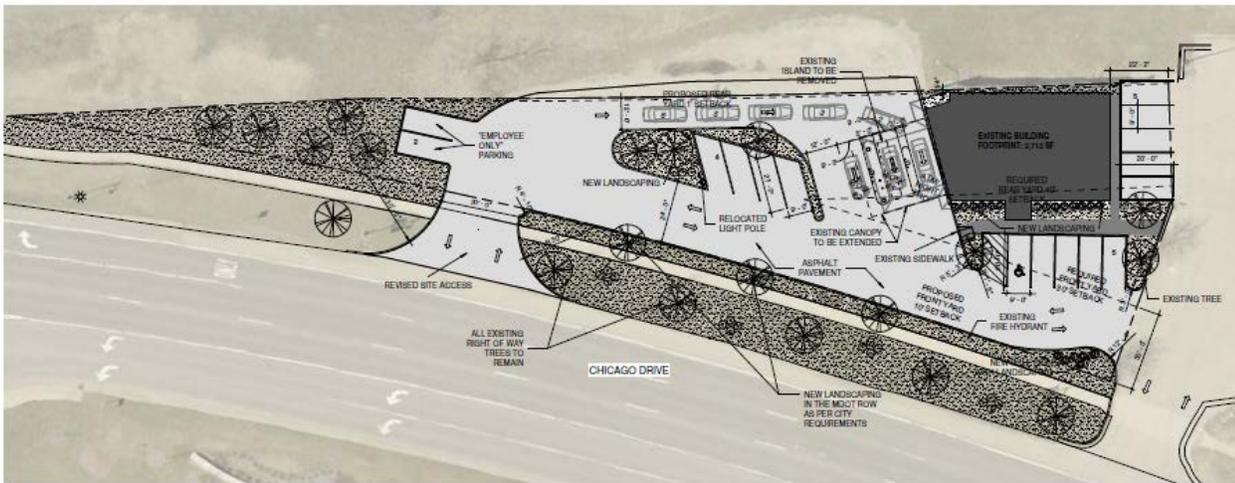
MAPS



PROPOSAL

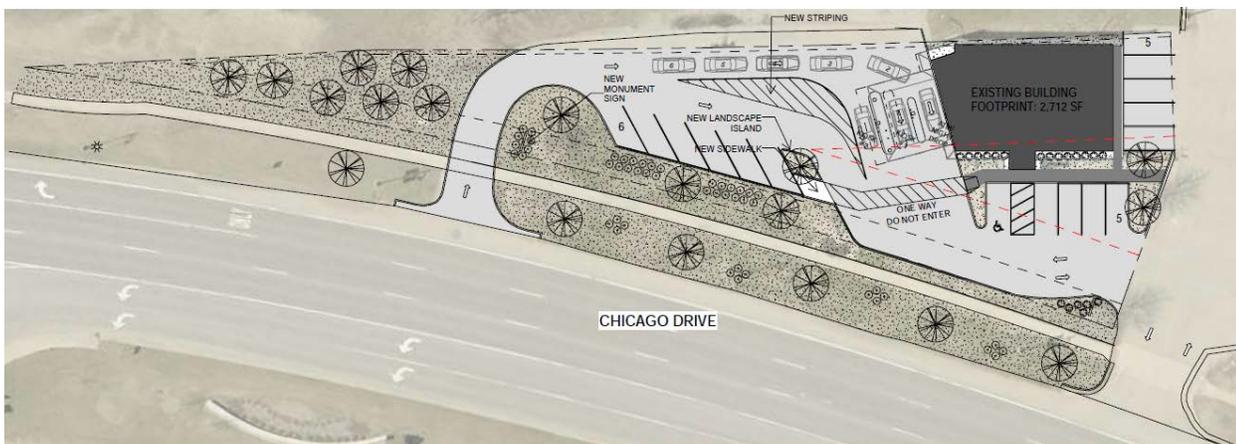
Below is the plan proposed by the applicants. This results in the need for variances as follows:

- 1) To have zero front and rear yard setbacks, rather than the required 30 foot front yard setback and 40 foot rear yard setbacks,
- 2) To have parking within the required front yard setback, which is a variance from the requirement to landscape this area with the 18 required trees for the streetscape, and
- 3) To have only three stacked vehicles for each of the drive-up windows rather than the four required in the ordinance.



Many discussions have taken place with the applicant and Township staff about ways to redevelop this site, including the possibility of having one-way traffic in order to have a minimum of a 10 foot front yard setback with the streetscape containing the required 18 trees.

Below is one other layout proposed by the applicants which results with a small area of front yard setback.



including driveway openings. Up to one-third (1/3) of the required trees may be evergreens (unless the approving authority as designed in Chapter 19 finds that a larger percentage of evergreens will provide better screening or better enhance the aesthetics of the community). The remainder shall be deciduous canopy or ornamental trees.

- 4) All required deciduous trees shall be a minimum of two (2) inch caliper and evergreens shall be a minimum of five (5) feet high at time of planting.
- 5) Such trees need not be evenly spaced along the street, but may be clustered or staggered to provide greater aesthetic interest.
- 6) Landscaping materials and arrangement shall ensure adequate sight visibility for motorists, adequate clearance for pedestrians and vehicles, and accessibility to fire hydrants.
- 7) In addition to the required trees, other landscaped elements such as shrubbery, hedges, and flower beds are encouraged in order to create an attractive foreground for buildings and a pleasant streetscape along public thoroughfares within the community.
- 8) All trees and other landscaped areas within the greenbelt shall be maintained in a healthy and growing condition, neat and orderly in appearance. (Revised Nov. 1997)

Since the importance of landscaping was conveyed to the applicant, they have indicated that a request was submitted to MDOT asking if their required landscaping for the streetscape (any trees unable to fit on their property) could be planted in the MDOT road right-of-way. While this would not necessarily be a solution the Township would normally want, it may be a solution for this nonconforming uniquely shaped small lot.

Although the application states that MDOT has said that the landscaping would be allowed in the ROW, no written approval was given from MDOT. Therefore, if the ZBA determines the standards of the ordinance are met and determines to grant the variance based on the streetscape being located in the ROW, a condition of approval should be added that approval in writing from MDOT shall be provided to the Township at the time a building permit/zoning compliance application is submitted, along with a signed agreement by the property owner to maintain the landscaping.

Further, if the ZBA grants the variance with the first condition of approval, a second condition of approval could be added stating that if the applicant is unable to obtain written approval from MDOT to place the trees in the ROW, the variance for the zero front yard setback is revoked and approval is granted for the front yard setback to be a minimum of 10 feet without parking and drives, a variance of 20 feet from the 30 feet required. This would entail redesigning the site layout to be a one-way circulation and would provide enough space to plant the required amount of trees for the streetscape on the applicant's property. This would also present a solution that would allow the applicants to proceed without the necessity of re-applying for another variance.

- (1) Granting the variance be in the public interest and will ensure that the spirit of this Ordinance shall be observed. *(Will the intentions of the ordinance be upheld and will there be no detrimental effects to the public if the variance is granted?)*

The request for the setback variance is intended to allow for better traffic flow on the site.

The spirit of the front setback / landscaping requirement will be met by providing the required

landscaping in the MDOT Right of Way. MDOT has stated that landscaping will be allowable in the right of way and is to be maintained by Members First Credit Union.

New landscaping will also be provided in the new landscaped area between the drive up stacking and 2-way drive aisle to the south.

HISTORY

History of the site.

At the March 27, 1996 meeting, the ZBA granted variances for 195 Chicago Dr. to have a 5 foot rear yard setback, a 35 foot variance from the 40 feet required, and to allow parking in the front yard.

#960327-05 - (VAR9611) Ottawa County School Employee's Credit Union, 195 Chicago Dr., is requesting permission to construct a building addition and a covered canopy for a drive-in establishment with a 5 foot rear yard setback, a 35.4 foot variance from the 40 feet required in Chapter 24 (existing structure is non-conforming), and to permit parking in the required front yard, a variance from the requirement in Chapter 24, footnote 1., on a parcel in a (CS) Community Service Commercial District, on property described as P.P.# 70-14-13-400-001, located at 195 Chicago Dr., in Georgetown Township, Ottawa County, Michigan.

Moved by Kotsifas, seconded by LaPlante, to grant the variance for the addition and the canopy with the hardship being the configuration of the lot and the railroad in the back, which does not allow them to buy any more land in the back.

Yeas: LaPlante, Hilbrand, Kotsifas, Koster

Nays: Honderd

MOTION CARRIED.

Below contains the history of similar variances granted by the ZBA in the east end of the Township for redevelopment. Note that in each case, there was some amount of front yard setback and in each case the landscaping required for the streetscape was located on the applicant's property. Never was the landscaping requirement waived and never was the streetscape allowed to be in the right-of-way.

In 2012, the ZBA granted variances for Goodwill on Baldwin to have parking in the front yard setback which resulted in a reduced front yard setback, based on the finding of compliance with the standards and based on redevelopment in an area that was developed many years ago.

In 2011, the ZBA granted variances for a reduced front yard setback and to have parking within the front yard setback O'Reilly Automotive Store on Baldwin, based on the finding of compliance with the standards and based on redevelopment in an area that was developed many years ago.

For similar requests from Dr. Powell, 2076 Baldwin, the ZBA approved variances for redevelopment in an existing area due to the findings that the requests met the standards and would result in construction that was similar to and compatible with the surrounding area.

In 2017, the ZBA granted variances for reduced front yard setbacks and to have parking within the front yard setback for MedExpress on Baldwin, based on the finding of compliance with the standards and based on redevelopment in an area that was developed many years ago.

Excerpt of the November 28, 2012 ZBA meeting:

#121128-04 – (VAR1213) Koetje Builders, Goodwill, located at 334 Baldwin, Georgetown Township, Ottawa County, Michigan.

Moved by Tim Boelema, seconded by Joyce Weise, to approve variance (VAR1213) Koetje Builders, Ike Koetje, 547 Baldwin, to have the following variances:

1. To have parking within the front yard setback, a variance from Chapter 24 footnote (I) which states that except for necessary drives and walks, the required front yard setback shall be landscaped and not used for parking (to have parking in 45 feet of the front yard setback where 90 feet from the centerline of Baldwin is required – less the pavement of the road);
in a (CS) Community Service Commercial district, on a parcel of land described as P.P. # 70-14-13-401-026, located at 334 Baldwin, Georgetown Township, Ottawa County, Michigan; based on the finding that the request meets the seven standards of the ordinance as follows:
 1. The request meets the spirit of the ordinance since it is to provide sufficient setbacks for any future road improvements and Baldwin St. has already been improved to five lanes. Most of the businesses in the area have the same or less setbacks for signs and for parking.
 2. The uses are permitted.
 3. The practical difficulties relate to the fact that this area was constructed many years ago prior to the adoption of the ordinance that requires the extra setbacks on the main streets and the front yard setbacks to be landscaped without parking and drives. Consequently, the whole area has lesser setback, along with parking and drives within the front setback area with cross access to all the businesses along the street. The applicant is proposing to develop the site consistent with the surrounding area.
 4. All the businesses in the vicinity have about the same or less setbacks than currently proposed. It would, in fact, be detrimental for the adjacent properties in the vicinity if the applicant was required to meet the current ordinance because it would not be possible to have the cross access all the businesses in the area rely upon for access to the sites.
 5. All the neighboring business have the property right of a cross access that allows for curb cuts to provide entrances and exits for all the businesses. It seems appropriate that this business should have the same right as the adjacent sites.

Excerpt of the July 27, 2011 ZBA meeting:

#110727-02 – (VAR1109) O'Reilly Automotive Stores, Inc., located at 348 and 358 Baldwin St., Georgetown Township, Ottawa County, Michigan

Moved by Tim Boelema, seconded by D. Dale Mohr, to approve (VAR1109) O'Reilly Automotive Stores, Inc., 233 S. Patterson, Springfield, MO, to have a front yard setback of 49 feet from the centerline of Baldwin, a variance of 41 feet from the 90 feet required in Chapter 24; and to have parking and drives in the required front yard, a variance from Chapter 24 footnote (I) that states except for necessary drives and walks, the required front yard shall be landscaped and not used for parking, loading or accessory structures; in a (CS) Community Service Commercial district, on parcels of land described as P.P. # 70-14-13-401-004 and -005, located at 348 and 358 Baldwin St., Georgetown Township, based on conformance with all seven standards of the Ordinance; in particular the ZBA determined...

Excerpt of the March 22, 2017 ZBA meeting:

#170322-03 – (VAR1703) MedExpress, 1001 Consol Energy Dr., Canonsburg, PA

Moved by Joyce Weise, seconded by Tom Healy, to adopt the staff report as findings of fact and to approve variance (VAR1703) MedExpress, 1001 Consol Energy Dr., Canonsburg, PA, to have the following variances:

1. To have parking within the front yard setback on Baldwin and Riverview, a variance from Chapter 24 footnote (l) which states that except for necessary drives and walks, the required front yard setback shall be landscaped and not used for parking;
2. To have a front yard setback of 52.5 feet from the centerline of Baldwin for parking, a variance of 37.5 feet from 90 feet from the centerline of Baldwin required in Chapter 24;
3. To have a front yard setback of 13.9 feet from the right-of-way line of Riverview for parking, a variance of 16.1 feet from the 30 feet required in Chapter 24;

in a (CS) Community Service Commercial district, on a parcel of land described as P.P. # 70-14-13-266-012, located at 345 Baldwin, Georgetown Township, Ottawa County, Michigan; based on the finding that the request meets the seven standards of the ordinance as detailed in the staff report and that standard 7 is met because the owner did not do anything to initiate the necessity for the variance due to the fact that this is an existing site; and with the condition that the entrance on Baldwin is a right-turn in only.

MOTION CARRIED UNANIMOUSLY.

DISCUSSION

The entire eastern area of the Township was developed many years ago prior to many of the current zoning ordinances. This building was constructed in 1967.

The parcel is a unique shape bordered on one side by the railroad track and the other by Chicago Dr. which is owned and maintained by MDOT. Due to the unique shape, the building envelope is very small. As per the history, in 1996 variances were already granted to have parking within the front yard setback and to have a rear yard setback of 5 feet.

In order for redevelopment to take place within the Township at certain locations, the ZBA has recognized in the past that variances were needed for setbacks and to have parking within the front yard setback. The Township benefits from the renovation of older sites and the re-use of empty building. Redevelopment in this area is good for the entire community and results in sites that are updated with structures, new landscaping and new paved and striped parking areas.

The unusual circumstances pertaining to the property (that must be present for a variance to be granted) are related to the fact that the entire area was developed many years ago and this is a unique shaped parcel with a very small building envelope. If the variances are not granted in these types of situations, the sites would remain as initially constructed many years ago and the risk is that they would become run down or in need of rejuvenation or even abandoned to remain empty.

Further, this site (and the other sites granted similar variances) are or were already nonconforming due to the parking in the front setback area and less landscaping. The determination can be made that granting the variances make it possible for redevelopment and for the site to become less nonconforming because the

site will be brought up to current ordinance standards in regard to landscaping, parking and property maintenance.

REVIEW

The standards that have objectively been met are noted with an “X” in the “yes” column and the standards that have objectively not been met are noted with an “X” in the “no” column. Any standards left blank could not be objectively met or not met and therefore must be determined by the ZBA.

Variance ID	VAR1906
Applicant	Members First Credit Union
Address	195 Chicago Dr.
Request	parking in front yard setback, front and rear yard setback
Date	Applied for May 22, 2019 meeting

#	YES	NO	CONDITIONS (Chapter 28.11-C)
1	X		Granting the variance(s) will be in the public interest and will ensure that the spirit of the Ordinance shall be observed.
2	X		Granting the variance shall not permit the establishment within a district of any use which is prohibited, nor shall any use variances be granted.
3	X		That there are practical difficulties in complying with the standards of the Zoning Ordinance resulting from exceptional, extraordinary, or unique circumstances or conditions applying to the property in question, that do not generally apply to other property or uses in the vicinity in the same zoning district; and have not resulted from the adoption of this Ordinance.
4	X		That the granting of such variance will not be of substantial detriment to adjacent properties or improvements in the vicinity; or, that the application of conditions of an approved variance will eliminate or sufficiently mitigate potential detrimental impacts.
5	X		That granting such variance is necessary for the preservation of a substantial property right possessed by other properties in the vicinity in the same zoning district.
6			That granting such variance will not cause any existing non-conforming use, structure, or condition to be increased or perpetuated, contrary to the provisions of Chapter 27 of this Ordinance, except in accordance with Section 27.12.
7			That the variance is not necessitated as a result of any action or inaction of the applicant.

FINDINGS

The ZBA should determine if they agree with the review presented or not, and determine if the other standards that could not be objectively decided are met. The following is provided for information and discussion.

Standard #1 - Granting the variance will be in the public interest and will ensure that the spirit of the Ordinance shall be observed.

Appears to be met. The spirit of the ordinance is to provide for the best possible development of the land within the Township and to balance the rights of the individual with the rights of the community. Toward that end, the Planning Commission and Township Board drafted a Zoning Ordinance with minimum standards for setbacks for the development of commercial districts. The Township recognizes that in redevelopment cases, it may be necessary for the benefit of the community to allow certain reductions in setbacks and to allow parking within the front setback area.

The spirit of the ordinance also relates to landscaping and the ordinance states that it is the intention of the ordinance to promote the public health, safety and welfare by establishing minimum standards for the design, installation, and maintenance of landscaping as streetscapes along public roadways. The ordinance also states that landscaping is viewed as a critical element contributing to the aesthetics, development quality, stability of property values, and overall character of the Township.

Therefore, keeping with the spirit and intention of the ordinance, the trees in the streetscape should still be required. Although the applicant has indicated that MDOT stated that they would approve the trees in the right-of-way, a condition of approval should be stipulated that written permission from MDOT would be provided at the time a building permit/zoning compliance application is submitted, along with a signed written agreement for the maintenance and upkeep of the landscaping. Note that this permission should be submitted BEFORE ANY WORK IS BEGUN on the site to prevent the site from being constructed and then the permission from MDOT might not be forthcoming. In that case, there would be no place to plant the streetscape.

Further, if the ZBA grants the variance with the first condition of approval, a second condition of approval could be added stating that if the applicant is unable to obtain written approval from MDOT to place the trees in the ROW, the variance for the zero front yard setback is revoked and approval is granted for the front yard setback to be a minimum of 10 feet without parking and drives, a variance of 20 feet from the 30 feet required. This would entail redesigning the site layout to be a one-way circulation and would provide enough space to plant the required amount of trees for the streetscape on the applicant's property. This would also present a solution that would allow the applicants to proceed without the necessity of re-applying for another variance.

Standard #2 - Granting the variance shall not permit the establishment within a district of any use, which is prohibited, nor shall any use variances be granted.

Appears to be met. The use of a drive-in credit union is allowed by right in the CS Commercial district.

Standard #3 - That there are practical difficulties in complying with the standards of the Zoning Ordinance resulting from exceptional, extraordinary, or unique circumstances or conditions applying to the property in question, that do not generally apply to other property or uses in the vicinity in the same zoning district; and have not resulted from the adoption of this Ordinance.

Appears to be met. The unique circumstances that apply to this property relate to the fact that the parcels in this whole commercial area were created years ago based on standards in place at the time at the time. This is a uniquely shaped small parcel with a very small building envelope. The parcel is bordered on the north by the railroad tracks and on the south by Chicago Dr.

Note that this standard is ONLY met with assurances that the required landscaping in the streetscape is provided. As noted above, two conditions of approval could be added that would provide the assurances that the landscaping would be provided

Standard #4 - That the granting of such variances will not be of substantial detriment to adjacent properties or improvements in the vicinity; or, that the application of conditions of an approved variance will eliminate or sufficiently mitigate potential detrimental impacts.

Appears to be met. Granting the variances will allow reconstruction similar to and compatible with the surrounding area. Plus, rather than being detrimental, the redevelopment of the site will permit the construction of a renovated facility, new parking area and the installation of landscaping that meets current ordinance requirement. So rather than being detrimental, granting the variance would be a benefit to the area, as well as to the community as a whole.

Note that this standard is ONLY met with assurances that the required landscaping in the streetscape is provided. As noted above, two conditions of approval could be added that would provide the assurances that the landscaping would be provided

Standard #5 - That granting such variance is necessary for the preservation of a substantial property right possessed by other properties in the vicinity in the same zoning district.

Appears to be met. Other properties eastern end of the Township were granted similar requests.

Note that this standard is ONLY met with assurances that the required landscaping in the streetscape is provided. As noted above, two conditions of approval could be added that would provide the assurances that the landscaping would be provided

Standard #6 - That granting such variance will not cause any existing non-conforming use, structure, or condition to be increased or perpetuated, contrary to the provisions of Chapter 27 of this Ordinance, except in accordance in Section 27.12.

The ZBA will have to determine if this standard is met.

Standard #7 - That the variance is not necessitated as a result of any action or inaction of the applicant.

The ZBA will have to determine if this standard is met.

OPTION FOR MOTION WITH OPTIONS FOR CONDITIONS

(The ZBA should determine if the standards of the ordinance have been met.)

Motion: To adopt the staff report as finding of fact and to _____ (approve or deny) variance (VAR1906) The Redmond Company, for Members First Credit Union, to have the following:

- 1. A front yard setback of 0 feet and to have parking and drives within the front yard setback, a variance of 30 feet from the 30 feet required in Chapter 24, with the condition that written permission from MDOT to place the needed number of trees for the streetscape in the road right-of-way shall be provided to the Township at the time a building permit/zoning compliance application is submitted for the work as noted on the site plan dated 4/10/19, along with a signed written agreement for the maintenance and upkeep of the landscaping in the right-of-way. This is in keeping with the spirit and intention of the ordinance that the 18 required trees in the landscaping for the streetscape shall be provided. (Note that this permission from MDOT shall be submitted BEFORE ANY APPROVALS ARE ISSUED BY THE TOWNSHIP FOR ANY WORK TO BEGIN on the site to prevent the site from being constructed without the permission from MDOT to place the trees in the right-of-way.)**
- 2. If the applicant is unable to obtain written approval from MDOT to place the needed number of trees in the ROW (which voids the approval for the zero front yard setback), then approval is granted for the front yard setback to be a minimum of 10 feet without parking and drives, a variance of 20 feet from the 30 feet required. This would entail redesigning the site layout to provide enough space, a minimum of ten feet, to plant the required amount of trees for the streetscape on the applicant's property. This would also present a solution that would allow the applicants to proceed without the necessity of re-applying for another variance.**
- 3. To have a rear yard setback of 0 feet, a variance of 40 feet from the 40 feet required in Chapter 24; and**
- 4. To have 3 stacking spaces for each of the three drive-up lanes, a variance of 1 stacking space for each drive-up lane from the 4 stacking spaces required in Sec. 26.8.**
- 5. Failure to comply with the variance as granted results in a violation of the Zoning Ordinance section that is the subject of the request.**

in a (CS) Community Service Commercial district, on a parcel of land described as P.P. # 70-14-13-400-001, located at 195 Chicago Dr., Georgetown Township, Ottawa County, Michigan; based on the finding that the request _____ (meets or does not meet) the seven standards of the ordinance. (If applicable) Specifically, standards (_____) have been _____ (met or not met) and the reasons are _____. (Conditions could be added if determined to be necessary.)