



DEPARTMENT OF DEVELOPMENT SERVICES – PLANNING DIVISION

REPORT: Variance request for 524 Farmington Ave
for consideration August 3, 2021

STAFF REPORT

TO: Zoning Board of Appeals
PREPARED BY: Paul Bengtson, Principal Planner
paul.bengtson@hartford.gov

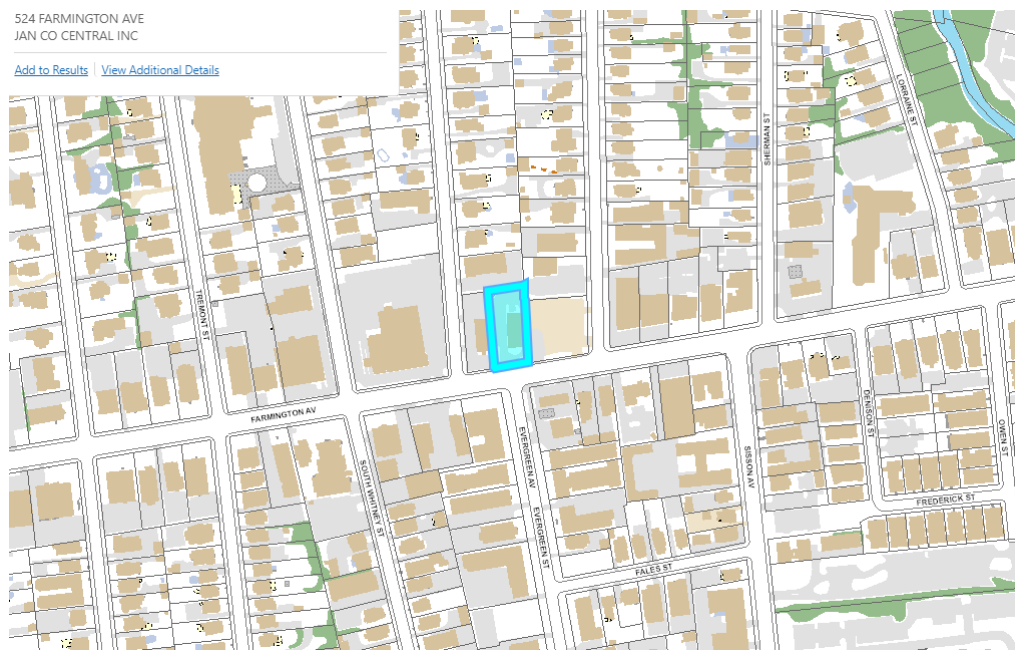
PROJECT: Burger King Renovation
524 Farmington Avenue
PARCEL ID: 133-310-071
P&Z-COMM-2021-0433

ZONE: MS-1, Main Street District

TYPE: Variance request: to allow three (3) wall signs where only one (1) is permitted per Sec.8.3, Fig.8.3-A; and to allow the expansion or alteration of an accessory, nonconforming drive-through facility use per Sec.1.5.3.D.

APPLICANT: JSC Management Group c/o Todd Markevicz

OWNER: Jan Co Central Inc.



BACKGROUND INFORMATION

The Applicant is requesting approval to install three wall signs and expand a nonconforming accessory drive-through facility use. The requested variances are to allow changes as part of a larger renovation to the building and site. The new site layout will move the drive-through order station to the rear, and move the drive-through pickup window from the east facade to the west facade of the building. This will expand the stacking lane around the building.

One wall sign is proposed on the front façade facing Farmington Avenue. The additional two wall signs will face the drive aisles to the east and west.

On the 16th of December, 2020 the Hartford Historic Preservation Commission approved the proposed building renovations with no conditions.

STATEMENT OF HARDSHIP

The Applicant provided the following statement:

1. *Expansion of a nonconforming accessory use (§ 3.4.1 Drive-through facilities are not permitted in the MS-1 zone)*

We are seeking a variance to modify the existing drive-thru. Burger King currently has a hardship as they are not able to service all of the existing customers in a timely fashion due to the lot configuration and latest trends of fast-food restaurants, which indicate that as much as 80% of their business is conducted via drive-thru. In order to account for this recent change of operations and avoid the loss of business, Burger King is proposing to provide a longer que length thus being able to service more customers as well as improve operation efficiency. As currently designed, the drive-thru can stack approximately (6) vehicles from the pickup window to the drive-thru entrance without backing up into the driveway or Farmington Avenue (which we understand happens frequently), whereas the proposed design will stack approximately (14) vehicles. This will allow Burger King to capture the potential customers being lost due to stacking on the roadway and also increase traffic safety by moving queued vehicles into the site.

2. *3 wall signs proposed (§ 8.3 Wall Sign Requirements - Limited to 1 wall sign per building)*

We are seeking a variance to have additional logo signs on our building. Burger King currently has a hardship in that there are no existing signs on the side of the building, and the only building sign is located on the front wall. Thus vehicles approaching from either direction may not be able to identify the Burger King in time to safely maneuver into the site. This will especially be true if the existing pylon sign is removed and replaced with a low monument sign, which Burger King has agreed to do in an effort to be compliant with current ground mounted signage requirements. This monument sign will be difficult to see while traveling westbound, as there are a number of street trees along the roadway as well as low existing vegetation immediately in front of the site. Signage is extremely crucial with fast-food operations to help draw in customers, and Burger King's lack of existing signage and proposed reduction of the pylon sign to a monument sign will be a financial hardship.

KEY APPLICATION TIMELINES

- Application Submission Date: July 2, 2021
- Date Application Accepted as Complete: July 2, 2021
- Application Date of Receipt: August 3, 2021 (sooner of either: date of next regularly scheduled meeting, or 35 days after acceptance of complete application)
- Public Hearing is scheduled to open on Tuesday, August 3, 2021; Open Hearing Deadline: October 7, 2021.
- Close Hearing Deadline (if opens August 3, 2021): (35 days after opening) Tuesday, September 7, 2021
- CT General Statutes Sec.8-7D allow that the applicant may consent to one or more extensions of time, provided the total extension of all time periods shall not be for longer than 65 days*.

LEGAL STANDARD

Standard for Application Type:

The ZBA shall have the power under Chapter 124 of the Connecticut General Statutes to vary the application of the zoning laws, ordinances, or regulations when the conditions affecting a particular parcel but not the general district cause exceptional difficulty or unusual hardship so that substantial justice will be done and the public safety and welfare secured, provided that the zoning regulations may specify the extent to which uses shall not be permitted by variance in districts in which such uses are not otherwise allowed. The board must take into consideration conserving the public health, safety, convenience, welfare, and property value solely with respect to the affected parcel. (City of Hartford Zoning Board of Appeals Bylaws, Article II, Sec. 3)

STANDARD SPECIFIC TO THE USE

Section 8.2, Figure 8.2-B: Maximum Quantity and Size of Signage by District

- 3 square feet of sign area is permitted per 1 linear foot of front lot length in the MS-1, Main Street District.

Section 8.3, Figure 8.3-A: Wall Signs

- Quantity: 1 per building.
- Placement on the Building or Site: Permitted on all facades. Signage on non-street facing facades may only be placed on facades with side or rear on-site parking lots.

Section 1.5.3.D: Extension of Nonconforming Use or Characteristic

- No nonconforming use or characteristic shall be expanded to other portions of the lot other than the portions the nonconforming use or characteristic occupied at the time it became nonconforming.

Section 3.4, Figure 3.4-A: Table of Accessory Uses

- Drive-Through Facilities are not permitted in the MS-1, Main Street District.

Sign Plan

- ### Drive-Through Facility

- Figure 1. Existing vs Proposed Site Layout – APD Engineering 2021



Figure 2. Subject property seen from Farmington Ave – Google 2021



Figure 3. West Elevation – APD Engineering 2020

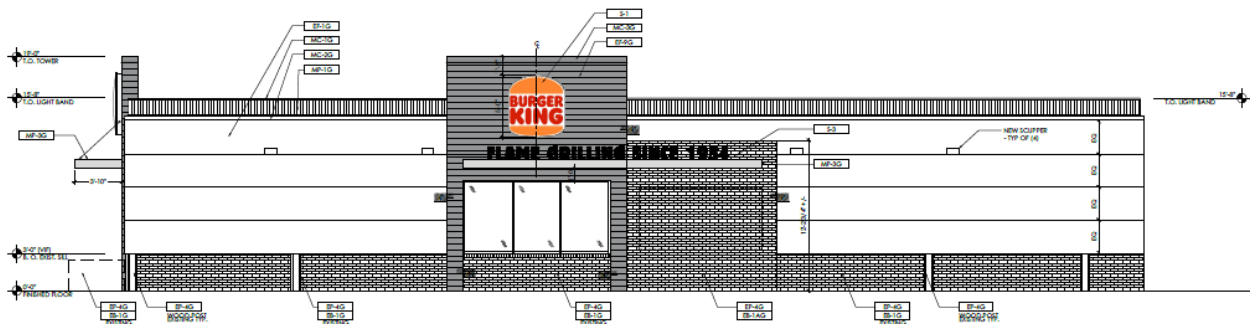


Figure 4. East Elevation – APD Engineering 2020

COMMENTS RECEIVED (DEPARTMENTS, AGENCIES, NRZs, PUBLIC)

The West End NRZ (WECA) was notified of the subject request on July 16, 2021. Staff received a letter of support from WECA on July 29, 2021. The letter sites improved stacking, landscaping and the pedestrian pick-up window as desirable improvements. The WECA support letter is attached to this report in its entirety as Attachment 2.

The Planning Division received a comment from the President of the Farmington Avenue Alliance, William McNair. Mr. McNair wrote in response to the previous site plan application that he did not support the request to expand the drive-through because he did not "...think the Burger King serves the community well, especially with the shift to more drive thru service. The traffic is only going to increase which does not serve the business district well." It should be noted that since this comment was received, the plan has been updated. Staff reached out to Mr. McNair via email July 23, 2021, after the plan update and did not receive a response as of this writing.

ANALYSIS

The request to allow the expansion of the drive-through use is at once a reduction in nonconformity and an expansion of a nonconforming use. If the district permitted a drive-through use at this property, the regulations would require that the drive-through facilities be located at the rear of the property behind the building. The proposed layout moves the drive-through order station from the front to the rear of the property thus meeting that requirement.

The proposed changes do increase the amount of area dedicated to the drive-through use. All parking along the west side of the lot is eliminated to make room for the dedicated drive-through aisle. This shows an increased reliance by the business on the drive-through revenue. Further, the floor plan of the restaurant shows a reduction in the amount of space allocated for customers who choose to dine in. It is clear from the scope of work that the intention of the renovations is to increase the reliance of the restaurant on the drive-through facility.

The proposed site layout will increase stacking capacity on-site from approximately 5 cars to 12 cars. This increased stacking capacity reduces the likelihood of vehicles backing up onto Farmington Avenue and obstructing traffic, thus improving public safety. The strict application of the zoning regulations in this case would stop this public safety improvement from being constructed.

The existing drive-through use was previously approved, and as is the nature of all legal nonconforming uses, it could remain at the subject site as long as it is continued lawfully. When the variance request is evaluated under this condition, Staff finds that the use could continue operation with or without the proposed changes. However, the proposed changes will increase public safety. Therefore, staff finds that the denial of the change by the Regulations represents a substantial injustice.

Staff recommends that the variance be approved with the condition that the variance only apply to the design shown on the 7-page plan set titled Site Development Plans for Burger King, by APD Engineering & Architecture dated June 1, 2021; and, that should the property change to a new use in the future, the variance should be considered null & void.

The second variance request to allow three wall signs where only one is permitted by the Regulations is not subject to the same evaluation. The existing nonconforming use does not require additional

signage in order to further public safety or avoid a substantial injustice. The permitted wall sign on the front façade meets the intention of the regulations. The Applicant has volunteered to remove an existing nonconforming pylon sign and has proposed to replace it with a conforming monument sign. Staff supports this sign plan but finds that the limitation of the subject building to one wall sign in this instance does not constitute a substantial difficulty. Staff finds that the proposed signage is consistent with the Regulations and does not recommend approval of this variance.

STAFF RECOMMENDATION

Staff recommends approval of the variance request to allow the expansion or alteration of an accessory, nonconforming drive-through facility use per Sec.1.5.3.D subject to the following conditions:

1. The variance shall only apply to the general drive-through design shown on the 7-page plan set titled Site Development Plans for Burger King, by APD Engineering & Architecture dated June 1, 2021; and,
2. Should the property ever abandon the drive-through use in the future, the variance shall be considered null & void

Staff does not recommend approval of the variance request to allow three (3) wall signs where only one (1) is permitted per Sec.8.3, Fig.8.3-A.

A draft resolution follows.

ATTACHMENTS

1. Hardship Statement
2. WECA NRZ Letter of Support dated July 28, 2021

REVIEWED AND EDITED BY,

Aimee Chambers, Director



CITY OF HARTFORD
ZONING BOARD OF APPEALS RESOLUTION
524 FARMINGTON AVENUE
VARIANCES TO ALLOW EXPANSION OF A NONCONFORMING USE AND ADDITIONAL
SIGNAGE

- Whereas,** The City of Hartford Zoning Board of Appeals reviewed the application and attached documents regarding the variance request: to allow three (3) wall signs where only one (1) is permitted per Sec.8.3, Fig.8.3-A; and to allow the expansion or alteration of an accessory, nonconforming drive-through facility use per Sec.1.5.3.D; and
- Whereas,** The subject property is within the MS-1, Main Street district; and
- Whereas,** An accessory drive-through facility use is not permitted in the MS-1 district making the existing, previously permitted drive-through facility nonconforming; and
- Whereas,** The Applicant would like to expand the amount of the property devoted to the drive through use to include additional drive aisle length and shift the focus of the entire site more towards the drive-through use; and
- Whereas,** The existing building is classified as a commercial center type building which in other zoning districts is permitted in conjunction with the accessory drive-through facility use; and
- Whereas,** The subject property is an internal lot; and
- Whereas,** The Applicant has requested additional wall signs to increase visibility of the use to cars passing from either direction on Farmington Avenue; and
- Whereas,** The proposed expansion of the drive-through facility will increase on-site vehicle stacking without increasing the number of drive-through service windows and will thereby reduce vehicle stacking into the public right-of-way; and
- Whereas,** The existing drive-through use could continue with or without the variance; and

Now therefore Be It

Resolved, The City of Hartford Zoning Board of Appeals (ZBA) hereby finds that a hardship exists due to the following circumstances: XXXXXXXX;

Resolved, The City of Hartford Zoning Board of Appeals hereby denies/approves the variance request: to allow three (3) wall signs where only one (1) is permitted per Sec.8.3, Fig.8.3-A; and to allow the expansion or alteration of an accessory, nonconforming drive-through facility use per Sec.1.5.3.D:

Be It Further,

Resolved, This 3rd day of August, 2021.

Attachment 1 – Hardship Statement



APD Project No. 20-0191

July 28, 2021

Paul Ashworth
City of Hartford
260 Constitution Plaza
Hartford, CT 06103

RE: Burger King (524 Farmington Ave, Hartford, CT) – Variance Hardship Letter

Dear Mr. Paul Ashworth,

As requested in your recent email correspondence dated July 22, 2021, this letter is being submitted to document our Client's hardships relative to the two requested variances as follows:

1. *Expansion of a nonconforming accessory use (§ 3.4.1 Drive-through facilities are not permitted in the MS-1 zone)*

We are seeking a variance to modify the existing drive-thru. Burger King currently has a hardship as they are not able to service all of the existing customers in a timely fashion due to the lot configuration and latest trends of fast-food restaurants, which indicate that as much as 80% of their business is conducted via drive-thru. In order to account for this recent change of operations and avoid the loss of business, Burger King is proposing to provide a longer que length thus being able to service more customers as well as improve operation efficiency. As currently designed, the drive-thru can stack approximately (6) vehicles from the pickup window to the drive-thru entrance without backing up into the driveway or Farmington Avenue (which we understand happens frequently), whereas the proposed design will stack approximately (14) vehicles. This will allow Burger King to capture the potential customers being lost due to stacking on the roadway and also increase traffic safety by moving queued vehicles into the site.

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Headquarters

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phone 585.742.2222 • fax 585.924.4914
web www.apd.com • email info@apd.com

Office Locations

P.O. Box 11626, Santa Ana, CA 92711 • phone/fax 714.987.1380

We look forward to working with the City on this project, and will be attending the August 3rd 2021 Zoning Board of Appeals hearing to further discuss this project. Should you have any comments, questions, or are in need of additional information, please feel free to contact us.

Sincerely,

Todd Markevich

Todd Markevich, P.E.
Owner/Member

Enclosures:

cc: James Cammilleri (via email)



Attachment 2 – WECA NRZ Letter of Support dated July 28, 2021



July 29, 2021

City of Hartford Zoning Board of Appeals
c/o City of Hartford Planning Division
250 Constitution Plaza, 4th Floor
Hartford, CT 06103

Re: 524 Farmington Avenue Zoning Variance Request

Zoning Board of Appeals Members:

The West End Civic Association (WECA), which is the NRZ for the West End, met with the architect for the 524 Farmington Avenue property to learn about the project proposed for the site.

WECA feels that the updated site plan that changes the traffic pattern related to the drive-thru, adds a walk-up service window, and refreshes the look and feel of the building is a clear improvement to the property. This investment will enhance the neighborhood with a more operationally efficient and visually appealing building.

The addition of the walk-up service window is particularly exciting since it shows that the owners understand their business and building are in the middle of a residential area where it would be inappropriate to solely cater to vehicle traffic. We also encourage the owner to implement a long-term plan to maintain the new landscaping installed between the building and the Avenue.

We believe that this proposal is appropriate for the lot and WECA supports the variance requests.

Thank you for considering our position on this application in your decision.

Sincerely,

Kyle Bergquist

Kyle Bergquist
Writing on behalf of the West End Civic Association