



ZONING BOARD OF APPEALS

Tuesday, August 3, 2021

1. Roll Call – 7:00 P.M. – City Hall Council Chambers
2. Approval of Minutes – July 6, 2021 Regular Meeting
3. New Business
 - a. Case #856 – Requested variance to allow a front yard fence at 304 Fulton Street
 - b. Case #857 – Requested sign variance to allow changes to a non-conforming, free-standing sign at 910 Spring Street
4. Public Comment
5. Updates
6. Adjournment

You may also join the meeting remotely

Dial by Phone: 888-788-0099 US Toll-free

<https://us02web.zoom.us/j/84598406352>

Meeting ID: 845 9840 6352

If you have any questions you may contact the City Clerk's Office before the meeting by email or phone: aterry@petoskey.us or 231-347-2500.

According to the Attorney General, interrupting a public meeting in Michigan with hate speech or profanity could result in criminal charges under several State statutes relating to Fraudulent Access to a Computer or Network (MCL 752.797) and/or Malicious Use of Electronics Communication (MCL 750.540).

According to the US Attorney for Eastern Michigan, Federal charges may include disrupting a public meeting, computer intrusion, using a computer to commit a crime, hate crimes, fraud, or transmitting threatening communications.

Public meetings are being monitored and violations of statutes will be prosecuted.



ZONING BOARD OF APPEALS

July 6, 2021

A regular meeting of the City of Petoskey Zoning Board of Appeals was conducted in the City Hall Council Chambers on Tuesday, July 6, 2021. Public was invited to attend in person and via Zoom. Roll was called at 7:00 P.M.

Present: Mary Clinton
Jim Knibbs
Scott Morrison
Lori Pall
Jessica Shaw-Nolff

Absent: Ben Crockett
Chris Hinrichs

Others: Matthew Keen, Citizens National Bank
Donald Hoffman, 1119 E. Mitchell Street
Doug Hoffman, 7700 Hoyt Road, Harbor Springs
Steve Hoffman, 615 Peffers Street, Harbor Springs

Staff: Amy Tweeten, City Planner
Lisa Denoyer, Administrative Assistant

Upon motion and support, the minutes from June 1, 2021 regular meeting were approved 4-0-1, with Commissioner Morrison abstaining.

Case #854 – Request for Side Yard Setback Variances to Allow a Land Division Between Two Buildings at 319 State Street

Staff informed the Board that the property is within the B-2B Mixed Use Corridor District that requires 5 foot side-yard setbacks. The property that once housed the Petoskey News Review is actually two buildings connected by a roof. The new owner would like to return it to two buildings on two lots. The proposed Parcel A houses the former office space of the Petoskey News Review and The Print Shop and the proposed Parcel B houses the former warehouse portion of the Petoskey News Review. The applicant is requesting a 2.25 foot setback along the east property line that would require a 2.75 foot variance on Parcel B and a 2.25 foot setback along the west property line that would require a 2.75 foot variance on Parcel A.

Matthew Keene, President and CEO, Citizens National Bank, informed the Board that the plan is to remove the old Print Shop building to create parking and separate the two existing buildings. Each building would be on its own parcel and Parcel A would be sold, as the bank has no need for an additional building.

Board members asked if the proposed property line would be centered between the two existing buildings, and if the corridor between the two buildings would be open, and if the variance was to

separate the buildings, not the property, would there be any liability to the City should there be a fire and it traveled from one building to the next.

Staff responded that there would be no liability to the City as the building code would require certain standards to help prevent a fire from spreading.

Board member Clinton responded that she would like to see a groundcover in the alleyway that was safe for pedestrians should they be allowed access.

Vice Chairperson Pall stated that a variance for a truck bay along Howard Street was approved in 2011 and wondered what use a truck bay would serve in the future. She then asked staff if the removal of the truck bay could be a condition of approval.

Staff responded that the new owner may use the building for warehousing and that she did not believe removal of the truck bay could be a condition of approval.

Board member Shaw-Nolff stated that the plan looked practical and would be a simple deconstruct and that she would like the new alleyway between the buildings to either have restricted access or made safe for public access.

Mr. Keene responded that the proposed property line is centered between the two buildings and that Benchmark Engineering would be creating new legal descriptions for each new parcel. The corridor would be an open alleyway that may house utilities and it is unknown at this time what the groundcover would be. The variance request is to create two separate parcels. Mr. Keene then asked staff if a gate would be permitted at the openings of the alleyway.

Staff responded that it would be permitted if both property owners were agreeable to it.

Commissioners commented that they felt the request was reasonable and the property creates a unique situation.

At this time, Board member Knibbs made a motion, seconded by Board Member Clinton, to approve a side-yard setback variance of 2.75 feet for the proposed Parcel A and Parcel B on the current 319 State Street to allow the existing buildings to be separated in to their own parcels with the condition that the building separation is permanent and that the area between the buildings be made safe for pedestrians, if the public is to be allowed to access the area. This approval is based on the findings of fact that the buildings already exist and comments received by the bank representative that demonstrate there is a practical difficulty created by Section 1600 of the Zoning Ordinance as there would be a hardship to move the buildings. Motion carried 5-0.

**Case #855 – Request for Lot Width and Area Variances to Allow
for Lot Line Adjustment at 1115, 1117 and 1119 East Mitchell Street**

Staff informed the Board that the three parcels are in the R-2 Single Family District and two of the lots do not meet current lot width standards. A lot line adjustment has been requested that would shift the east property lines for 1115 and 1117 to the west. The adjustment would put the driveways and garages on the appropriate parcels, but reduce the lot widths further.

Steve Hoffman, 615 Peffers Street, is the son of the applicant. He informed the Board that the properties have been in the family for over 70 years and they are trying to line up the property lines so that each property has its own driveway and buildings. It would be difficult to sell the properties with the existing property lines. They would like the properties to be as conforming as possible and they believe that making two of the lots smaller is the only option given the topography of the land.

Board member Clinton asked if there was a reason why the rear property line of 1117 E. Mitchell Street was not lined up with the rear property line of 1115 E. Mitchell Street.

Mr. Hoffman responded that there is an access road, a stream and a turn-around area for 1119 E. Mitchell Street behind the parcel that would be impacted if the rear lot line were moved back.

Vice Chairperson Pall asked what would happen to the turn-around area should 1117 E. Mitchell Street be sold.

Mr. Hoffman responded that they plan to keep the parcels together but would have to give up the turn-around area should they decide to sell.

Commissioners commented that it made sense to move the lot lines in order to eliminate property access through another parcel and the change would not negatively impact the neighbors.

At this time, Board member Clinton made a motion, seconded by Board member Morrison, to approve the following variances indicated below to allow lot line adjustments at 1115, 1117 and 1119 E. Mitchell Street based on the findings of fact that strict compliance would prevent full use of the property, a lesser variance would not solve the problem, the need is due to a uniqueness to the property given the shared drives and topography, and will be fair to the neighbors and any future owners. These reasons demonstrate a practical difficulty created by Section 1600 of the Zoning Ordinance.

- 1) Lot width variance of 11.5 feet resulting in a width of 48.5 feet at 1115 E. Mitchell Street; and
- 2) Lot width variance of 11.5 feet resulting in a width of 48.5 feet and a lot area variance of 1,200 square feet resulting in a lot area of 6,000 square feet at 1117 E. Mitchell Street.

Motion carried 5-0.

Election of Officers

Vice Chairperson Pall informed the Board that officer elections had been postponed at the June meeting and the Bylaws require a Chairperson and Vice Chairperson/Secretary.

Staff informed the Board that Chairperson Crockett had expressed a desire to step down as Chairperson at the June meeting.

Vice Chairperson Pall stated that she would prefer to remain Vice Chair/Secretary, however, she would be willing to take on the role of Chairperson should there be no other volunteers.

Board member Clinton stated that she would be willing to be Vice Chair/Secretary if Vice Chairperson Pall agreed to become the Chairperson.

A rollcall vote was taken and all members present voted aye.

Public Comment

Matthew Keene, President and CEO, Citizens National Bank, informed Board members that they were welcome to contact him at any time should they have questions on the progress of the bank property.

Updates

Staff informed the Board that the City Attorney is still waiting to hear from the Michigan Court of Appeals to find out if the appeal request for 615 Michigan Street had been filed correctly or if the case would be heard.

Staff has not yet heard when the Corcoran appeal will be scheduled with the Circuit Court regarding the ZBA's variance denial for 326 W. Lake Street.

Staff is working with the Emmet County Building Department to determine how a deck was constructed at 322 W. Lake Street without a zoning permit.

Staff is expecting a variance request for the August meeting for the free standing sign at Bay Mall. The current owners would like to modernize the existing sign and possibly reduce the size slightly. Staff is only permitted to approve maintenance changes as the sign is non-conforming and any other changes require a variance.

The meeting was then adjourned at 7:59 P.M.



BOARD: Zoning Board of Appeals

MEETING DATE: August 3, 2021

DATE PREPARED: July 27, 2021

AGENDA SUBJECT: Case #856 – Requested variance to allow a front-yard fence at 304 Fulton Street

RECOMMENDATION: Consider the request

Background

The subject property is on the corner of Fulton and Petoskey Streets in the R-3 Single Family District. An addition to the house was constructed in 2018 and a partial retaining wall installed along the east property line.

Request

The property owner wants to install a 4-5 foot privacy fence along the east property line to the front property line on Fulton Street. As this is a front yard, a variance is required.

The applicant has been provided the dimensional variance checklist and has submitted the enclosed statement of practical difficulty.



Action

In making its motion, the Board shall state the grounds, or findings of fact upon which it justifies the granting of a variance and may attach any conditions regarding the location, character, and features of the request that further the purposes of the ordinance. In addition, a variance should only be granted after consideration of the following factors:

- 1) The need for the variance is due to unique circumstances, or physical conditions, of the property involved, such as exceptional narrowness, shallowness, shape or area, exceptional topographic conditions or other extraordinary or exceptional conditions of the specific piece of property and is not shared by neighboring properties;
- 2) The request is not due to the applicant's personal or economic situation;
- 3) The practical difficulty was not created by an action of the applicant;
- 4) The requested variance is the minimum variance necessary to grant substantial relief to the applicant while at the same time minimizing any adverse impacts to other property owners in the general neighborhood or zoning district;

- 5) The request, if granted, would not cause substantial detriment to the public good or substantially impair the intent and purpose of the ordinance; and
- 6) The strict application of the regulations would result in peculiar or exceptional practical difficulties.

Property Line

46'

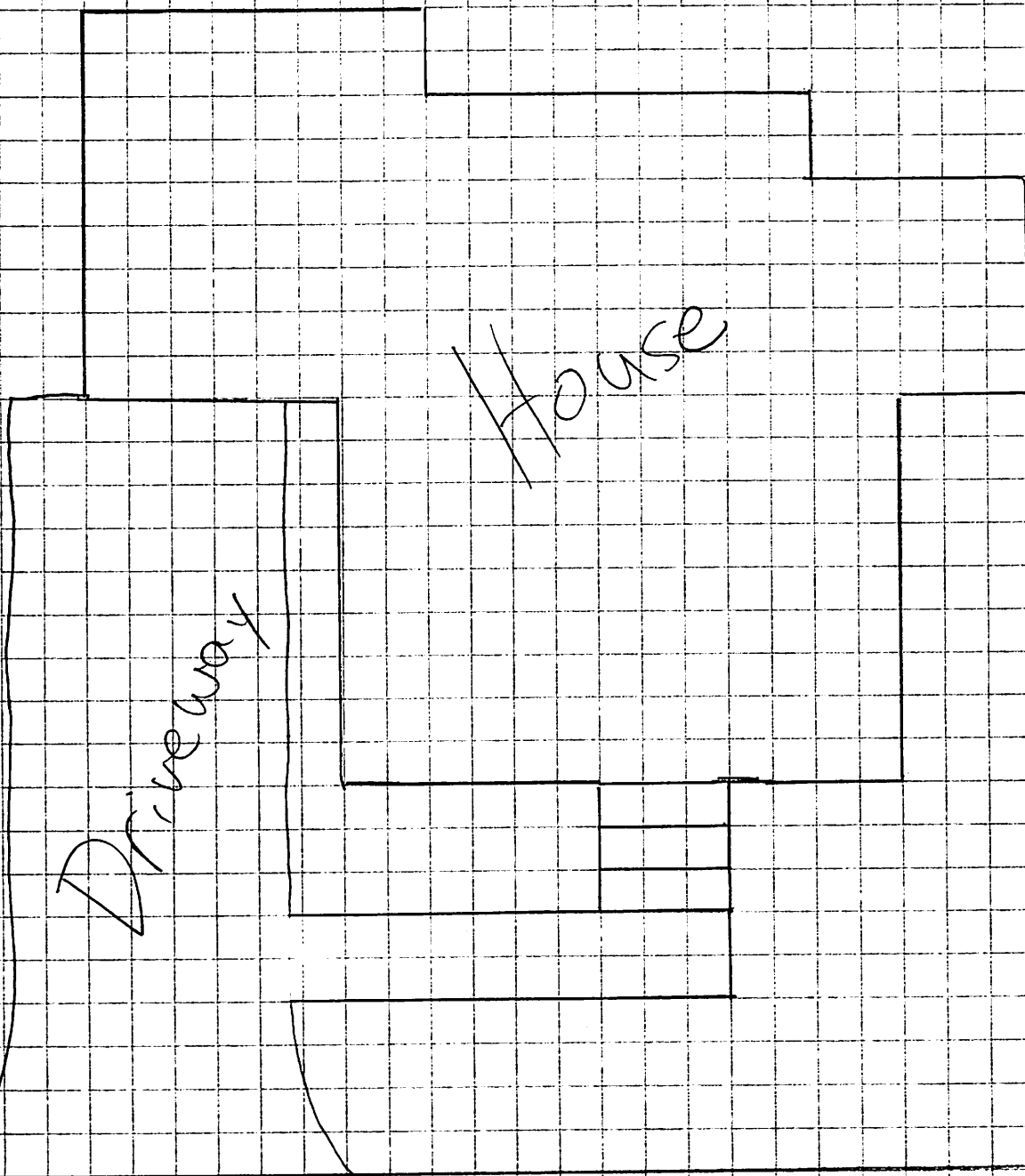
Proposed Fenced Area

Driveway

House

Petostkey St

Fulton St











PURE PROPERTY MANAGEMENT

To Whom It May Concern,

The fence to be installed will only fulfill a cosmetic look for the homeowners. In no way shape or form will it block views, passageways, or visibility to pull in or out of driveways. The sidehill left of the driveway is unsightly. The ability to build a fence and cover this hill will only add character and add value to the property.

The two main reasons for this fence are as follows.

- Stopping sediment and drainage from going down the sidehill on to the driveway

- Cover the ugly look of the hill which continues to fail with certain landscapes/flowers

The overall height will vary from 36"-54" which follows the contour of the hill. Wood structure to be installed with concrete footings around each support post.

Please consider this variance in zoning as it will benefit the homeowners' goal with the driveway cleanliness/drainage and overall cosmetic look. Thank you for your time and consideration.

Sincerely,

Nicholas Gowan

231.838.8924

Haggard's

PLUMBING and HEATING

"Business of Quality and Service"

"Charlevoix-the-Beautiful"

haggardsinc@hotmail.com

To: City Hall Council Chambers
101 E. Lake Street
Petoskey, MI 49770

Date: July 19, 2021

RE: Concerning a request for a front-yard fence variance at 304 Fulton St. at 7:00 PM August 3, 2021 at the City Hall Council Chambers

To Whom it May Concern,

Upon reviewing the above Notice of Public Hearing of the Zoning Board of Appeals, I would like to express my view with the above case's requests. Haggard's Plumbing & Heating is not at all opposed to the changes of the property and/or the request to the Zoning Board. If a property owner is fortunate enough to have the ability and the resources in this time of economical struggles to either build and/or improve their existing property, we would like to see their request granted.

 Sincerely,

Haggard's Plumbing & Heating



City of Petoskey

Office of City Planner

101 East Lake Street, Petoskey, Michigan 49770 • 231 347-2500

Zoning Board of Appeals Zoning Ordinance Regulation Variance Checklist

Date: August 3, 2021

Case Number: 856

It is the applicant's responsibility to prove a practical difficulty. It is not the job of the ZBA to find the practical difficulty for the applicant.

Issue to be evaluated (Practical Difficulty)	Supports the variance	Does not support the variance	Notes
Will strict compliance with the dimensional requirements of the zoning ordinance prevent the applicant from using the property for the permitted purpose? <ul style="list-style-type: none">- A variance is granted for circumstances unique to the PROPERTY, not those unique to the owner.			
Is there a way to accomplish the same purpose without a variance or with a lesser variance regardless of convenience or expense? <ul style="list-style-type: none">- The ZBA considers the property, not issues with the interior of the structure.			
Is the need for the variance due to a situation that is unique to the property and would not generally be found elsewhere in the same zoning district? <ul style="list-style-type: none">- If the situation is often repeated in the same zoning district, then the variance request should be denied.			
If granted, will the variance uphold the spirit and intent of the ordinance and be fair to neighboring properties? <ul style="list-style-type: none">- There are reasons the ordinance was adopted and those reasons should be respected and upheld.			
Has the need for the variance been created through previous action of the applicant? <ul style="list-style-type: none">- The Appeals Board is not responsible for "bailing out" an applicant who created the need for a variance.			



City of Petoskey

Office of City Planner

101 East Lake Street, Petoskey, Michigan 49770 • 231 347-2500

MOTIONS BY THE ZONING BOARD OF APPEALS Variance Requests

In Case #856, I move to (approve/ deny) a **front-yard fence at 304 Fulton Street** with the
(conditions/modifications) of:

Based on the findings of fact in the (e.g. agenda memo, submittal materials, etc.) that:

_____ and the comments provided by

(e.g., those in attendance at the hearing, the applicant, the applicant's representative, etc.),

that demonstrate there is a (practical difficulty/ lack of practical difficulty) created by **Section 1600** of the Zoning Ordinance due to:



BOARD: Zoning Board of Appeals

MEETING DATE: August 3, 2021

DATE PREPARED: July 27, 2021

AGENDA SUBJECT: Case #857 – Requested variance to allow changes to a non-conforming, free-standing sign at 910 Spring Street

RECOMMENDATION: Consider the request

Background

Bay Mall is located in the B-3 General Business District that allows multi-tenant buildings signs of 8 feet in height and 42 square feet in area. The mall was constructed in the mid-1970s and was granted sign variances in 1977 and 1980. The existing sign is 275 square feet in area and 31 feet in height to the top of the square blue frame (35 feet to the top of the point).

Request

The mall owners would like to modernize the sign with brick columns, reduce the tenant panels from 275 square feet to 220 square feet, and reduce the height to 30 feet. However, pursuant to Section 9.1(a)(1) of the Sign Ordinance, *Nonconforming signs shall not be structurally altered so as to prolong the life of the sign, such as to change the shape, size, type, design, or face of the sign. Nonconformities shall not be enlarged, expanded, or extended.*

Although the changes reduce the sign size, they are intended to extend the life of the sign so staff nor the Planning Commission Sign Committee are able to approve. As an existing sign, the Zoning Board of Appeals is authorized to consider variance requests pursuant to Section 2004(2)(c):



Sign variances. The zoning board of appeals shall only have the authority to grant sign variances for sign dimensions, height, and the relocation of existing non-conforming signs. The zoning board of appeals shall consider the intent of the sign ordinance, the practical difficulty presented by the proposed sign and sign location, and public safety. Where the strict application of the regulations enacted would result in peculiar or practical difficulties to the owner of such property provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this ordinance.

Action**Section 1.1 Intent of the Sign Ordinance states:**

The City of Petoskey City Council hereby enacts this ordinance to fairly regulate and control the time, placement, manner, and maintenance of signs within the city and to provide penalties for violations of such regulations. The provisions herein contained are intended to promote the general welfare and protect the health and safety of the general public. This ordinance shall be known as the "Petoskey sign ordinance."

These regulations take into consideration the total available communications network in the community including, but not limited to, cable and broadcast television and radio; electronic mail and information services; newspapers; magazines; direct mailing, trade publications and catalogs; telephone solicitation, door-to-door solicitation; artworks and artistic performances; and public demonstrations, parades, rallies, marches, and pickets.

In making its motion, the Board shall state the grounds, or findings of fact upon which it justifies the granting of a variance and may attach any conditions regarding the location, character, and features of the request that further the purposes of the ordinance. In addition, a variance should only be granted after consideration of the following factors:

- 1) The need for the variance is due to unique circumstances, or physical conditions, of the property involved, such as exceptional narrowness, shallowness, shape or area, exceptional topographic conditions or other extraordinary or exceptional conditions of the specific piece of property and is not shared by neighboring properties;
- 2) The request is not due to the applicant's personal or economic situation;
- 3) The practical difficulty was not created by an action of the applicant;
- 4) The requested variance is the minimum variance necessary to grant substantial relief to the applicant while at the same time minimizing any adverse impacts to other property owners in the general neighborhood or zoning district;
- 5) The request, if granted, would not cause substantial detriment to the public good or substantially impair the intent and purpose of the ordinance; and
- 6) The strict application of the regulations would result in peculiar or exceptional practical difficulties.

Specific Request:

We are formally requesting approval to revise the existing pylon sign at Bay Mall (910 Spring Street). Drawings are attached of the proposed revisions. Note that no structural elements of the sign are being altered. Snyder & Staley Engineering has confirmed the existing foundation and structural steel are in good condition and will remain unchanged. Only the decorative metal will be replaced with masonry, and the sign panels reduced in size and brought to code.

The attached sign drawing overlays the proposed pylon sign onto the existing pylon sign. Please note that the height of the sign is being reduced by 4 feet, width reduced by 8-12 inches depending on location, and total signage area reduced by 55 square feet. Additionally, all tenant panels will become code compliant in conjunction with the renovation.

Should you have any questions regarding this request please contact me directly at (248) 310-3245 or mdrozd@lormaxstern.com.

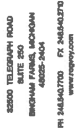
Sincerely,

A handwritten signature in black ink, appearing to read 'MDROZD', with a long horizontal flourish extending to the right.

Matthew J. Drozd
Director of Property Management

project:

510 Spring St.
Petoskey, Michigan



DO NOT SCALE DRAWING

approved MD

PS-1

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Front Elevation (Proposed 2-Sided Pylon Sign)
Scale: 1/2" = 1'-0"

Haggard's
PLUMBING and HEATING
"Business of Quality and Service"
"Charlevoix-the-Beautiful"
haggardsinc@hotmail.com

To: City Hall Council Chambers
101 E. Lake St.
Petoskey, MI 49770

Date: July 19, 2021

RE: To hear a variance request for changed to a non-conforming free-standing sign at 910
Spring St. 7:00 P.M., August 3, 2021

To Whom it May Concern,

Upon reviewing the above Notice of Public Hearing of the Zoning Board of Appeals, I would like to express my view with the above case's requests. Haggard's Plumbing & Heating is not at all opposed to the changes of the property and/or the request to the Zoning Board. If a property owner is fortunate enough to have the ability and the resources in this time of economical struggles to either build and/or improve their existing property, we would like to see their request granted.

Sincerely,

Haggard's Plumbing & Heating



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MOTIONS BY THE ZONING BOARD OF APPEALS Variance Requests

In Case #857, I move to (approve/ deny) a request for a sign variance at 910 Spring Street to **reduce the existing sign size from 275 square feet to 220 square feet and total height of 30 feet** with the (conditions/modifications) of:

Based on the findings of fact in the (e.g. agenda memo, submittal materials, etc.) that:

_____ and the comments provided by

(e.g., those in attendance at the hearing, the applicant, the applicant's representative, etc.),
that demonstrate there is a (practical difficulty/ lack of practical difficulty) created by **Section 9.1(a)(a) of the Sign Ordinance** and that the proposed changes (*are/are not*) contrary to the intent of the ordinance.
