

BOARD OF ZONING APPEALS MEETING
THURSDAY, AUGUST 24, 2023, 5:30 P.M.
COUNCIL CHAMBERS
40 W MAIN ST, NEWARK, OH 43055

AGENDA
PUBLIC HEARING

1. **CALL TO ORDER**
2. **APPROVAL OF MINUTES**
3. **OLD BUSINESS**
4. **NEW BUSINESS**

APPLICATION BZA-23-31

Applicant:	Whits Frozen Custard
Owner:	Swordfish City LLC
Location:	919 N 21 st St
Project:	Freestanding Sign
Reference:	135.7/135.8

THE NEXT SCHEDULED BOARD OF ZONING APPEALS MEETING WILL BE HELD ON THURSDAY, SEPTEMBER 28, 2023, 5:30 P.M. THE DEADLINE FOR AGENDA ITEM SUBMITTAL IS SEPTEMBER 1, 2023, 4:30PM.

5. **ADJOURNMENT**



**CITY OF NEWARK
ENGINEERING & ZONING**

c/o Engineering Department

40 West Main Street | Newark, Ohio 43055 | Tel 740.670.7727 | Fax 740.349.5911 | www.newarkohio.net

BOARD OF ZONING APPEALS APPLICATION

Rev 2/10

Owner	
Name: <i>Swordfish City, LLC</i>	Telephone: <i>(740) 587-7441</i>
Address: <i>170 Potters Lane, Granville, Ohio 43023</i>	E-mail: <i>pshoi@stai-hess.com</i>

Applicant	
Name: <i>Whit's Frozen Custard on 21st Street</i>	Telephone: <i>(740) 644-7056</i>
Address: <i>3108 Canyon Rd., Granville, Ohio 43023</i>	E-mail: <i>glave784@roadrunner.com</i>

Lessee	
Name: <i>Whit's Frozen Custard on 21st Street</i>	Telephone: <i>(740) 644-7056</i>
Address: <i>3108 Canyon Rd., Granville, Ohio 43023</i>	E-mail: <i>glave784@roadrunner.com</i>

Parcel	
Address of Parcel: (Number & Street, City, State, Zip) <i>919 N. 21st Street, Newark, Ohio 43055</i>	Auditor's Parcel #: <i>054-259512-00-000</i>
On the <input type="checkbox"/> North <input type="checkbox"/> South <input type="checkbox"/> East <input checked="" type="checkbox"/> West side of the street, between the following intersections: <i>Mull Street</i> and <i>Jackson Blvd. on West side, Meadowbrook Drive on East side</i>	
Subdivision Name: <i>Brice-Standery Lots R12 T2 Q2</i>	Lot Number: <i>1</i>
Zoning Classification: If filling out electronically, click box to display dropdown <i>GB</i>	Proposed Use: If filling out electronically, click box to display dropdown (Specify Use): <i>Business sign for Whit's</i>

Notes: (Optional)

Appeal	
The Application is a request to permit the following: Erection <input checked="" type="checkbox"/> Alteration <input type="checkbox"/> Maintenance <input type="checkbox"/> Conversion <input type="checkbox"/> Conditional Use <input type="checkbox"/>	
In accordance with the plans filed herewith, describe the building or use: <i>The applicable space in the building will be occupied by Whit's Frozen Custard which will engage in the retail sale of frozen custard and food products. The street sign is necessary to identify, promote, and advertise the business and its products.</i>	

Appeal Continued

This project is not permitted by the Zoning Code for the following reason(s):

- 1) Sign pole is not set back 20 feet from property line as required by code. It is an existing pole and "grandfathered".
- 2) The proposed sign will be for the use of Whit's Frozen Custard only. There are two additional tenants in the building and another existing sign that is 61 feet away to the North.

Please outline the circumstances, which you feel would warrant a variance to the requirements of the Zoning Code:

See attached sheet.

Has there been any previous application or appeal on these premises? Yes No When? July 28, 2003

This application is a request for modification of the requirements of the following Article(s)/Section(s) of the Zoning Code: (List)

- Code Section 135.7 A. 1. b. - Allowable number of Freestanding Signs is one per lot in CB districts
- Code Section 135.8 C. 3. a. - Freestanding signs shall be set back a minimum of 20 feet from property

Required Documents

(Must be signed and returned to the Engineering Department.)

- A. Original Application
- B. *NA* List of owner names, street addresses and tax mailing addresses for all properties lying within 200 feet radius of the entire property in question. Number the parcel list. This will correspond with the Tax Map in C below. *Not required*
- C. *NA* Tax Map from the County Engineer indicating boundaries of this property in question and properties described in B above. *Number each parcel on the map to match its corresponding name, location and mailing address in list B above. Not required per 135.8 A. 2. Variable Message Signs*
- D. Site Plan showing location of existing and proposed structures, property lines, setbacks and dimensions.
- E. *NA* Elevation drawings of the front, side and rear of the proposed building or structure. Identify all major exterior finish materials on the elevation drawing. *Not applicable*
- F. Application Fee of \$50.00 Cash or Check made payable to the City of Newark
- G. Application Fee of \$25.00 for Off-Premise Variable Message Sign
- H. Additional documentation at the discretion of the applicant for support of the Appeal

Upon receipt of this application and the required documents listed above, you will be notified of the date and time of the hearing at which time you or a representative must appear.

ZS-2023-00025

Zoning Application #

BZA Appeal #

Gary L. Love for White's Frozen Custard
(Owner/Applicant Signature)

Before me, a Notary Public in and for Licking County in the State of Ohio, personally

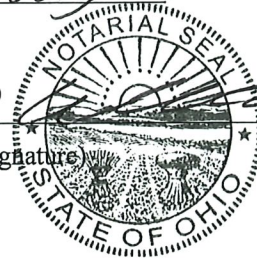
appeared Gary L. Love who, by me being duly sworn, says that he is the
(Applicant's name)

applicant/owner of the parcel of land with reference to which the within appeal is made; and
(Applicant, owner, lessee)

that the statement of facts contained herein above is true.

Subscribed and sworn to before me this 31 day of July.

Anastasia Williams
(Notary Public signature)



ANASTASIA N. WILLIAMS
Notary Public, State of Ohio
My Commission Expires
March 4, 2024

DO NOT WRITE BELOW THIS LINE – FOR OFFICE USE ONLY

Status:	Date:	Zoning Reviewer:	Date Notified:	Date: Rcvd. Date: _____ Paid Date: _____ Check Cash (circle one) Check # _____ Amount \$ _____
<input type="checkbox"/> Incomplete				
<input checked="" type="checkbox"/> Forward to BZA	<u>8/14/23</u>	<u>RAM</u>		
<input type="checkbox"/> Hold		Reason:		

BZA CASE NO. 23-31

Date of Review: 8/7/23

Address of Project: 919 N 21st St

Current Zoning: GB

Project Description: Freestanding Sign

- B.Z.A. Approval Required?----- Yes
- Planning Commission Approval Required?----- No
- Engineer’s Approval Required?----- No
- Law Director’s Approval Required?----- No
- City Council Approval Required?----- No

Ordinance / Article / Section	Requirement / Proposal / Conclusion
-------------------------------	-------------------------------------

08-16 135 135.7A.1.b

Requirement: A freestanding sign must be setback 20 ft. from the property line

Proposal: The applicant requests to reduce this requirement to 10 ft.

Conclusion: The proposal requires board approval

08-16 135 135.8C.3.a

Requirement: A lot is permitted one freestanding sign

Proposal: The applicant requests to erect a freestanding sign, exceeding the allowed number of signs by one.

Conclusion: The proposal requires board approval

Whit's Frozen Custard on 21st Street
Circumstances Warranting a Variance to Newark Zoning Code
July 30, 2023

Code Section 135.7 A. 1. B. – Allowable number of Freestanding Signs per lot

- There is currently one sign and a second sign post in front of the building at 919 N. 21st Street. The second sign post is directly in front of the space to be occupied by the Applicant's business. The Applicant is permitted exclusive use of this post for street signage per the lease agreement with the landlord and would like to do so to promote its new business. This will greatly increase the visibility of the business and improve its chances of being sustainable and profitable, thereby increasing tax revenues for the City of Newark.
- Plaza 21 further North on 21st Street has two sign posts with signs for the shopping center. One has signs for the tenants and the other identifies the center as Plaza 21. Thus, precedent has been set in terms of allowing two Freestanding Signs on one lot.
- The Applicant would be better able to identify its location and communicate to the public various important messages such as the Flavor of the Week, Monthly and other Specials through the use of mechanical changeable letters. Doing so is critical to the success of the business. Other Quick Service Restaurants along 21st Street including, but not limited, Rally's, River Road Coffee, McDonald's, and Wendy's also have such signs allowing them to identify their businesses and engage in similar promotional messages and advertising.
- The existing sign box is not large enough to accommodate signage for the three tenants that will be occupying the building nor changeable letters area that the applicant has included in its sign design.
- If a single Freestanding Sign were to be required it would necessitate the removal of the existing sign and post as well as the second post. The new sign cost would likely be in the range of \$20,000 to \$30,000 in addition to the cost to remove the existing sign and posts. This would create an extreme financial hardship for the landlord and tenants.

Code Section 135.8 C. 3. a. – Freestanding Signs should be setback 20 feet from property line

- Moving the existing post to the required 20 foot setback would put it in the parking lot and eliminate at least one parking space. Due to the positioning of the building there are a limited number of parking spaces and create a hardship for customers of the businesses and a potential loss of business if the customers are unable to find a parking space.
- The cost of moving the sign would cause additional financial strain on Applicant's new business.

Customer Name: Gary Love

Company: WHITTS Frozen Custard

Street: 9191 N 21st street

City: Newark

State: Ohio

Country: USA

Phone: 740.644.7056

Fax:

Zip: 43055

Job Number: LSA23071

Order Taken By: M. Lemar

Order Number:

Order Date:

Delivery Date:

Terms: 50% Dep Bal @ Install

Shipping: S35

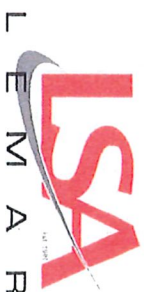
File Name: MainID Elevation.FS

Price:

E-mail address: glove784@roadrunner.com

Description: Box Cabinet with Flat Lexan Faces - PSV vinyl applied to the first surface. 1 Set Letters Changeable copy

Comments: Size is approx 64 Sq Ft. Electric service provided by Customer.



Contact: 740.630.1967 - 740.899.6448

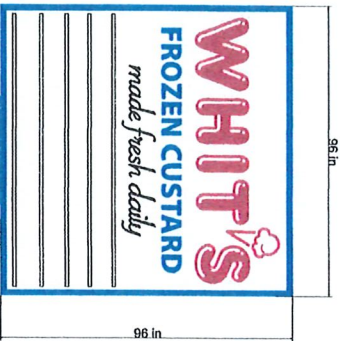
Box Sign 96" x 96"
LED Lighting with 12v
Power Supplies.

Lexan Flat Faces:
(WHITTS)
will have Red PSV vinyl applied to
White Lexan on the First surface
(Frozen Custard) Blue PSV vinyl
applied to White Lexan on the first
surface.

(Made Fresh Daily) Black PSV vinyl
applied to White Lexan on the first
surface.

lower section to have changeable copy
tracking and Zip letters 1 set of letters

NO FOUNDATION WORK OR POLE IS INCLUDED IN THIS ESTIMATE



Black

Red

Dark Blue

White

Cabinet and Pole
cover will be
painted Dark Blue

Project will use existing pole

Weather proof disconnect switch
Photo control cell installed

120 volt/20 amp
to be provided by
customer.

Pole Cover is Included in this price.