

**Board of Zoning Adjustment
Staff Report**
March 7, 2016



Case No:	15VARIANCE1081
Project Name:	Arby's Freestanding Sign
Location:	11488 Preston Highway
Owner(s):	BBM-I Properties, LLC
Applicant(s):	BBM-I Properties, LLC
Representative(s):	Chris Bowling
Project Area/Size:	1.0 acre
Existing Zoning District:	C-2, Commercial
Existing Form District:	SMC, Suburban Marketplace
Jurisdiction:	Louisville Metro
Council District:	13 – Vicki Welch
Case Manager:	Jon E. Crumby, Planning & Design Coordinator

REQUESTS

- Variances from the Land Development Code to allow an existing freestanding sign to exceed the maximum size and height.

Location	Requirement	Request	Variance
Size of Sign	60 square feet	143 square feet	83 square feet
Height of Sign	12 feet	25 feet	13 feet

CASE SUMMARY

The applicant has constructed a new freestanding sign which replaces the old sign. The old sign was approximately 27 feet in height and 158 square feet in area.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<i>Subject Property</i>			
Existing	Commercial	C-2	SMC
Proposed	Commercial	C-2	SMC
<i>Surrounding Properties</i>			
North	Commercial	C-2	SMC
South	Commercial (Bullitt County)		
East	Commercial	R-4, C-1	SMC
West	Commercial	C-2	SMC

SITE CONTEXT

The site is irregular in shape and has frontage on Old Preston Highway and is part of a larger commercial shopping area. There are various commercial uses to the north, south, east, and west.

PREVIOUS CASES ON SITE

There are no previous cases on this site.

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

APPLICABLE PLANS AND POLICIES

Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

(a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variances will not adversely affect the public health, safety or welfare because the proposal will allow the sign to come more into compliance and display the new branding for the company.

(b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variances will not alter the essential character of the general vicinity because the proposed sign will be compatible in style with the prior sign, but smaller.

(c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variances will not cause a hazard or nuisance to the public because the proposed sign will not be located near a sight triangle.

(d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variances will not allow an unreasonable circumvention of the zoning regulations because there are similar encroachments of this type throughout the surrounding area.

ADDITIONAL CONSIDERATIONS:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: There are no special circumstances that apply to the proposal; although the owner of the property thought a variance was received before the new sign was installed.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because the sign could not be built as shown and would need to be modified.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The owner is trying to improve the existing conditions on site.

TECHNICAL REVIEW

There are no outstanding technical review items.

STAFF CONCLUSIONS

The new sign will be compatible with the surrounding properties. Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standard of review for a variance established in the Land Development Code.

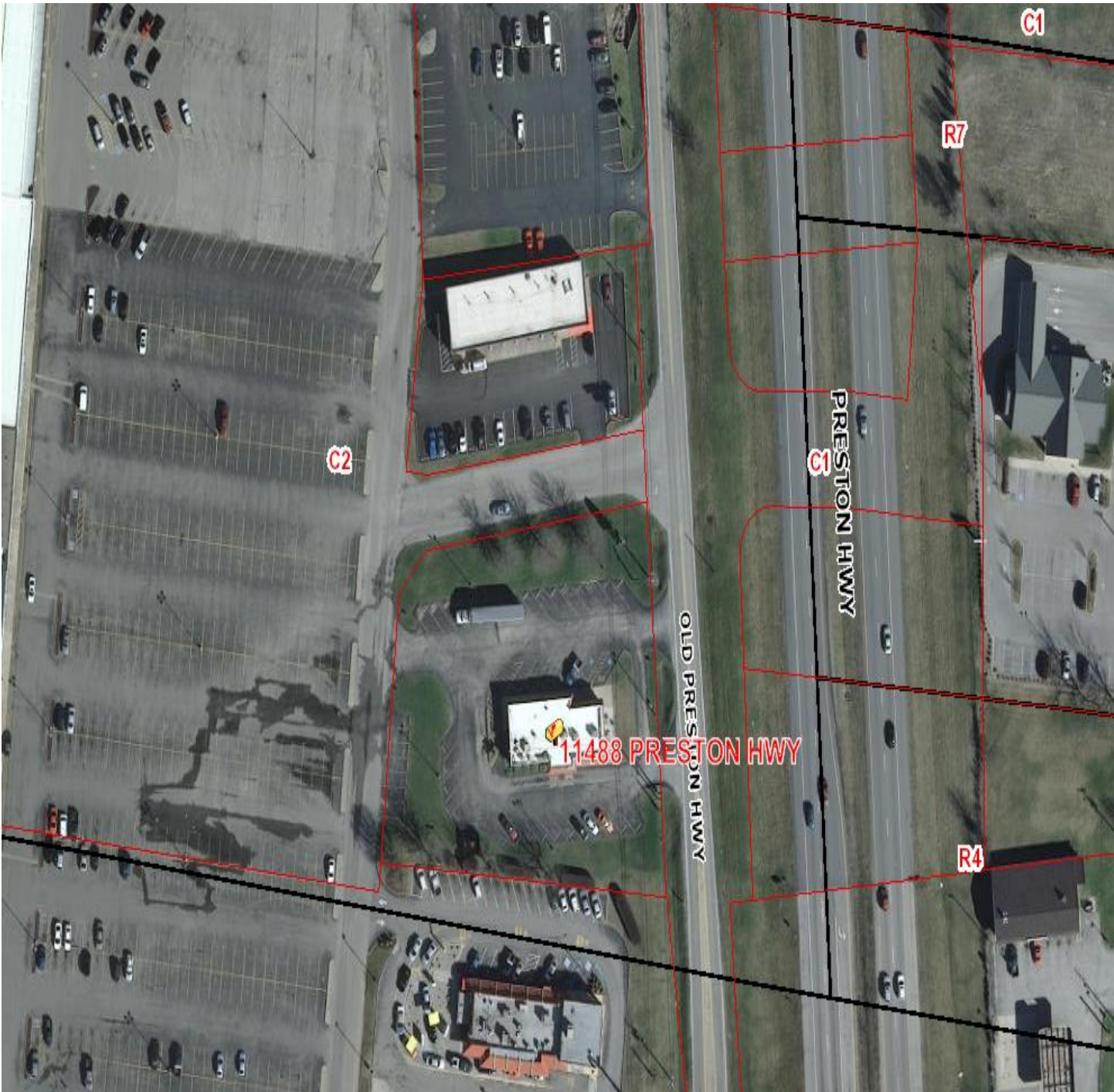
NOTIFICATION

Date	Purpose of Notice	Recipients
02/19/16	APO Notice	First tier adjoining property owners Neighborhood notification recipients
02/22/16	Sign Posting	Subject Property Owner

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Justification Statements
4. Information from applicant





Variance Justification:

In order to justify approval of any variance, the Board of Zoning Adjustment considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

1. Explain how the variance will not adversely affect the public health, safety or welfare.

New pylon head sign will not be larger, from a square foot measurement, or taller than the current pylon head.

2. Explain how the variance will not alter the essential character of the general vicinity.

There will ne no difference in new pylon head sign's functionality.

3. Explain how the variance will not cause a hazard or a nuisance to the public.

New pylon head sign will not be larger, from a square foot measurement, than the current pylon head. There will ne no difference in new pylon head sign's functionality.

4. Explain how the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.

New pylon head sign will not be larger, from a square foot measurement, than the current pylon head. There will ne no difference in new pylon head sign's functionality.

Additional consideration:

1. Explain how the variance arises from special circumstances, which do not generally apply to land in the general vicinity (please specify/identify).

Existing pylon head sign is moderately larger and taller than current signage requirement. We are replacing with pylon head sign that is smaller than existing pylon head

2. Explain how the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship.

The reduction in sign sq. footage and height restriction to 60 sq ft. and 12 ft, respectively, will negatively affect exposure with customers

3. Are the circumstances the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought?

No. It is our understanding that the sign was erected in 1987 prior to adoption of regulations but is only moderately larger than current requirements.

RECEIVED

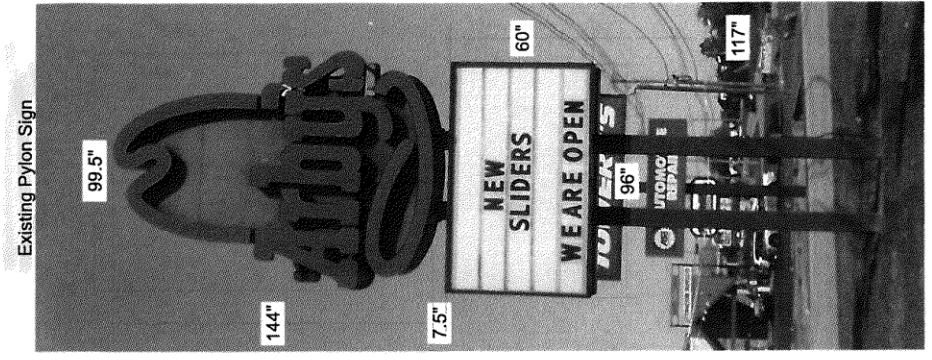
NOV 10 2015

PLANNING & DESIGN SERVICES

Sign # 1

B12 PYLON HEAD REPLACEMENT

RECEIVED
 NOV 10 2015
 PLANNING &
 DESIGN SERVICES



Arby's

Sign Type: B-12 Pylon DP

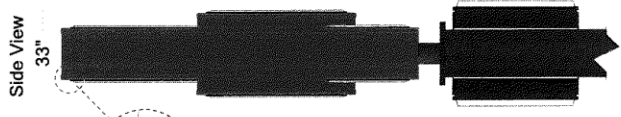
Actual Area: 63.3 Sqft

3 Box Area: 74.8 Sqft

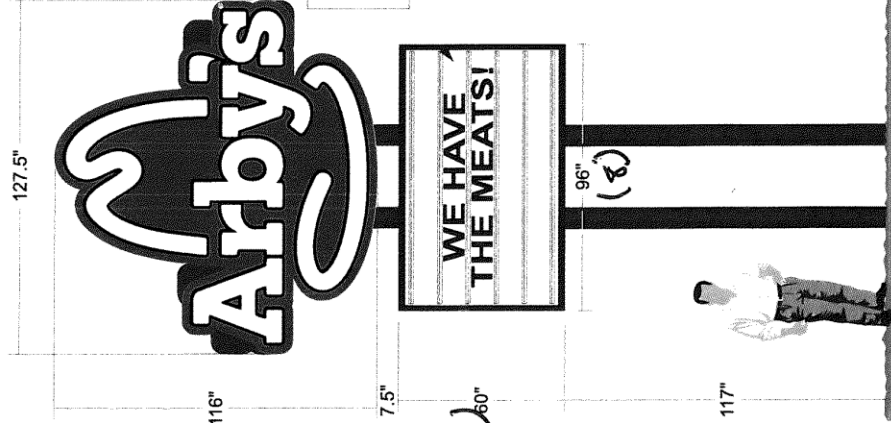
Rectangle Area: 102.9 Sqft

Logo-Shaped Sign Head Graphics:
 Side A Side B

Sign Orientation:
 Low side of flat capover toward building



(10.625)



New flat face readerboard faces. Cut size is 59.5" x 95.5". 5 rows of copy to fit existing 8" on 10" fonts

Sign Specifications

B12 Pylon head to be installed on existing double pole. New flat readerboard faces. Pylon faces to be clear acrylic capover faces painted 2nd surface. Existing pole and cabinet to be paint gloss black.

Sign Specifications

- Black Vinyl Outline Applied 2nd Surface
- Faces Painted Red PMS 1795 2nd Surface
- Clear Polycarbonate Faces painted White 2nd surface
- Returns Painted Red PMS 1795

APPROVAL INFORMATION & ATION

Proof is approved. Proceed with production of order.
 Proof is approved with corrections. Make corrections as indicated and proceed with production of order

SIGNATURE _____ DATE _____
 PRINT NAME _____



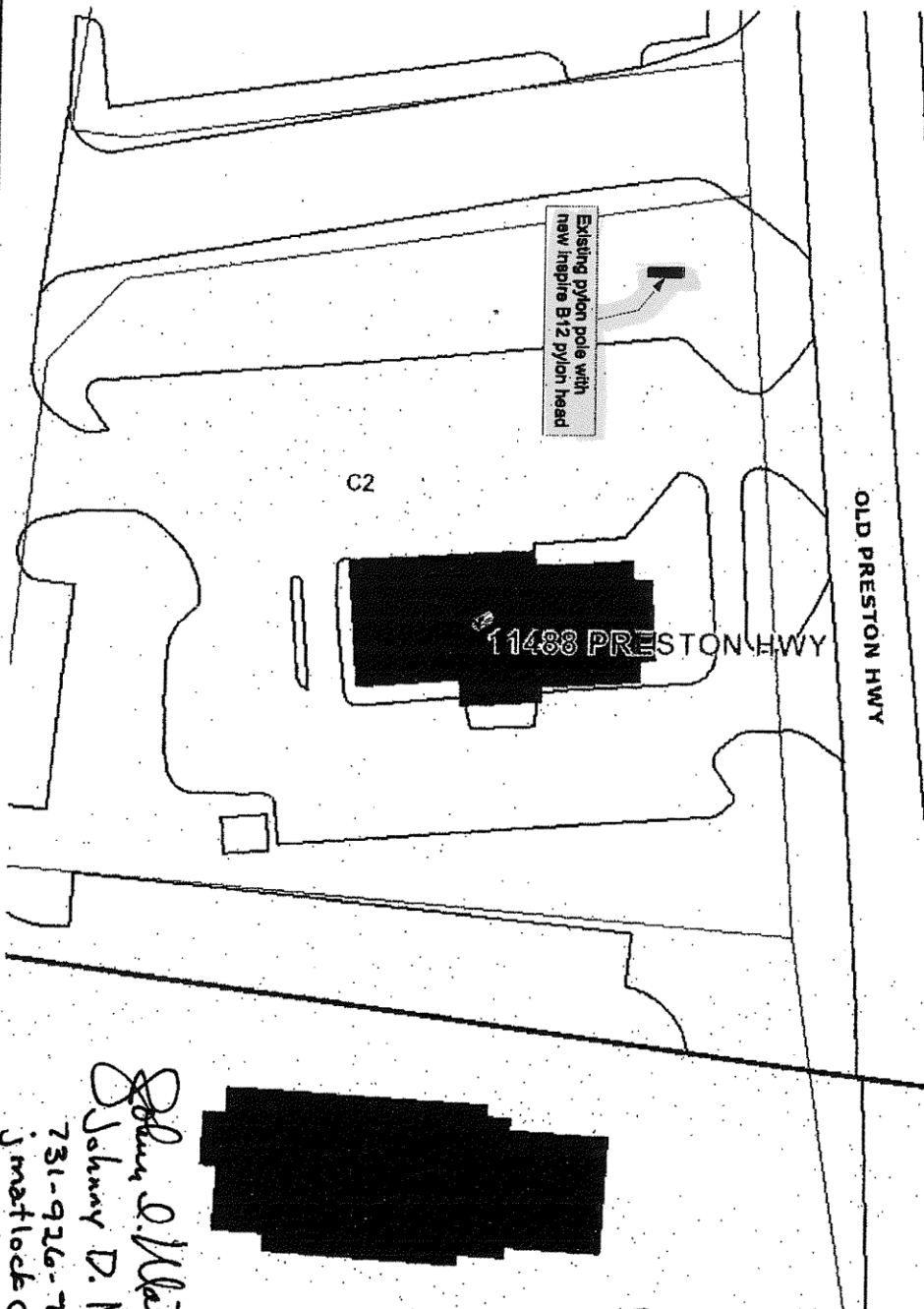
Client: ARBY'S - #1918
 Location: 11488 Preston Hwy Louisville, KY
 Drawn By: JRB Date: 10/1/15
 Approved By: _____
 Sheet: _____ Scale: _____
 File: Z:\Corporate Restaurant\Arbys\kybousville/cp

These plans are the exclusive property of Design Team Sign Company. They are submitted to your company for the sole purpose of providing you with a visual representation of the proposed sign. Design Team Sign Company is not responsible for the accuracy of the information provided on these plans. Design Team Sign Company is not responsible for the accuracy of the information provided on these plans. Design Team Sign Company is not responsible for the accuracy of the information provided on these plans. Design Team Sign Company is not responsible for the accuracy of the information provided on these plans.

MAIN ID: 10.625 X 9.7 = 103.1 ft = 143.1 ft Proposed
 READER BOARD: 5' X 8' = 40 ft

15 VARIANCE 1081

Arby's Sign



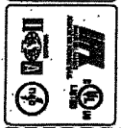
APPROVAL INFORMATION & CONFIRMATION

Proof is approved. Proceed with production of order.

Proof is approved with corrections. Make corrections as indicated and proceed with production of order.

SIGNATURE _____ PRINT NAME _____ DATE _____

This is a site plan for the installation of a sign. It is not a site plan for the construction of a building. The sign is to be installed on the existing pylon pole with a new Inpire B12 pylon head. The sign is to be installed on the existing pylon pole with a new Inpire B12 pylon head. The sign is to be installed on the existing pylon pole with a new Inpire B12 pylon head.



Client	ARBY'S - #1882
Address	11488 Preston Highway, Louisville, KY
Project #	JIB
Phone	502-452-4448
Website	www.designcompany.com

John D. Mastlock
Johnny D. Mastlock
 731-926-7987
 j.mastlock@designcompany.net

Design
 COMPANY
 LLC

731-452-4448 • 800-553-9744 • Fax: 731-452-5222
 www.designcompany.net

RECEIVED
 JAN 28 2016
 PLANNING &
 DESIGN SERVICES

15 VARIANCE 1081

SITE PLAN

Participants

- **BBM-I Properties, LLC** – Land owner of 1148 Preston Highway, Louisville, KY 40229 (contacts: Chris Bowling and Lynn Taylor)
- **Design Team Sign Co.** – Arby's Corporate preferred vendor for fabrication of building and pylon signage: 350 Pinhook Dr., Savannah, TN 38372 (contacts: Heather Picou and Johnny Matlock)
- **Lilly Sign Company** – Installer sub-contractor to Design Team Sign Co.: 16101 Eastwood Cut Off Rd., Louisville, KY 40245 (contact: Chris Dobbs)

Communication and Documentation Time Line

- 10.1.15 – Email from Design Team Sign Co. confirming order for fabrication, permitting and installation of signage at 1148 Preston Highway (Exhibit 1)
- 10.28.15 – Email from Design Team Sign Co. confirming
 - Approval of sign permits with exception of pylon sign
 - Request of BBM-I Properties to complete variance application
 - Communication that pylon sign will not be installed until permit received. Expected approval of variance at 12.7.15 Board meeting (Exhibit 2)
- 10.29.15 – Email from BBM-I Properties to Design Team Sign and Lilly Sign Co. containing completed Variance application and Checklist and Non Public Information. Communicated that “site plan, drawings and photographs” and “mailing information for APO's” to be completed by Design Team Sign and/or Lilly Sign Co. (Exhibit 3).
- 11.2.15-12.28.15 – String of Text Communications between Chris Bowling, Lynn Taylor and Chris Dobbs (Exhibit 4)
 - 11.2.15 – Text from C. Bowling to C. Dobbs confirming receipt of 10.29.15 email. Confirmation received from C. Dobbs
 - 11.17.15 – Text from C. Bowling to C. Dobbs inquiring about variance approval process. C. Dobbs confirms that variance request is on 12.7.15 docket
 - 12.9.15 – Text from C. Bowling to C. Dobbs inquiring about variance approval on 12.7.15. Reply from C. Dobbs that variance was approved and installation of pylon sign set for 12.11.15.
 - 12.18.15 – Text from C. Bowling to C. Dobbs communicating email received from Dante St. Germain advising of case number and decision not to advance until site plan submitted. C. Dobbs reply that he will address with Dante.
 - 12.28.15 – Text from C. Bowling to C. Dobbs communicating voicemail from Code Enforcement regarding Arby's pylon sign. Communication between L. Taylor and C. Bowling regarding confirmations and issues received from C. Dobbs. C. Dobbs confirms he spoke with Code Enforcement and Dante that site is being drawn and submitted today.
- 1.27.16 – Email from L. Taylor to Design Team Sign regarding conversation with Michael Wilcher regarding variance and confirming that C. Dobbs never submitted site plan and variance request has not been presented to Board. (Exhibit 5)
- 1.29.16 – Email from Design Team Sign confirming conversation with Dante and site plan submittal on 1.28.15. Case manager to be assigned and scheduled for board meeting. (Exhibit 6)

Friday, February 5, 2016 at 9:21:50 AM Eastern Standard Time

Subject: Fwd: Design Team Order 118835 - AR #1982- LOUISVILLE, KY- INSPIRE REMODEL

Date: Thursday, October 1, 2015 at 10:32:40 AM Eastern Daylight Time

From: Lynn Taylor

To: Chris Bowling

Be sitting down when you open

Best Regards,
Lynn Taylor
Director of Operations
Lavco Food Services

Begin forwarded message:

From: Heather Picou <hpickou@designteam.net>

Subject: Fwd: Design Team Order 118835 - AR #1982- LOUISVILLE, KY- INSPIRE REMODEL

Date: October 1, 2015 at 9:57:14 AM EDT

To: Lynn Taylor <ltaylor@arbys.biz>

Lynn- here is the sales order for 1982- Louisville, KY. The graphics are being revised...should have them today. I quoted the entire remodel (pylon head, readerboard faces, painting the structure, hat sign, channel letters, directional faces with painting of the cabinets (service will be extra if required), the eyebrow band, drive thru canopy, corner canopy, side entrance canopy, menu board break away canopy (anchor bolts set by your GC). I also included the survey (already done), permitting and installation of both my crew doing the eyebrow and the local crew doing the rest of the signs. Is this correct? Please let me know ASAP if there are revisions needed. Otherwise, I need to get this into engineering ASAP in order to hit a date in November for install.

----- Forwarded message -----

From: Heather Picou <postmaster@designteam.net>

Date: Thu, Oct 1, 2015 at 8:32 AM

Subject: Design Team Order 118835 - AR #1982- LOUISVILLE, KY- INSPIRE REMODEL

To: hpickou@designteam.net

--
Best Regards,
Heather B Picou

Sales/Project Manager
Design Team Sign Co.
Office: 850-733-9812
Mobile: 865-274-9904

Friday, February 5, 2016 at 9:22:13 AM Eastern Standard Time

Subject: Fwd: AR #1982- Louisville, KY
Date: Wednesday, October 28, 2015 at 2:10:30 PM Eastern Daylight Time
From: Lynn Taylor
To: Chris Bowling

Best Regards,
Lynn Taylor
Director of Operations
Lavco Food Services

Begin forwarded message:

From: Heather Picou <hpickou@designteam.net>
Date: October 28, 2015 at 1:19:05 PM EDT
To: Lynn Taylor <ltaylor@arbys.biz>, Cheryl Brown <cbrown@designteam.net>
Subject: Re: AR #1982- Louisville, KY

Lynn- the attached variance application must be filled out and signed by the property owner to apply for the variance to get the pylon head replaced.

On Wed, Oct 28, 2015 at 11:46 AM, Heather Picou <hpickou@designteam.net> wrote:

Lynn- all of your sign permits have been approved except the pylon sign. It must have a variance. The max height allowed is 12' and the max size is 60sf. Your existing sign is over that and the proposed sign is over that. They said the variance will pass, but we must apply and pay. The cost to file is \$600 and the meeting is 12/7. The rest of the site will be installed on schedule, but the pylon will have to wait until it is approved.

--
Best Regards,
Heather B Picou

Sales/Project Manager
Design Team Sign Co.
Office: [850-733-9812](tel:850-733-9812)
Mobile: [865-274-9904](tel:865-274-9904)

--
Best Regards,
Heather B Picou

Sales/Project Manager
Design Team Sign Co.
Office: [850-733-9812](tel:850-733-9812)
Mobile: [865-274-9904](tel:865-274-9904)

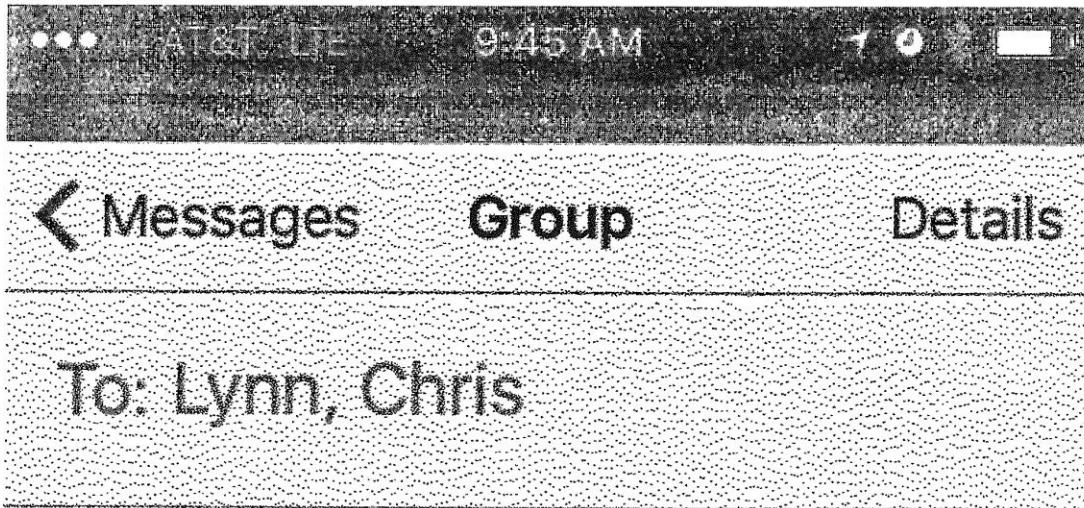
Friday, February 5, 2016 at 9:54:01 AM Eastern Standard Time

Subject: (none)

Date: Friday, February 5, 2016 at 9:52:07 AM Eastern Standard Time

From: Chris Bowling

To: cbowling@arbys.biz



iMessage
Mon, Nov 2, 12:22 PM



Hillview Arbys?

Dobbs Chris

Yes sir we sure did
and will droppind



< Messages Group Details

To: Lynn, Chris

Tue, Nov 17, 2:26 PM

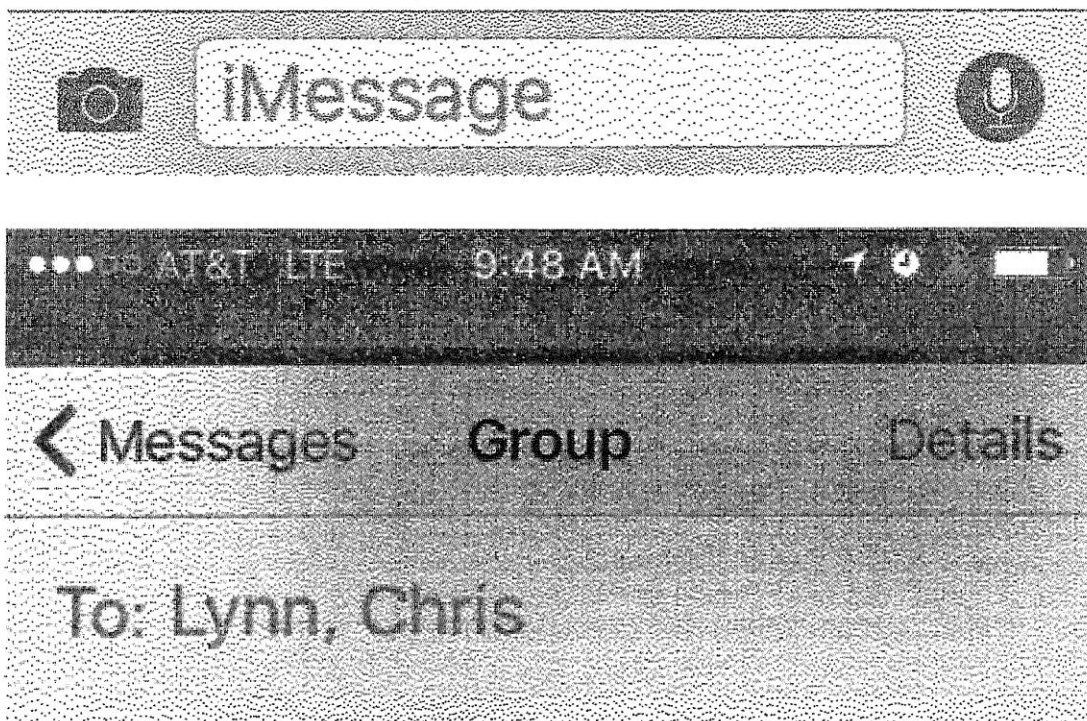
Hey Chris

We are at the

Preston hwy arby's
today and see that
the signs are
here... did we get
approval for the
variance

Chris Bowling

Dobbs Chris



We are on the docket for December 7. It will be approved then

CD

Thanks

So everything but pylon sign will go up prior?

Dobbs Chris

That is correct sir. I have crew starting



iMessage



AT&T LTE

9:43 AM



Personal Hotspot: 1 Connection

← Messages Group Details

To: Lynn, Chris

Wed, Dec 9, 11:56 AM

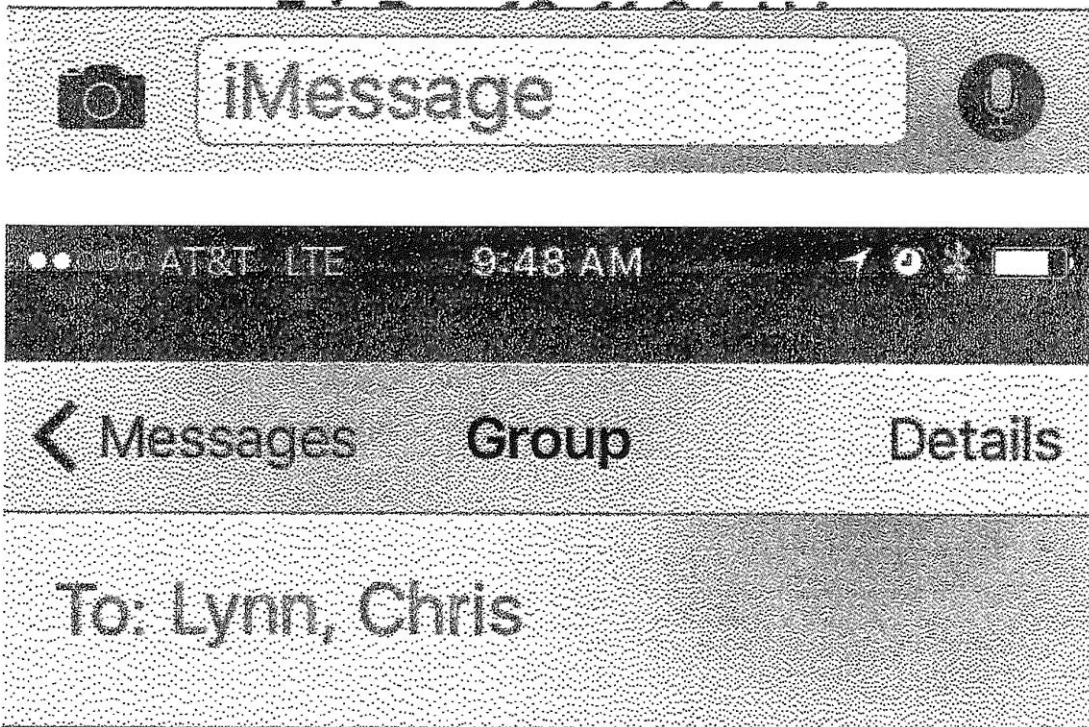
Hey Chris Did we get the variance for the Preston Hwy sign

Dobbs Chris

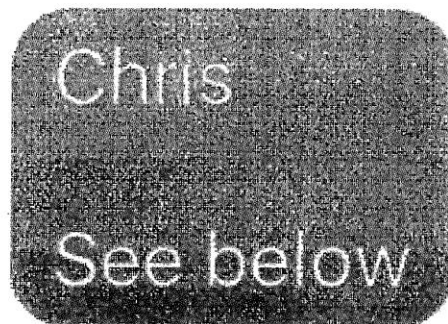
We did sir.
Installing early
Friday

CD

Thanks



Fri, Dec 18, 11:34 AM



Development Code, regarding a sign for a business located at 11488 Preston Highway in Louisville, KY. This application has been assigned case# 15VARIANCE1081. No site plan was included with the application. Please be advised that your application cannot advance until a site plan has been

submitted.

Dante St. Germain

Associate Planner

Develop Louisville - Planning and Design
Services

Metro Development Center - 3rd Floor

444 S. Fifth Street, Louisville, KY 40202

(502) 574-8445



iMessage



AT&T LTE

9:48 AM



Personal Hotspot Connection



Messages

Group

Details

To: Lynn, Chris

Dobbs Chris

I'll get this
straightened out
Chris. This office



Chris. This office
changes daily

Thank you

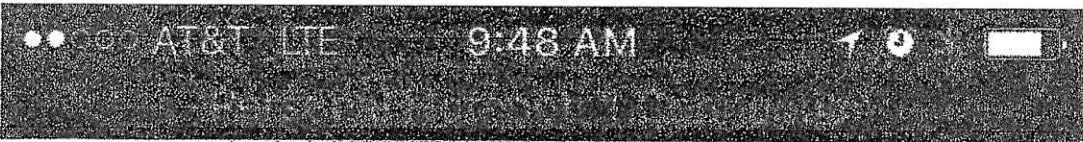
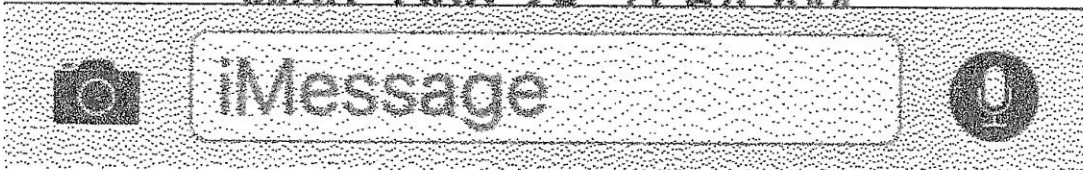
I will not respond
then

Dobbs Chris



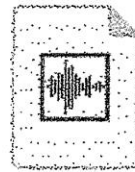
Okay sir.

Mon, Dec 29 11:54 AM



To: Lynn Chris

Mon, Dec 28, 11:54 AM



voicemail-1028....

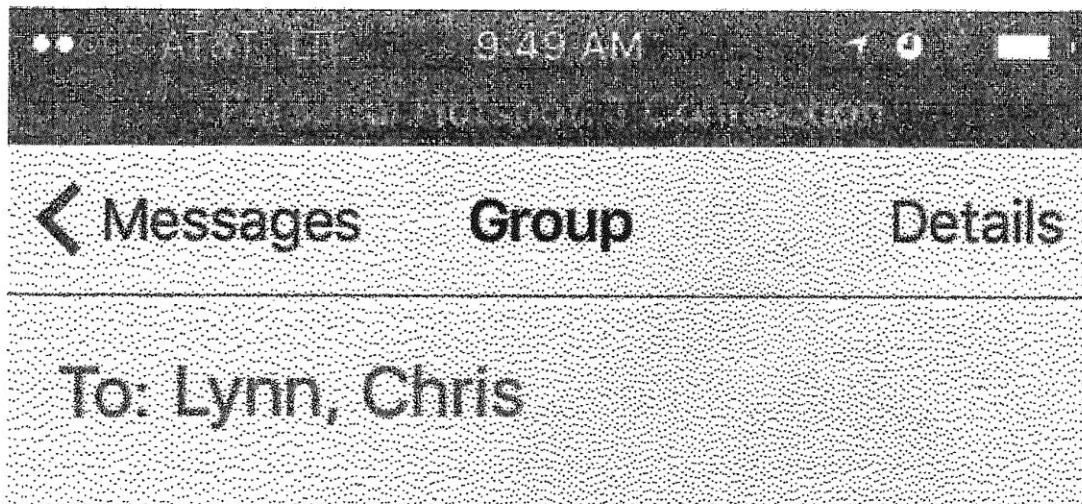
Chris

Here is a voicemail
I received this
morning from
code enforcement
regarding sign



iMessage





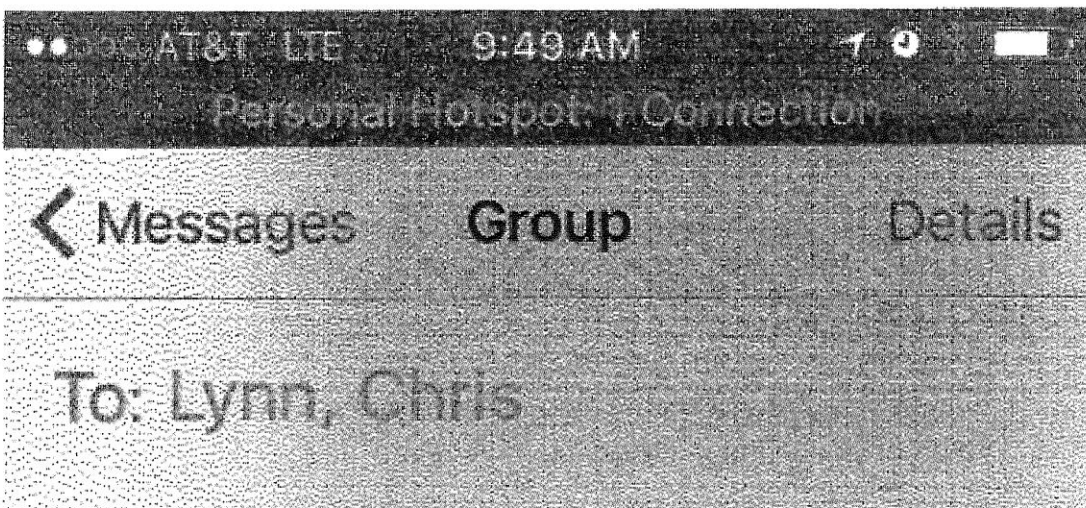
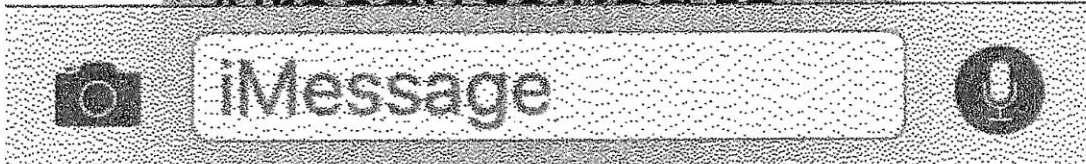
Chris

Here is a voicemail
I received this
morning from
code enforcement
regarding sign
violation

Will I please call
them for me

Taylor Lynn

Already talked to



Taylor Lynn

Already talked to
Chris Dobbs I
could tell he is not
wanting to submit
a site plan but he
said he would take

said he would take
care of it.

Which is what he
told you the last
time you received
notice.



Thanks



iMessage

••• AT&T LTE 9:49 AM Personal Hotspot: 1 Connection

< Messages Group Details

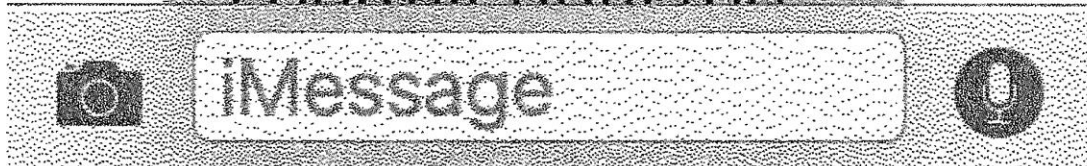
To: Lynn, Chris

Thanks

Is he going to call
the code
enforcement guy

Taylor Lynn

I gave him the
name and number.
Said he would be
he said that the
last time. They are
not going to issue
a permit until the



To: Lynn, Chris

he said that the last time. They are not going to issue a permit until the site plan is submitted. Chris says it has already been before the board and approved. He paid all the fees and thought that would take care of it.



iMacos



Message

AT&T LTE 9:49 AM
Personal Hotspot: 1 Connection

Messages Group Details

To: Lynn, Chris

approved. He paid
all the fees and
thought that
would take care of
it.



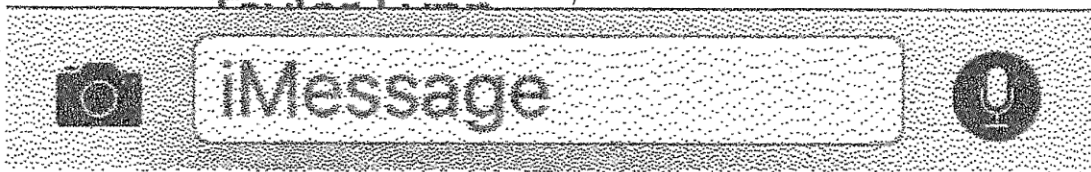
Dobbs Chris

Spoke with Mike
and Dante as well,
Site plan is being
drawn and will be



submitted today.

Thank u



Chris Bowling
859.351.8464

Sent from my Maxwell Smart Shoe Phone

Friday, February 5, 2016 at 9:57:27 AM Eastern Standard Time

Subject: Re: Site with no permit address
Date: Wednesday, January 27, 2016 at 10:44:45 AM Eastern Standard Time
From: CHRIS BOWLING
To: Lynn Taylor

Did Chris Dobbs never take care of this?

Chris Bowling
859.351.8464
cbowling@arbys.biz

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From: Lynn Taylor <ltaylor@arbys.biz>
Date: Wednesday, January 27, 2016 at 10:36 AM
To: Johnny Matlock <jmatlock@designteam.net>
Cc: Heather Picou <hpicou@designteam.net>, <Michael.Wilcher@louisvilleky.com>
Subject: Re: Site with no permit address

Johnny,
The address is:

Arbys #1982
11488 Preston Hwy
Louisville, KY 40229

The gentleman that I have been conversing with on this issue is Mr Michael Wilcher with the Louisville Metro Government. Basically my understanding of the issue is that no site plan was ever submitted and that is a requirement to get the permit process started. It will then have to go through the zoning board for approval. If you would like to call Mr Wilcher directly I believe he will be more than happy to help you get this issue resolved. His number is 502-574-8692. Also I have another name that is familiar with this issue, Dante Germaine 502-574-8445

Case #15VARIANCE1081

Thank you for getting the wheels in motion as this has been going on for about a month.

Best Regards,
Lynn Taylor
Director of Operations
Lavco Food Services

On Jan 27, 2016, at 10:14 AM, Johnny Matlock <jmatlock@designteam.net> wrote:

Lynn,

I understand there's a site that was installed without the sign permits. I'm trying to figure out what I can do get this resolved but can you tell me the address of the site in question?

Thanks!

Johnny

Johnny Matlock
Senior Project Manager

Design Team Sign Co., LLC
350 Pinhook Drive
Savannah, TN 38372

Phone: 800-953-3744 or 731-925-4448

Fax: 731-926-2022

e-mail jmatlock@designteam.net

website: designteam.net

Friday, February 5, 2016 at 9:58:06 AM Eastern Standard Time

Subject: Re: Arby's #1982- 11488 Preston Hwy, Louisville, KY
Date: Friday, January 29, 2016 at 10:30:26 AM Eastern Standard Time
From: CHRIS BOWLING
To: Johnny Matlock, Lynn Taylor
CC: Heather Picou, Michael.Wilcher@louisvilleky.gov, St. Germain, Dante

Thank you. I plan on attending the meeting on the 15th

CB

Chris Bowling
859.351.8464
cbowling@arbys.biz

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From: Johnny Matlock <jmatlock@designteam.net>
Date: Friday, January 29, 2016 at 9:38 AM
To: CHRIS BOWLING <cbowling@arbys.biz>, Lynn Taylor <ltaylor@arbys.biz>
Cc: Heather Picou <hpicou@designteam.net>, <Michael.Wilcher@louisvilleky.gov>, "St. Germain, Dante" <Dante.St.Germain@louisvilleky.gov>
Subject: Arby's #1982- 11488 Preston Hwy, Louisville, KY

I just wanted to give everyone an update. I spoke with Dante this morning concerning this location. I had sent her a site plan yesterday afternoon and she said it was sufficient and that she had all the paperwork now to move forward. She said a case manager would be assigned to this now and it would be next Tuesday before that happens. The variance board meets the first and third Monday of every Month. We will not make it for the February 1st meeting. Hopefully we'll make it for the February 15th meeting. She said the case manager would notify the owner (Chris Bowling) when it will go before the variance board and they usually meet at 8:30 am. It probably would be a good idea for someone to be at the variance meeting.

Chris – Please let us know if you receive a call or e-mail from the case manager. If they need anything that I can help with please let me know.

Thanks!
Johnny
800-953-3744

Chris Bowling
859.351.8464
cbowling@arbys.biz