

**PC Case # 2020-123/124/125
November 16, 2020**

Applicant: Greg Sommers (Sommers Development Group)

Property Owner: Center Cherry LLC

Property Location: 255 Center Street
Parcel ID #10-096200

Requested Action: Three (3) Variances
Conditional Use
Concept Site Plan Approval

Purpose: Variance to Section 1139.01(2) to reduce the minimum rear parking setback from 10' to 6'

Variance to Section 1145.11(13) to reduce the minimum lot size required for a drive-thru from 1 acre to 0.6061 acres

Variance to Section 1155.27 to reduce the minimum number of stacking spaces for a drive thru lane (measured from order station) from six (6) to two (2)

Conditional Use under Section 1139.03 – Allow the construction of a Drive-Thru in association with a permitted use (restaurant)

Concept Site Plan Approval

Zoning: “C-3” Traditional Commercial District – Vacant

Existing Land Use: Vacant

Surrounding Uses & Zoning: East
“C-3” Traditional Commercial District – Vacant

South
“C-3” Traditional Commercial District – Yankee Clipper

West
“C-3” Traditional Commercial District – Cherry Plaza

North
“C-4” General Commercial District – CVS Pharmacy

DESCRIPTION

Applicant – Sommers Development Group (Greg Sommers) is requesting a Conditional Use approval for a Drive-Thru Facility in the “C-3” Traditional Commercial District under section 1139.03 of the City of Chardon Codified Ordinances for a Starbucks restaurant. As part of the concept plan

approval, the applicants are also requesting three (3) variances from the City of Chardon Codified Ordinances as follows: 1) Section 1139.01(2) to reduce the minimum rear parking setback from 10' to 6' along the south property line. 2) Section 1145.11(13) to reduce the minimum lot size required for a drive-thru from 1 acre to 0.6061 acres 3) Section 1155.27 to reduce the minimum number of stacking spaces for a drive thru lane from six (6) to two (2)

The property is located on the south side of Center Street on the southeast corner of the intersection of Center Street and Cherry Ave. The address of the property is 255 Center Street, Chardon, OH 44024, with Parcel ID# 10-096200. The properties are owned by Center Cherry LLC.

ANALYSIS

The applicants are requesting three (3) variances and a conditional use approval with the intentions of constructing a 2,213 sq. ft. restaurant with a drive-thru. The variances that are requested by the applicant are necessary due to the size of the parcel. The following is a list of the variances and conditional use that are being requested:

STANDARDS FOR AREA VARIANCES & CONDITIONAL USE

Variance to Section 1139.01(2) - Reduce the minimum rear parking setback from 10' to 6'. The parking stalls along the southern property line will be located from 6' to 8' from the property line. Staff does not feel this is a major encroachment. The adjacent parking lot exceeds the minimum side yard setback requirement and the reduction of parking setback will not have a major impact on the adjacent property. There will be a minimum of 6' landscaped area (including three (3) trees) between the parking lot and the property line. This property does have an exceptionally large setback from Center Street due to the abnormally large width of the public right-of-way at the intersection of Center Street and Cherry Avenue.

Variance to Section 1145.11(13) - Reduce the minimum lot size required for a drive-thru from 1 acre to 0.6061 acres. The minimum lot size in the "C-3" Traditional Commercial District for a drive thru is one (1) acre. The lot are located on the corner of Center Street and Cherry Avenue and there is no available property that can reasonably be added to the site that can increase the size to one (1) acre. This development is abnormal in the fact that drive-thrus typically are associated with restaurants that have larger dining rooms and have increased parking requirements which would require more lot area. Typical fast food restaurants are between 4,000-5,000 sq. ft. and require 40-50 parking spaces. The proposed Starbucks is only 2,214 sq. ft. and requires only 23 parking spaces. Additionally, this property has an exceptionally large setback from Center Street due to the abnormally large public right-of-way at the intersection of Center Street and Cherry Avenue. The applicants have attempted to work with the property owner to the east to connect this property with the City of Chardon property that Sommers Development Group has an option to purchase. At this time they are unable to reach any arrangement with USA Management on the adjoining property.

Variance to Section 1155.27 - Reduce the minimum number of stacking spaces for a drive thru lane from six (6) to two (2). This is measured from the order station and there will be eight (8) total waiting spaces in the drive thru. Unlike the request that was made by Tim Horton's in 2019 the overflow of Starbucks drive thru would be into their parking lot prior to backing into the street on Cherry Avenue. Starbucks has submitted information regarding this reduction in spaces and because of the nature of their custom drink orders they would rather have more stacking from the pick-up window after the order station. In Starbucks opinion this would allow for more stacking at the needed step in the process than

prior to the order station. There are no drive thrus currently in Chardon that have less than the required stacking spaces. Staff would have more concern with this lack of stacking spaces if the only overflow would be into the public roadway. The applicants have submitted a traffic impact study based on the volume of cars and anticipated peak hours. The impact study has been reviewed by Kevin Westbrook (GPD Group) and the TIS is deemed acceptable.

The standards for each variance shall be discussed and incorporated into the announcement of decision for each variance by the Planning Commission. The standards of approval for the Planning Commission to take under consideration when determining the merits of an area variance request are laid out in the City of Chardon Codified Ordinances Section 1119.15 as follows:

- (1) Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district, such as exceptional irregularity of shape; limitations upon the size, dimensions, terrain or grade of the lot; or proximity to a non-conforming or incompatible use, structure or condition;
- (2) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
- (3) Whether the variance is substantial;
- (4) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
- (5) Whether the variance would adversely affect the delivery of governmental services (e.g. water and sewer);
- (6) Whether the property owner purchased the property with knowledge of the zoning restrictions. The applicant or property owner shall be given the opportunity to establish practical difficulty despite knowledge of the zoning restriction when the land was purchased;
- (7) Whether special conditions or circumstances exist as a result of actions of the owner;
- (8) Whether the property owner's predicament feasibly can be obviated through some method other than a variance and the variance sought is the minimum that will afford relief; and
- (9) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance.

Conditional Use under Section 1139.03 – Conditional Use under Section 1139.03 – Allow the construction of a Drive-Thru in association with a permitted use (restaurant).

The restrictions that are laid out in 1145 for a drive-thru are very minimal. The proposed request meets those requirements except for the minimum lot size that Starbucks is requesting a variance.

The following are the special conditions that must be met according to Section 1145 of the Codified Ordinances.

Conditional Use	Conditional Use/P* in District	Minimum Lot Regulations ⁽¹⁾		Also See Section:
Drive-thru facility in association with a permitted use	C-1, C-2, C-3, C-4	1 acre	125 ft.	1145.13(n)

(n) Drive-thru Facility in Association with a Permitted Use; Freestanding Drive-thru Facility.

- (1) The use shall be located on an arterial or collector street and on the location of the lot which will be least disruptive to pedestrian and vehicular traffic.
- (2) A loudspeaker system, if requested, shall be approved as part of the development plan.
- (3) Access drives shall be located on the site at the maximum, feasible distance from an intersection to reduce traffic congestion and restricted turning movements.

Considerations

City Engineer Review

The City Engineer has reviewed the updated plans for this project and recommended approval of the Concept Site Plan provided Planning Commission approves the three (3) variances and conditional use that are necessary for compliance with the Codified Ordinances. The City Engineer’s comments from the previous submittal of this project have been addressed.

City Architect Review

The City Architect has reviewed the project and recommended for approval of the project with the minor notes to be addressed. The City Architect will review the Construction Drawings to assure their compliance with Concept Plan approval.

City Fire Inspector Review

The plans have been reviewed by Stephen Bohm (Fire Inspector) and they meet the general requirements. A more detailed review will be completed at the time of Construction Drawing submittal.

City Arborist/Urban Forester

The landscape plan has been reviewed by the City Arborist and he is recommending changes to be addressed for the final construction documents. The City Arborist has stated the existing tree along Center Street must remain and the applicants shall work the City Arborist to amend the tree species list to create more diverse tree inventory in the City prior to approval of final construction documents. In addition, he has asked that the four easterly trees to be moved further north and can be placed within the public right-of-way in a location acceptable to the City if underground utilities are present. Finally, the western most street tree along Center Street can be removed due to the presence of the aforementioned existing tree along Center Street.

Concept Plan Approval

The variance and conditional use would need to be approved by the Planning Commission in order for the Concept Site Plan to be approved.