



BOARD OF ZONING APPEALS STAFF REPORT

To: Board of Zoning Appeals Members

From: Elizabeth Fields, AICP, Planner

Meeting Date: September 17, 2025

**BZA 25-03 400 Commerce Center Drive (Parcel 0426426034) – Variance
Request to Utilize EIFS as a Building Material on the Pedestrian
Level.**

Property Information: Location: 400 Commerce Center Drive (Parcel: 0426426034)
 Zoning: C-1 General Commercial District
 Property Use: Lee's Famous Recipe Chicken (Quick Service Restaurant)

Variance Request: The applicant, Whitney Locker c/o Alliance Engineering LLC, is requesting a
variance from the following section of the City's Unified Development
Ordinance (UDO):

Section 1115.08(h)(3)(C): The following building materials are permitted for
use under this section:

- (i) Residential-scale brick using non-glazed finishes;
- (ii) Natural stone material;
- (iii) Natural and natural-based wood materials, excluding T-111 or similar materials;
- (iv) Exterior insulation and finish systems (EIFS) above the pedestrian level;
- (v) Split-face concrete masonry unit (CMU) on exposed foundations and using colors embedded into the material;
- (vi) Unless specifically modified by Planning Commission: (Glass only for doors and windows. Curtain walls are not permitted);

- (vii) Metal cladding for use as roofing material; and
- (viii) Concrete siding designed to share an appearance of wood siding such as Hardiboard or Hardiplank.

Comments: The applicant is proposing to utilize EIFS at the pedestrian level which is not permitted per Section 1115.08(h)(3)(C)(iv).

Project Overview:

The applicant, Whitney Locker c/o Alliance Engineering LLC, is requesting a variance from the Major Site Plan exterior façade design standards in order to utilize exterior insulation and finish systems (EIFS) on the pedestrian level for the construction of a Lee’s Famous Recipe Chicken at 400 Commerce Center Drive in the C-1 General Commercial District.

The Major Site Plan application for Lee’s Famous Recipe restaurant was approved by the Planning Commission during their July 9, 2025 meeting. While the Planning Commission is able to modify the exterior façade design standards for manufacturing uses in the I-2 and I-2 Districts (as well as in the PAR District), the Planning Commission does not have the power to modify the design standards in any other district. As such, a variance is necessary in order to provide relief from these standards.

The applicant has noted that the variance request to use EIFS is based on the fact that the new Lee’s Famous Recipe Chicken design is derived from a prototype design that was commissioned for the new restaurants. Since any new construction of Lee’s Famous Recipe will utilize this design, Lee’s would not like to stray from the prototype design.

Comments:

Variance General Standards for Approval:

Standards for Approval: Unless other standards are provided in this UDO for variances from a particular set of design/development standards or regulations, the following Standards for Approval shall apply. Approval of a variance shall only be granted if the Appeals Board finds that all of the following standards are met:

1. 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 within the same zoning district. (Examples of such special conditions or circumstances are: exceptional irregularity, narrowness, shallowness, or steepness of the lot, etc.).

The property has a significant grade compared to other properties located in the C-1 District.

2. The special conditions or circumstances that exist did not result from the actions of the applicant.

The special conditions did not result from the actions of the applicant.

3. There cannot be any beneficial use of the property without the variance.
Without the variance, the applicant will be able to construct a Lee's Famous Recipe Chicken utilizing the building materials in Section 1115.08(h)(3)(C).
4. The variance is not substantial and is the minimum relief necessary to make possible the reasonable use of the land or structures.
The variance is substantial as it would allow for a building material that is otherwise not permitted on the pedestrian elevation.
5. The difficulty or reason why the applicant is seeking a variance cannot be resolved through any method other than a variance.
A variance is the minimum relief necessary to allow for the use of EIFS on the pedestrian level.
6. The essential character of the neighborhood will not be substantially altered nor will adjoining properties would suffer substantial detriment as a result of the variance.
The essential character of the neighborhood will not be substantially impacted.
7. The variance will not adversely affect the delivery of governmental services such as water, sewer, and trash pickup.
Governmental services will not be impacted.
8. Granting the variance will be in harmony with the general purpose and intent of the zoning requirement the applicant seeks a variance from and will not otherwise be detrimental to the public's health, safety, or welfare.
Granting the variance will not be in harmony with the general purpose and intent of the zoning requirements.
9. Granting of the variance requested will not confer upon the applicant any special privilege that is denied by this UDO to other lands, structures, or buildings in the same district.
The applicant will be conferred a special privilege that is denied to other lands, structures, or buildings in the C-1 Zoning District.