



CITY OF TONTITOWN PLANNING OFFICE

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Meeting: **August 22, 2023**
Project: **Pam School Waiver**
Planner: Mark Latham

PLANNING COMMISSION AGENDA ITEM 9 WAIVER REQUEST

294 and 296 Bandini Ave.
Parcel # 830-37563-000

SUMMARY: Pam Transport, Inc. is requesting a waiver code section 152.151 which describes the primary material shall constitute at least 75% of the wall area, excluding glass. The primary exterior material shall consist of a combination of brick, textured concrete block, stucco, wood, synthetic stone or natural stone.

CURRENT ZONING: C-2 -Commercial

CITY WARD: 3- Mike Washkowiak and Tim Burress

FLOODPLAIN: No

INFRASTRUCTURE SERVICE AREAS (not a guarantee of service availability):

Water: Tontitown Water.

Electric: Ozarks Electric

Sewer/Septic: Tontitown Sewer

Phone: AT&T

Natural Gas: Black Hills Energy

Cable: Cox Communications

REQUEST:

The applicant is requesting one (1) Waiver from City's Commercial Design Standards for Large Scale Development.

152.026 WAIVERS.

(A) General.

(1) When, by the **strict interpretation of these regulations, an applicant incurs undue restrictions on the physical property to be subdivided**, a waiver for such requirements may be granted by the Planning Commission.

(2) **Under no circumstance should a waiver be granted because of a personal hardship or for personal or emotional reasons. Waivers shall not be granted based strictly on financial hardship.**

(3) A waiver is determined by the strict interpretation and enforcement of the rules and regulations upon a given piece of property to be subdivided.

(B) Procedures.

(1) No waiver shall be granted except upon written petition by the applicant when the application is filed. The petition shall state fully the grounds for the waiver and all the facts

upon which the petition is made.

(2) In granting the waiver, the Planning Commission shall prescribe any conditions that it deems necessary to or desirable in the public interest.

(3) In considering the petition for a waiver, the Planning Commission shall take into account the **nature of the proposed use of land involved, existing uses of land in the area, proximity to public utilities, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such waiver upon traffic conditions and upon the public health, safety and general welfare in the vicinity.**

(4) The findings of the Planning Commission, together with the specific facts upon which findings are based, shall be incorporated into the official minutes of the Planning Commission meetings at which such waiver is granted. Waivers may be granted only when in harmony with the general purpose and intent of these regulations.

WAIVER

Waiver from Commercial Design Standards; to allow property owner to construct a manufactured metal building without any additional stone or store front glazing.

- (a) *That there are special circumstances or conditions affecting the land involved such that the strict application of the provision of these regulations would deprive the applicant of the reasonable use of this land.*

Applicant's Letter: Unlike other buildings in the district, the proposed structure is located at the rear of the of the site, and such will not be ready visible from the public realm.

Staff's Response: Circumstances or conditions surrounding the site are mainly used for truck parking in their own right.

- (b) *That the waiver is necessary for the preservation and enjoyment of a substantial property right of the applicant.*

Applicant's Letter: It is the desire of the owner to build a economical structure from one source (metal building manufactured) without the need to involved specialty trades.

Staff's Response: Waiver outcome will not have any bearing on the preservation and enjoyment of the property rights of the applicant.

- (c) *That the granting of the waiver will not be detrimental to the public health, safety and welfare or injurious to other property in the area.*

Applicant's Letter:

Staff's Response: Granting this waiver will not be detrimental to the public health, safety, and welfare or injurious to other property in the area.

- (d) *That the granting of the waiver will not have the effect of preventing the orderly subdivision of*

other land in the area in accord with the provision of these regulations.

Applicant's Letter: The proposed structure is not outside the use or intent of other building within the current area.

Staff's Response: Granting this waiver will not prevent the orderly subdivision or development of other land in the area.

STAFF RECOMMENDATION:

Staff recommends approval of the waiver from city code, 152.151 which describes the primary material shall constitute at least 75% of the wall area, excluding glass. The primary exterior material shall consist of a combination of brick, textured concrete block, stucco, wood, synthetic stone or natural stone.

CONDITIONS RECOMMENDED FOR APPROVAL: