
GRIFFITH FIRM P.L.L.C.

ATTORNEYS AT LAW
PLANO TOWER
101 EAST PARK BLVD., SUITE 600
PLANO, TEXAS 75074

Ryan S. Hughes
Attorney at Law

Phone 817 781 8417
Fax 855 682 1862

January 23, 2017

Art Wright
Planning Department
1200 E. Broad Street
Mansfield, Texas 76063

art.wright@mansfieldtexas.gov

Re: Request for Variance;
Carmelita Meat Market
1275 N. Highway 157, Suite 101
Mansfield, TX 76063

Dear Mr. Wright:

This is to request a variance with respect to Section 7800 (B) 21 (c) of the Mansfield Zoning Ordinances which provides: "No sale of alcoholic beverages shall be permitted by any establishment which is located within 300 feet of a... public... school..."

A. Nature of Business and Surrounding Location.

The Applicant for the requested variance is Carmelita Meat Market. See Exhibit A and B. It seeks a variance from school distance regulations in order to procure an off premise beer and wine permit. Carmelita is located on the West side of Highway 287 in Mansfield. Legacy High School is located on the East side of Highway 287. See Exhibit D.

The only place to gain access to the West side of Highway 287 is a crosswalk located near the southeast corner of the school property. See Exhibit C and D. In order to gain access to Carmelita Meet Market, a student would have to walk South on Highway 287, walk through the crosswalk, and then walk North along Highway 287. Crossing a highway at a place other than a crosswalk is illegal. Section 552.005 (b) of the Texas Transportation Code.

99% of the land located on the Carmelita Meat Market side of Highway 287 is either vacant land or commercial use. See Exhibit D.

Moreover, there is no school crossing guard posted at the cross walk located on Exhibit D because Mansfield ISD regulations do not require crossing guards where students can safely cross an intersection. See Exhibit F.

The purpose of school distance regulations are to protect students walking to and from school. See Section 109.33 of the Texas Alcoholic Beverage Code.

The Applicant is seeking an off-premise permit. That means, that an adult purchasing alcoholic beverages at the location may only consume them after they arrive at their home. It is a criminal violation to possess an open container of alcoholic beverages within 1000 feet of a public school. Section 101.75 of the Texas Alcoholic Beverage Code. Likewise, it is a criminal violation to process an open container of alcoholic beverages in a motor vehicle. Section 49.031 (b) of the Texas Penal Code.

It is anticipated that adults will be purchasing alcoholic beverages from the location on their way home. Except for some after school activities, most students will leave campus well before 5:00 p.m. See Exhibit E-School Schedule. Again, the purpose of school district regulation are to protect students walking to and from school.

B. Conditions for Granting of a Variance.

According to Section 8400 (E) (3) (A-C) of the Mansfield Zoning Ordinances, a variance may be granted when: "...the Board is empowered to authorize a variance...when the Board finds that all of the following conditions have been met:

- (a). That the granting of the variance will not be contrary to the public interest; and
- (b). That literal enforcement of the ordinance will result in unnecessary hardship because of...exceptional physical situation or physical condition unique to the specific piece of property in question....
- (c). That by granting the variance, the spirit of the Ordinance will be observed and substantial justice will be done."

1. A Variance will not Defeat Purpose of Ordinance or Public Interest.

This variance will not obstruct the purpose of the ordinance or the public interest for the following reasons:

- (a). The purpose of school distance regulations is to protect students walking to and from school; not students who are driving or riding in a bus.
- (b). Very few, if any students, walk by the location. Students can only cross Highway 287 at the crosswalk and would be required to walk a substantial distance in opposite directions to do so. 99% of the land on the East side of Highway 287 is vacant or commercial and not residential.

(c). This is an off-premise permit. No one would be consuming alcohol on the premises or in the area as it is illegal.

(d). A vast majority of students will not be on the campus during the anticipated time of alcohol sales.

2. Unique Physical Condition of Property.

The location of Carmelita Meat Market is unique and creates an unusual condition:

(a). Again, the purpose of school distance regulations is to protect students walking to and from school.

(b). There is no crosswalk from the school to Carmelita Meat Market. Students would be required to walk a substantial distance out of the way in order to cross Highway 287.

(c). The land located on the Carmelita Meat Market side of Highway 287 is not residential. It is almost universally either vacant land or land used for commercial uses.

(d). The alcohol permit requested only allows the off-premise consumption of alcohol. Stated differently, it is illegal to have an open container in a car or within 1000 feet of a public school. Section 101.75 of the Texas Alcoholic Beverage Code; Section 49.031 (b) of the Texas Penal Code.

(e). Any alcohol sales would occur after students left the campus and consumption would only occur off premises at the purchaser's residence.

We request that the appropriate action be commenced for the consideration of this variance request. Thank you for your cooperation and assistance.

Sincerely,



Ryan Hughes



Exhibit A



Exhibit B



Exhibit C



Mansfield ISD High School
2016-2017 A-B Block Schedule

Ben Barber Bell Schedule	<u>High School</u> Bell Schedule	Frontier High School Bell Schedule
<p>Session I</p> <p>7:00 a.m. – 10:00 a.m. (180 min)</p> <p><i>Shuttle leaves BBCTA @ 10:05 a.m.</i></p>	<p>Block 1/5 7:25 a.m. – 8:55 a.m. (90 min)</p> <p>Block 2/6 9:00 a.m. – 10:30 a.m. (90 min)</p> <p>Advisory 2/6 10:30 a.m. – 10:50 a.m. (20 min no passing period)</p> <p>Block 3/7 10:55 a.m. – 1:20 p.m. (90 min class 45 min lunch)</p> <p>Lunch Schedule 10:55 – 11:40 11:45 – 12:30 12:35 – 1:20</p> <p><i>Second session BBCTA students lunch 10:35a.m.-11:00 a.m. BBCTA Shuttle leaves home campus at 11:00 a.m.</i></p> <p>Block 4/8 1:25 p.m. – 2:55 p.m. <u>(90 min)</u></p>	<p>Block 1/5 7:00 a.m. – 8:25 a.m. (85 min)</p> <p>Block 2/6 8:30 a.m. – 9:55 a.m. (85 min)</p> <p>Advisory 2/6 10:00 a.m. – 10:35 a.m. (35 min)</p> <p>Lunch 10:40 – 11:25 (45 min)</p> <p>Block 3/7 11:30 a.m. – 12:55 p.m. (85 min)</p> <p>Block 4/8 1:00 p.m. – 2:30 p.m. (90 min)</p>
<p>Session II</p> <p>11:30 a.m.– 2:30 p.m. (180 min)</p> <p><i>Shuttle leaves BBCTA @ 2:35 p.m.</i></p>		



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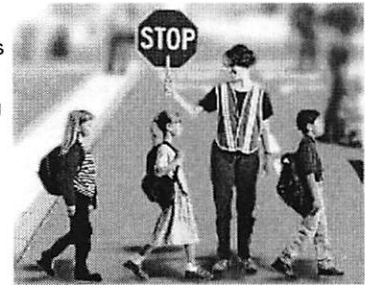
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Crossing Guard Program

The Mansfield ISD Police Department uses part-time civilian employees to serve as School Crossing Guards. Crossing Guards provide a safe environment for students at selected street crossings and schools throughout the district.

The School Crossing Guards assist students in crossing streets, monitor vehicle traffic in the area to ensure there are no problems with speeders or other dangerous activity, and provide adult oversight while children are walking to and from school or waiting for a ride.



The MISD Police Department has a staff of 48 Crossing Guards, 47 who serve as School Crossing Guards in the field and one who serves as the section supervisor.

School Crossing Guards serve the following locations:

- Charlotte Anderson Elementary School (one crossing guard)
- J.L. Boren Elementary School (two crossing guards)
- Janet Brockett Elementary (one crossing guard)
- Willie Brown Elementary (one crossing guard)
- Kenneth Davis Elementary (one crossing guard)
- Glenn Harmon Elementary (two crossing guard)
- Carol Holt Elementary School (one crossing guard)
- D.P. Morris Elementary (two crossing guards)
- Erma Nash Elementary School (one crossing guard)
- Alice Ponder Elementary (one crossing guard)
- Martha Reid Elementary (two crossing guards)
- Mary Jo Sheppard Elementary (four crossing guards)
- Cora Spencer Elementary (three crossing guards)
- Roberta Tipps Elementary (two crossing guards)
- Mary Lillard Intermediate School (five crossing guards)
- Asa Low Intermediate School (four crossing guards)
- Mary Orr Intermediate School (two crossing guards)
- Donna Shepard Intermediate School (two crossing guards)
- Linda Jobe Middle School (three crossing guards)
- Danny Jones Middle School (four crossing guards)
- Brooks Wester Middle School (four crossing guards)
- Rogene Worley Middle School (one crossing guard)
- Mansfield Summit High School (one crossing guard)

Guidelines for Determining Where Crossing Guards are needed:

***** Adult school crossing guards are assigned at locations near schools where school aged pedestrians need supervision and assistance to safely cross public streets. Adult school crossing guards may be provided *****

under the following conditions:

- At uncontrolled street crossings with a designated crosswalk
- At stop sign controlled street crossings
- Or at a traffic signal controlled street crossings

For more information about School Crossing Guards, please contact Mansfield ISD Police at 817-299-6000.



MANSFIELD INDEPENDENT SCHOOL DISTRICT

605 East Broad Street • Mansfield, Texas 76063 • (817) 299-6300

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