



# MORGANTOWN BOARD OF ZONING APPEALS

October 19, 2016  
6:30 PM  
City Council Chambers

**Board Members:**

- Bill Burton,  
Chair
- George Papandreas,  
Vice Chair
- Linda Herbst
- Jim Shaffer
- Colin Wattleworth

## STAFF REPORT

**CASE NO:** V16-34 / Sabraton Properties LLC / 1589 Earl Core Road

**REQUEST and LOCATION:**

Request by Michael Saab, on behalf of Sabraton Properties LLC, for variance relief from Article 1369 concerning signage at 1589 Earl Core Road.

**TAX MAP NUMBER(s) and ZONING DESCRIPTION:**

Tax Map 31, Parcels 105.1, 108, 111, and 149; B-2, Service Business District

**SURROUNDING ZONING:**

North, East, and West: B-2, Service Business District  
South: B-5, Shopping Center District

**BACKGROUND and ANALYSIS:**

The petitioner has applied for the installation of two (2) menu board signs and three (3) wall signs at the proposed *Popeye's Restaurant* location at 1589 Earl Core Road. Addendum A of this report illustrates the location of the subject site.

*Menu Board Signage*

One of the proposed menu board signs will include a 1.19-foot topper. Variance relief is required from Article 1369.07(D)(3), which permits only one (1) menu board; and, from Article 1369.07(D)(1), which limits the height of menu board signs to no more than six (6) feet. The following table illustrates the subject menu board sign that exceeds the height allowed for a menu board by approximately 6.24 inches +/- due to the menu board topper.

Proposed Menu Board Sign (not illustrated to scale)	Proposed Height
	6.56 feet
<b>Total Proposed Height</b>	<b>6.56 feet</b>

*Wall Signage*

Article 1369.07(l)(1) provides a maximum area standard of six tenths (0.6) square foot for every one (1) foot of tenant building frontage in the B-2 District. The tenant's store frontage is twenty-four (24) linear feet +/-, which establishes a maximum wall sign area standard of 14.4 square feet for the proposed building.

**Development Services**

Christopher Fletcher, AICP  
Director

John Whitmore, AICP  
Planner III

389 Spruce Street  
Morgantown, WV 26505  
304.284.7431



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The total wall signage is estimated to be 76.02 square feet in area, requiring variance relief of 61.62 square feet. The following table illustrates the proposed wall signage for the site.

Proposed Wall Signs (not illustrated to scale)	Proposed Area
	9 sq. ft. X 2 (18 sq. ft. Total)
<p>Wall Signs – Channel Letter Signs</p>	58.02 sq. ft.
<b>Total Proposed Area</b>	<b>76.02 sq. ft.</b>
<b>Requisite Variance</b>	<b>61.62 sq. ft.</b>

**STAFF RECOMMENDATION:**

It is the duty of the Board of Zoning Appeals to determine whether the proposed request meets the standard criteria for a variance by reaching a positive determination for *each* of the “Findings of Fact” submitted by the petitioner. If the Board disagrees with the petitioner’s “Findings of Fact” and determines the proposed request does not meet the standard criteria for a variance, then the Board must state findings of fact and conclusions of law on which it bases its decision to deny the subject variance petition. [See WV State Code 8A-8-11(e) and 8A-7-11(b)].

Addendum B of this report provides Staff recommended revisions to the Findings of Fact responses submitted by the petitioner. Staff recommended revisions should not be considered or construed as supporting or opposing the merits of the petitioner’s responses (deleted matter struck through; new matter underlined).

As is customary with sign variance petitions, no recommendation is submitted by Staff concerning whether or not variance relief should be granted as requested.

Enclosures: Application and accompanying exhibits

**Development Services**

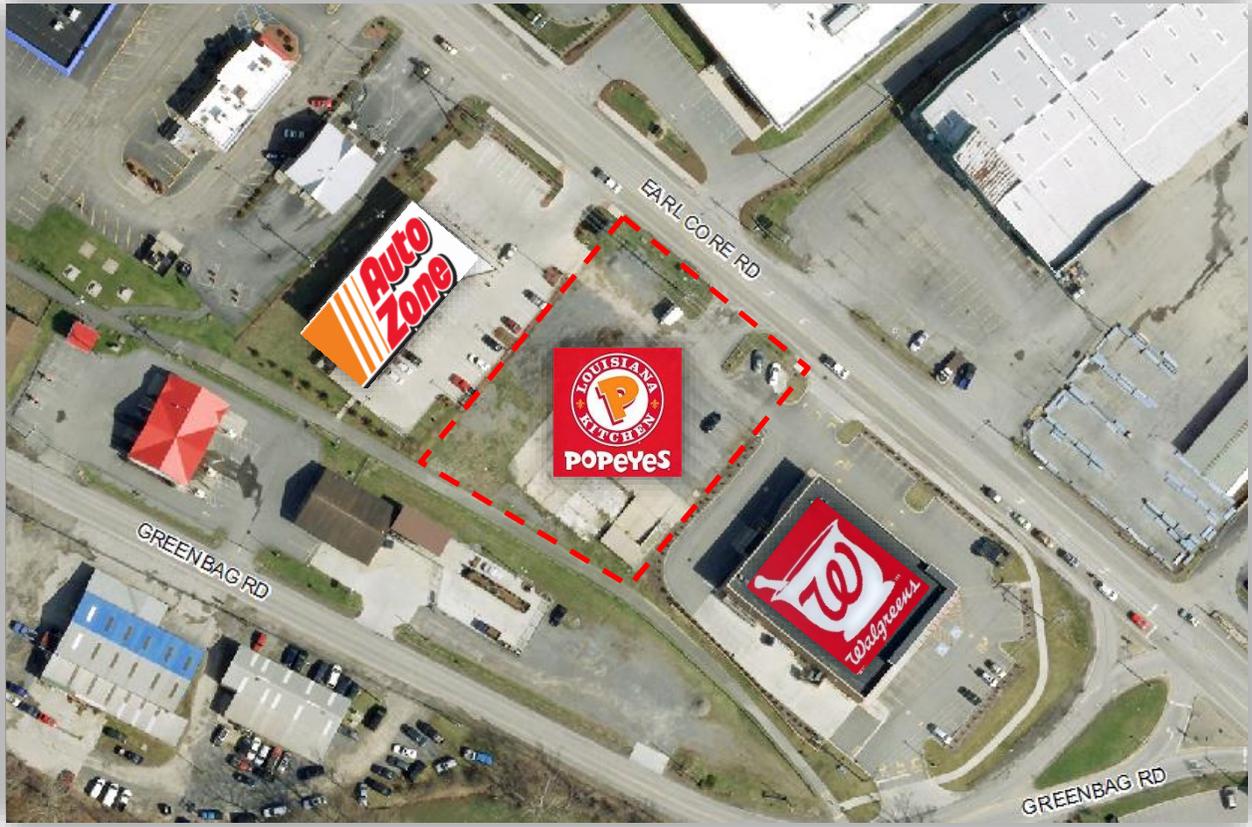
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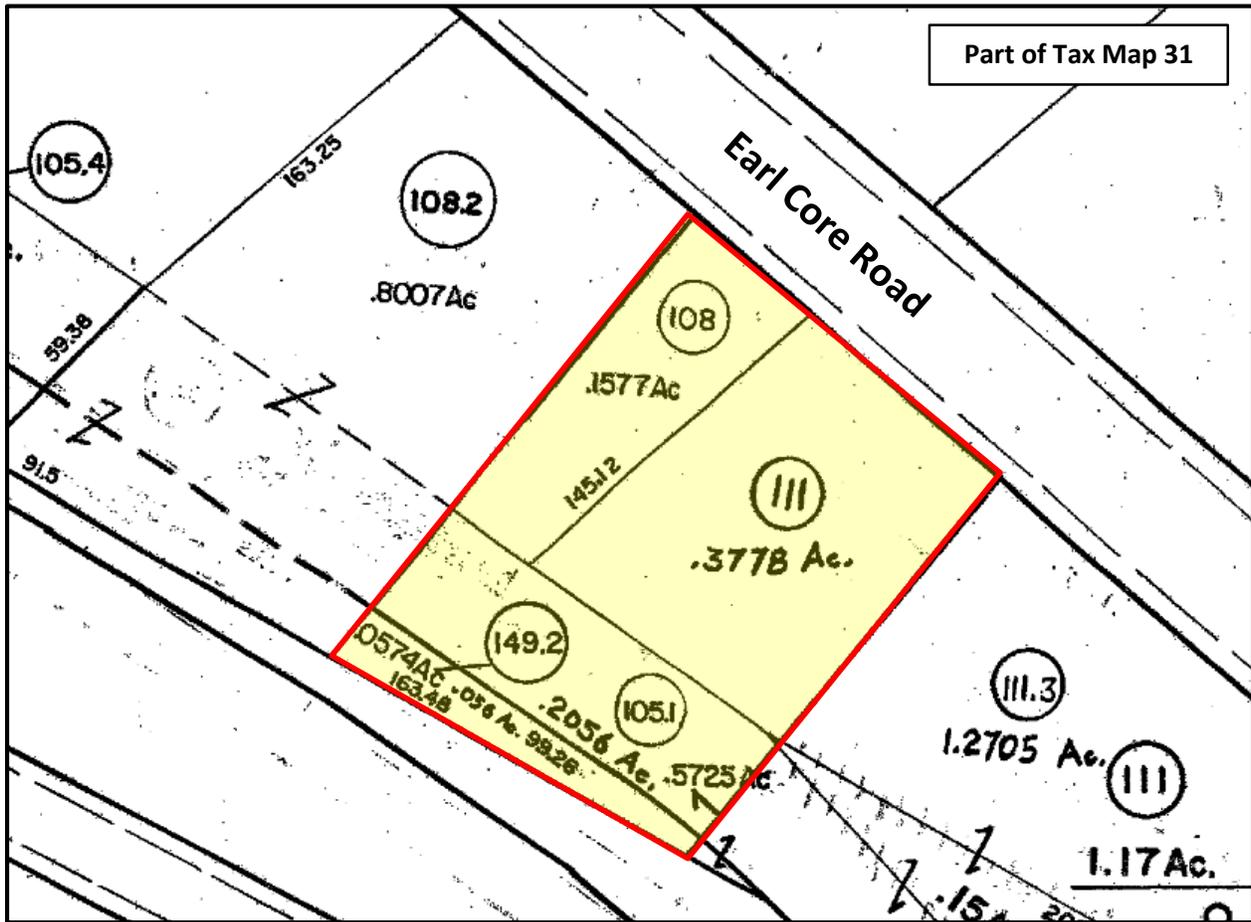
# STAFF REPORT ADDENDUM A

V16-34 / Sabraton Properties, LLC / 1589 Earl Core Road



# STAFF REPORT ADDENDUM A

V16-34 / Sabraton Properties, LLC / 1589 Earl Core Road



## STAFF REPORT ADDENDUM B

### V16-34 / Sabraton Properties, LLC / 1589 Earl Core Road

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Staff recommends the following revisions to the petitioner's Findings of Fact responses (deleted matter struck through; new matter underlined). Recommended revisions should not be considered or construed as supporting or opposing the merits of the petitioner's "Findings of Fact" responses.

**Finding of Fact No. 1** – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

~~Both neighbors have equal if not more signage. And these signs will follow the franchise corp. store approval and they are done very tastefully.~~ Neighboring properties appear to include more total area signage and are of similar commercial uses, which do not appear to harm public health, safety or welfare.

**Finding of Fact No. 2** – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

~~Variance arises due to the signage restrictions which is inadequate for the end user.~~ The property includes a service drive, between the public right-of-way and front façade of the structure. Adequate wall signage for the use cannot meet required area maximums as a result.

**Finding of Fact No. 3** – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

Granting this variance ~~will allow~~ appears to permit the end user to provide ~~give director and gain~~ adequate presentation to the public.

**Finding of Fact No. 4** – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

~~The end user will receive public presentation it needs.~~ The use will be able to operate as planned, utilizing wall signage as opposed to multiple or significantly sized site signs, all while providing a service access to adjoining properties.



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V16-34
RECEIVED:	9/2/16

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

VISA

<b>I. APPLICANT</b>		Name:	Sargent Properties, LLC.	
Mailing Address:	Street	1399 Stewartstown Road	Phone:	304-599-3369
	City	Morgantown WV 26505	Mobile:	304-692-6803
	State	Zip	Email:	MSwab@glammackholding.com
<b>II. PROPERTY</b>		Street Address:	1589 Earl Cole Road	
Owner:	Sargent Properties, LLC		Zoning:	B-2
Mailing Address:	Street	1589 Stewartstown Road	Tax Map No:	31
	City	Morgantown, WV 26505	Parcel No:	105.1, 108, 111, 149.2
	State	Zip	Phone:	
<b>III. NARRATIVE</b>		Please describe the nature and extent of your variance request(s).		
<p>① WE ARE REQUESTING A VARIANCE TO ALLOW 2 MENU BOARDS. ONE BOARD IS A PRE MENU BOARD TO ALLOW CUSTOMER TO HELP MAKE SELECTION BEFORE APPROACHING MENU WITH SPEAKER. ② SECONDLY WE ARE REQUESTING A VARIANCE FOR ONE OF THE MENU BOARDS DUE TO THE ADDITION OF SIGNAGE IT IS OVER 6 FEET WE NEED A VARIANCE FOR 6.29 INCHES. ③ FINALLY WE NEED A VARIANCE FOR SIGNAGE SQUARE FOOTAGE, ALLOWABLE SQUARE FOOTAGE IS 14.4 SQFT. WE ARE ASKING FOR A TOTAL OF 48.97 SQFT WITH ALL SIGNAGE.</p>				
<b>V. ATTEST</b>		I hereby certify that I am the owner of record of the named property, or that this application is authorized by the owner of record and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. The granting of a variance does not presume to give authority to violate or cancel the provisions of any other federal, state, or local law regulating construction or the performance of construction. I certify that the information submitted herein and attached hereto is true and accurate and understand that if found otherwise may result in the denial of this request or subsequent revocation of any and all related approvals. The undersigned has the power to authorize and does hereby authorize City of Morgantown representatives on official business to enter the subject property as necessary to process the application and enforce related approvals and conditions. I hereby authorize the Development Services Department to erect a notification sign on the subject property approximately 15 days prior to the BZA hearing. I further agree to maintain said signage and hereby accept responsibility in case of destruction or removal.		
Michael F. SAAS		[Signature]		8-26-16
Type/Print Name of Applicant/Agent		Signature of Applicant/Agent		Date

MSwab

You or a representative **MUST** be present at the scheduled hearing to present the request and answer questions. Failure to appear at the hearing will result in your request being tabled.



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE table with CASE NO. V16-34 and RECEIVED: 02 SEP 16

VI. SUPPLEMENTAL INFORMATION

Depending on the type of variance request and the scale and scope of the development proposal, supplemental information may be needed to assist the Board of Zoning Appeals in rendering a variance decision. Staff will check the appropriate boxes below that must be addressed.

Land Use Characteristics (complete only those that apply)

- Residential, Single-Family Dwelling, Townhouse Dwelling, Two-Family Dwelling, Multi-Family Dwelling, Non-Residential or Mixed (checked)

Structure Characteristics (complete only those that apply)

Total number of buildings: 1 Gross floor area of each building: 3149 sq ft. Estimated number of employees: 8 max No. of dwelling units: No. of bedrooms: Additional structure-related details:

Additional Information (as required by Staff):

Site Plan. A scaled site plan may be required to assist the Board in rendering a variance decision. The following features must be represented, as required by Staff.

- Location, shape, exterior dimensions, and number of stories of each building on the site. Standard yard setbacks for the applicable zoning district. Location, grade, and dimensions of paved surfaces, and all abutting streets. Existing and proposed contours, at an interval of at least two (2) feet. Complete traffic circulation plan showing dimensions, entrance/exit drives, planters, and similar improvements. Location of landscaped areas (to be detailed on landscape plan), fences, walls, and other screen required.



City of Morgantown, West Virginia

**APPLICATION FOR  
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V16-34
RECEIVED:	02 SEP 16

**VII. FINDINGS OF FACT**

COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.

The Board of Zoning Appeals may grant a variance request only if each of the following "Findings of Fact" criteria is determined to be in the positive. Applicants must give their own responses to the following criteria statements.

1. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

Both Neighbors HAVE equal  
if not more signage. AND these signs will follow the  
Franchise Corp. store approvals AND they are done very  
tastefully.

2. The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

VARIANCE ARISES DUE TO THE SIGNAGE RESTRICTIONS  
WHICH IS INADEQUATE FOR THE END USER.



City of Morgantown, West Virginia

**APPLICATION FOR  
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V16-34
RECEIVED:	02 SEP 16

**VII. FINDINGS OF FACT**

COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.

3. The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

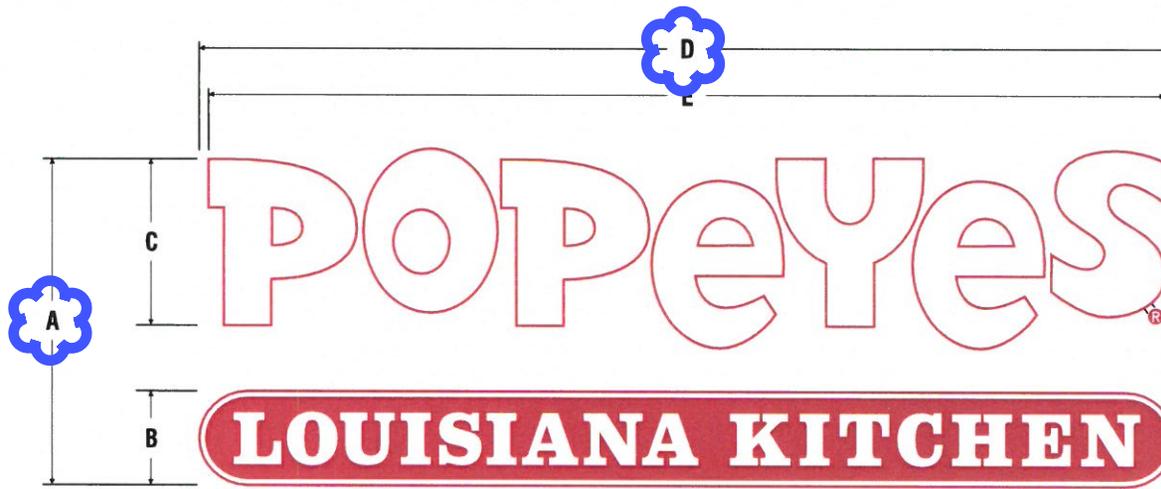
Granting this variance will allow the end user to give direction and gain adequate presentation to the public.

4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

the end user will receive public presentation it needs.



# ILLUMINATED CHANNEL LETTERS - REMOTE INSTALL



**\*Raceway to be Used Only When Absolutely Required by Code or Structural Consideration**

Sign Model	A	B	C	D	E	BOXED SQ FT	ACTUAL SQ FT
IL-12 Illuminated Letters	1'-11 7/16"	6 3/4"	1'-0"	5'-10"	5'-8 5/8"	11.39	6.84
IL-18 Illuminated Letters	2'-11 1/4"	10 1/8"	1'-6"	8'-9 3/8"	8'-7 1/4"	25.79	15.40
IL-24 Illuminated Letters	3'-10 7/8"	1'-1 1/2"	2'-0"	11'-8"	11'-5 1/4"	45.57	27.38
IL-27 Illuminated Letters	4'-4 7/8"	1'-3 3/16"	2'-3"	13'-2"	12'-10 7/8"	63.29	34.65
IL-36 Illuminated Letters	5'-10 1/4"	1'-8 1/8"	3'-0"	17'-6"	17'-1 7/8"	102.45	61.60

### ELECTRICAL NOTES

**Total Amps: 2.6**  
**# Circuits: (1) 20 Amp**  
**Volts: 120v**

**ALL SIGNAGE WILL BE U.L. LISTED, 2161 COMPLIANT**

\*ALL SIGNAGE TO HAVE GE LEDS WITH 5 YEAR PARTS WARRANTY.  
 \*ALL SIGN FACES HAVE 2ND SURFACE 3M FILMS WITH A 9 YEAR WARRANTY.



**ENTERA**  
 Your total branding solution



Underwriters  
 Laboratories Inc.®  
 LISTED

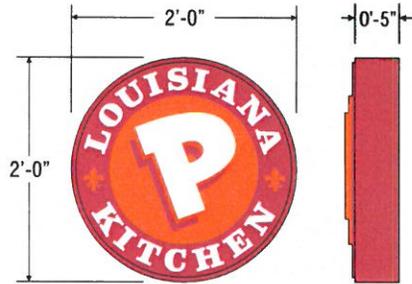
THIS IS AN ORIGINAL UNPUBLISHED DRAWING. CREATED BY BELL SIGNS, INC. IT IS SUBMITTED FOR YOUR PERSONAL USE IN CONNECTION WITH A PROJECT BEING PLANNED FOR YOU BY BELL SIGNS, INC. IT IS NOT TO BE SHOWN TO ANYONE OUTSIDE YOUR ORGANIZATION, NOR IS IT TO BE USED, REPRODUCED, COPIED, OR EXHIBITED IN ANY FASHION.

CLIENT:	POPEYE'S
LOCATION:	VARIOUS
DRAWN BY:	JMH

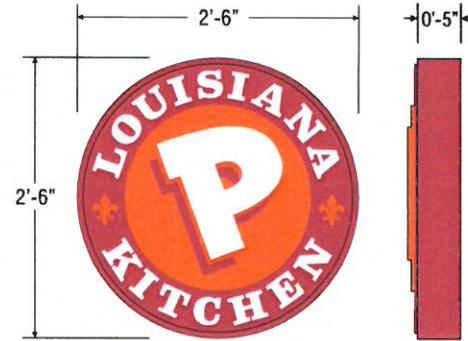
SCALE:	NTS
DATE:	7.31.15
DWG. NO.:	POPEYE'S BROCHURE 2015



### S/F INTERNALLY-ILLUMINATED SEAL BUILDING SIGNS



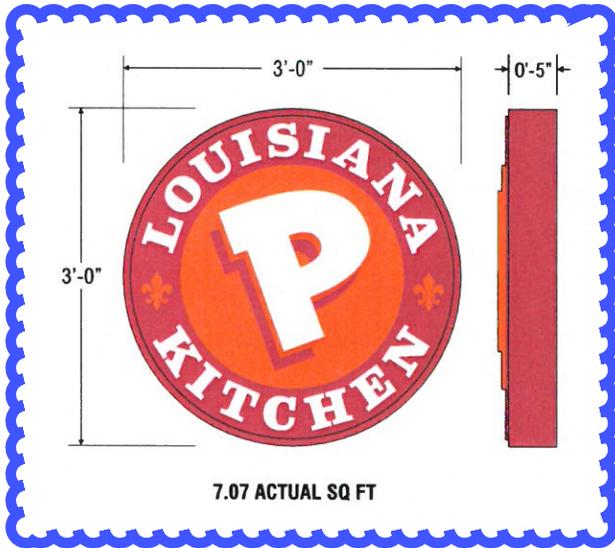
3.14 ACTUAL SQ FT



4.91 ACTUAL SQ FT

**SIGN:** S/F INTERNALLY ILLUMINATED CABINET W/PANNED & EMBOSSED FACES

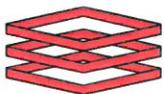
\*ALL SIGNAGE TO HAVE GE LEDS WITH 5 YEAR PARTS WARRANTY.  
\*ALL SIGN FACES HAVE 2ND SURFACE 3M FILMS WITH A 9 YEAR WARRANTY.



7.07 ACTUAL SQ FT



9.62 ACTUAL SQ FT



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Underwriters  
Laboratories Inc.®  
LISTED

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LOCATION:	VARIOUS	DATE:	7.31.15
DRAWN BY:	JMH	DWG. NO.:	POPEYE'S BROCHURE 2015