

### **Variance Justification:**

In order to justify approval of any variance, the Board of Zoning Adjustment considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Variance of: Table 5.3.2 to exceed the maximum 80' building setback along Westport Road

1. The variance will not adversely affect the public health, safety or welfare because the variance is for a couple feet and there is no purpose served by locating the restaurant building slightly closer to Westport Road, especially anything relating to the public health, safety or welfare. The reason for the requested variance is to provide for proper parking, vehicular circulation around the restaurant, and outdoor seating that is important post-COVID.
2. The variance will not alter the essential character of the general vicinity because the location of the restaurant is significantly closer to Westport Road than the Aloft Hotel which shares this current site, thus lessening the visual impact of the setback distance to the hotel. The proposed setback is also not dissimilar to the location of the grocery store and other retail on the opposite side of Indian Lake Drive. The outdoor seating for the proposed restaurant will be within the 80' setback providing a feel that the building is closer to Westport Road, as well as making the hotel appear closer.
3. The variance will not cause a hazard or a nuisance to the public because locating the building farther away from Westport Road required under the LDC is not a hazard or nuisance issue but rather an aesthetic one which is better addressed by locating the building in a similar fashion as the hotel, albeit in this case closer to Westport Road.
4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because no purpose is served in moving the building closer to Westport Road, or expanding the building and not having outdoor seating.

Additional consideration:

1. The variance arises from special circumstances, which do not generally apply to land in the general vicinity because this is an effort to locate the restaurant building where one would logically be located and where it is best situated for purposes of good access, circulation, limiting walking distances, outdoor seating, and addressing existing grade conditions and existing circulation patterns.
2. Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship because, if the restaurant building was located closer to Westport Road, then the outdoor seating would be lost, or access and circulation would be made more difficult, walking distances would increase, and existing parking lot conditions would be more challenging to address.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation which relief is sought, but rather is a result of this property being an infill development at a major arterial and interstate highway.