

**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.

**1. Explain how the variance will not adversely affect the public health, safety or welfare.**

The variance will not adversely affect public health, safety or welfare because site design efforts have been made to orient the drive-thru restaurant portion of the development away from the neighboring residential property. The nearest building on the adjoining residential property is about 235' from the subject property line and a solid 8' tall screen will be provided adjacent to that property.

**2. Explain how the variance will not alter the essential character of the general vicinity.**

The subject property is within a commercial node and regional center form district. The variance helps maintain this commercial characteristic, because due to the limited width of the property, there are not many commercial uses that could fit on this property without requesting this variance. The adjacent property also has the potential for commercial use.

**3. Explain how the variance will not cause a hazard or a nuisance to the public.**

The variance will not cause a hazard or nuisance to the public because the noise producing portion of the proposed development (drive-thru restaurant) will be oriented toward the adjacent commercial development as opposed to the residential property.

**4. Explain how the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.**

The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because this property is currently appropriately zoned for this proposed use and due to the limited width of this property, the majority of commercial uses that could be proposed on this property would require this variance. An 8' tall screen will also be provided adjacent to the residential property to help mitigate this encroachment.

*Additional consideration:*

**1. Explain how the variance arises from special circumstances, which do not generally apply to land in the general vicinity (please specify/identify).**

The variance arises from the special circumstance of the limited width of the property. This property is located in a commercial node and regional center form district, in which all other properties have ample room to fit their desired use. In order for the property to maintain the commercial characteristic of this regional center, this variance must be requested. The existing curb cut off of New Cut Rd also creates a special circumstance, as it is only about 5 ft away from the adjacent property

**2. Explain how the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship.**

Strict application of the regulation would leave the subject property with about 67' of width to fit a commercial building and associated parking, which would deprive the applicant of reasonable use of their commercially zoned property. The applicant would also be deprived of utilizing the existing curb cut off of New Cut Rd.

**3. Are the circumstances the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought?**

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## General Waiver Justificati

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

### 1. Will the waiver adversely affect adjacent property owners?

This waiver will not adversely affect the adjacent property owner because all of the required landscaping and 8' screen will be provided. We will also be provided landscaping based on a 1.5x density multiplier, which is why we are requesting a waiver for a 25' landscape buffer area as opposed to a 35' landscape buffer area. The nearest residential structure on the adjacent property is also about 235' away from the subject property line, which also helps negate any adverse effects.

### 2. Will the waiver violate the Comprehensive Plan?

This waiver will not violate the comprehensive plan as it is necessary in order to maintain the established commercial character within the regional center form district and this commercial zone. The adjoining property also has potential for commercial use, at which point a landscape buffer area would not be required.

### 3. Is extent of waiver of the regulation the minimum necessary to afford relief to the applicant?

The extent of the waiver of the regulation is the minimum necessary as the applicant is requesting an encroachment into the landscape buffer area but will still be providing all required landscaping (at 1.5x multiplier) and the required 8' tall screen.

### 4. Has either (a) the applicant incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect) or would (b) the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant?

The applicant has incorporated other design measures that exceed the minimum buy providing the plantings based on a 25' landscape buffer area (1.5x multiplier) as opposed to a 35' landscape buffer area (1x density multiplier). Strict application of the regulation would also deprive the applicant of reasonable use of the land due to the limited width of the property. This property is already zoned for commercial use and in order to fit the majority of commercial uses on this property this waiver is necessary. Strict application would deprive the applicant of utilizing the existing curb cut off of New Cut Rd. The adjoining property also has potential for commercial use, at which point a landscape buffer area would not be required.

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