

## JUSTIFICATION

To justify approval of any variance, the Board or Commission considers the following criteria.

Please answer **ALL** of the following items. Use additional sheets if needed. Responses of **Yes, No, or N/A** will **NOT** be accepted.

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

The requested setback variance will not adversely affect public health, safety, or welfare. The use and its intensity will remain unchanged, as the building is being reconstructed following a fire and the same business will continue to operate on the site. The rebuilt structure will follow the previous layout, and the established traffic circulation patterns will be maintained.

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

The variance will not alter the essential character of the general vicinity because it is located in the suburban marketplace corridor defined by highway-oriented commercial uses and large areas of surface parking. The proposed reconstruction is consistent with this established development pattern and will not introduce any change to the corridor's character.

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

The variance will not create a hazard or nuisance to the public because the use, circulation, and overall site layout will be reconstructed in a manner consistent with the previous configuration. The updated design incorporates modern operational features—such as mobile order pickup and dual drive-thru lanes—while maintaining safe and efficient traffic flow on the property.

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

The variance will not result in an unreasonable circumvention of the zoning regulations. The surrounding corridor along Bardstown Road is characterized by commercial development built to the property lines with extensive pavement, establishing an urbanized development pattern. The required 35-foot setback is for a 12-story building, an intensity greater than what is permitted in the underlying zoning district that the setback is intended for. The existing site has historically operated without such a setback. Maintaining the established layout will not create adverse impacts or undermine the intent of the zoning requirements.

5. 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 a fire that damaged the building and necessitated its reconstruction. The structure was originally built under older regulations, today's development standards did not exist at that time, creating conditions not imposed by the applicant.

6. 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.

The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and would create unnecessary hardship because the requirement reduces the usable area of the property that had historically been permitted. The decrease of 24% would significantly limit the site's function and would not provide sufficient area to accommodate the reconstruction of the building and its operations.

7. Are the circumstances the result of actions of the applicant taken *after* the adoption of the regulation from which relief is sought?

The circumstances are not the result of actions of the applicant after the adoption of the regulation. The property is being reconstructed as the result of a fire.