

April 4, 2016

**Burger King: 2980-2990 N SR-7
Variance Justification – Section 9.7**

Hauppauge Route 111 Associates LLC (“Applicant”) is the owner of vacant property located at the northwest corner of the intersection of North State Road 7 and North West 29th Street also described as Tax Folio No. 484219060011 (“Property”) in the City of Margate (“City”). The Applicant proposes a site plan to construct a 2,673 square foot Burger King restaurant and a 3,000 square foot retail establishment on the Property (“Site Plan”), which Site Plan is attached hereto as **Exhibit A**. In connection with the Site Plan, the Applicant is requesting two variances from Appendix A, Section 9.7 of the City of Margate Code of Ordinances (the “Code”).

The first request is to allow for a reduction in the required minimum frontage build-out. According to Section 9.7 (H), the minimum frontage buildout is required to be seventy (70) percent in TOC-C districts.

The second request is to allow for an increase in the build-to-line requirement for the Burger King building. According to Section 9.7 (C), the build-to-line for a roadway designated as corridor is 25’ from the curb line along the roadway. Since there is an existing 10’ utility easement adjacent to the property line, the requirement is for the building to be placed on the east side of the easement.

For the foregoing reasons, the Applicant respectfully requests that the City of Margate’s Board of Adjustment (“BOA”) grant the requested variances for a decrease in the frontage build-out and an increase in the Burger King setback. Pursuant to Section 2-78 of the Code, the BOA shall not grant a variance request unless the Applicant demonstrates that:

1. It shall be demonstrated that special conditions and circumstances exist which, if there is a literal and strict enforcement of the provisions of a zoning ordinance, would constitute a hardship or practical difficulty in the use of the property involved.
 2. The Board shall find that the granting of the variance will not be contrary to the public interest or the general purpose sought to be accomplished by the zoning ordinances.
 3. The Board shall find that the granting of a special exception to the terms of a zoning ordinance will not be contrary to the public interest.
 4. In granting any variance, the board shall record in its minutes the circumstances and conditions constituting the hardship or practical difficulties upon which the variance is based.
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1. **It shall be demonstrated that special conditions and circumstances exist which, if there is a literal and strict enforcement of the provisions of a zoning ordinance, would constitute a hardship or practical difficulty in the use of the property involved.**

The Site Plan has been designed as a result of consistent coordination between the City's planning staff and the Applicant. The layout has been designed in an effort to meet the intent of the City's Code while providing essential site circulation. The retail building has been placed along SR-7 in an effort to provide as much building frontage along the right-of-way as possible and to encourage pedestrian activity to the development. The Burger King has been placed along the north side of the site, with the building as close as possible to the SR-7 right-of-way. The drive-through is proposed on the north side in an effort to keep it away from the roadways and the internal circulation of the site.

The Applicant's hardship in this situation is based on giving due regard to the existing utility easement and access constraints while providing a Site Plan that meets the FDOT and the City's requirements and providing the best possible layout in terms of site circulation. The FDOT is requiring a minimum driveway length of 40 feet, as measured from the right-of-way line to the first conflict point. For this reason, we are limited in how close the Burger King can be to the SR-7 right-of-way. The Burger King drive-through also makes it difficult to place the building along the right-of-way.

In order to achieve this balance, we are requesting two variances to Code Section 9.7.

The first request is to reduce the building frontage percentage along SR-7 from the required 70%. The proposed percentage is 40% including the driveway connection off of SR-7 and 48% excluding the driveway.

The second request is to increase the Burger King setback from SR-7. Per Code Section 9.7 (C), the building is required to be located on the east side of the existing 10' utility easement. The proposed building is located 64' from the easement line.

2. The Board shall find that the granting of the variance will not be contrary to the public interest or the general purpose sought to be accomplished by the zoning ordinances.

The request isn't contrary to public interest or the purpose sought by the zoning ordinances. The goal is to provide a development that is accessible to the public via walking or driving. We are proposing a new 12' sidewalk along the SR-7 right-of-way, along with sidewalk connections from the site. It is also visually appealing that the drive-through is located on the north side of the site, shielding it from the roadways. Furthermore, the proposed design isolates the drive-through from pedestrian areas and, thereby, promotes public safety by minimizing vehicle-pedestrian conflict possibilities and allowing motorists and pedestrians alike to observe activity and conditions within the site and beyond without visual obstruction.

3. The Board shall find the granting of a special exception to the terms of a zoning ordinance will not be contrary to the public interest.

The granting of these variances will not be contrary to the public interest, as the site has been designed to provide the most efficient layout with respect to vehicular circulation and minimizing pedestrian conflicts with vehicles, thereby promoting public safety, while preserving the aesthetic considerations that drive the build-to line requirements. A favorable decision in relation to this petition will result in a betterment of conditions within the public realm.

- 4. In granting any variance, the board shall record in its minutes the circumstances and conditions constituting the hardship or practical difficulties upon which the variance is based.**

The Applicant will provide the BOA with any and all documentation requested in support of the variance requested for inclusion into the minutes.