

MEMORANDUM

TO: Members of the Board of Zoning Appeals  
FROM: Brent N. Damman, Zoning Administrator  
SUBJECT: Variance request to front setback by Pizza Hut.  
HEARING: April 13th, 1993 at 4:30 PM  
HEARING #: BZA 93/05

JONES  
MAX

BACKGROUND

An application by Timothy Kilroy 455 Jahns Rd. Napoleon, Ohio on behalf of H & K Unlimited, 7665 Monarch Court, Suite 111 Westchester, Ohio 45069, owners of PIZZA HUT 2240 N. Scott St. Napoleon Ohio requesting a front yard variance of 10' for the purpose of constructing an addition to the existing structure. The Variance is to section 151.39 (D)(1) of the City of Napoleon Ohio Zoning Code, and is located in a "PB" Planned Business Zoning District.

RESEARCH AND FINDINGS

1. The above request is for the purpose of constructing an addition to the front of the existing structure.
2. Due to the unusual shape of the lot it has become necessary to request the variation to the front setback as total compliance may make the project cost prohibitive.
3. The owner is requesting a 10' variance to the 80' requirement.
4. The site plan submitted displays compliance to all zoning requirements except the front setback.

ADMINISTRATIVE OPINION

I am recommending acceptance of the 10' variance to the front setback due to the fact we are one of the few Cities which maintains such an excessive requirement.

Also I will discuss the matter with the planning commission for there input on possibly changing the requirement so it is more compatible with modern development.

## CONSIDERATIONS

The standards for variation to be considered are as follows:

- (a) That there are exceptional or extraordinary circumstances or conditions applicable to the property or to the intended use that do not apply generally to the other property or use in the same vicinity or district.
- (b) That such Variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity or district but which is denied to the property in question.
- (c) That the granting of such Variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity or district in which the property is located.
- (d) That the granting of such a Variance will not alter the land use characteristics of the vicinity of district, diminish the value of adjacent land and improvements or increase the congestion in the public streets.