

BOARD OF ADJUSTMENT AGENDA

Board of Adjustment Regular Meeting - Tuesday, May 22, 2014 - 6:00 p.m.
City Hall - City Commission Chambers, 100 North U.S. #1, Fort Pierce, Florida

1. **CALL TO ORDER**
2. **PRAYER and PLEDGE OF ALLEGIANCE**
3. **ROLL CALL**
4. **CONSIDERATION OF ABSENCES**
5. **CERTIFICATION OF ALTERNATE MEMBER(S)**
6. **APPROVAL OF MINUTES**
 - a. April 24, 2014 Meeting
7. **NEW BUSINESS**
 - a. Approval of a Variance to deviate from City Code Section 15-8(5)(a)3. to exceed the allowed sign area and utilize a sign with the calculated area of 156.5 square feet.
8. **DISCUSSION / OTHER BUSINESS**
9. **ADJOURNMENT**

Persons who require special accommodations under the Americans with Disabilities Act (ADA) should contact the Planning Department at (772) 467-3729, at least five (5) days prior to the meeting. Persons who are hearing or speech impaired may use the Florida Relay System by dialing 711.

Planning Board of Adjustment

Meeting Date: 05/22/2014

Re: Board of Adjustment Minutes 4/24/2014

Submitted For: Rebecca Grohall, Planning & Zoning Manager, Planning & Zoning

Information

SUBJECT:

April 24, 2014 Meeting

Attachments

[BOA Minutes 4/24/2014](#)

Form Review

Form Started By: Alicia Rosenthal

Started On: 05/12/2014 04:02 PM

Final Approval Date: 05/15/2014

DRAFT

Board of Adjustment Minutes

OF THE REGULAR MEETING OF THE FORT PIERCE BOARD OF ADJUSTMENT HELD ON THURSDAY, **APRIL 24, 2014**, IN FORT PIERCE CITY HALL, COMMISSION CHAMBERS, 100 NORTH US HIGHWAY 1, FORT PIERCE, FLORIDA.

1. CALL TO ORDER

2. PRAYER and PLEDGE OF ALLEGIANCE

3. ROLL CALL

Present: Bennie Clark; Joyce Calvert; Bret McCain; Betty Jo Beavin; William Nunn; Chairman Clem Benton, Jr.

Absent: James Crist

Staff Present: Steve McCain, Assistant City Attorney
Sandra Ramseth, AICP, Senior Planner
Kori Benton, Historic Preservation Officer
Clarissa Davis, Planner
Alicia Rosenthal, Administrative Assistant

4. CONSIDERATION OF ABSENCES

Motion was made by Bret McCain, seconded by Bennie Clark to excuse Mr. Crist's absence.

AYE: Bennie Clark, Joyce Calvert, Bret McCain, Betty Jo Beavin, Chairman Clem Benton, Jr.

Passed

5. CERTIFICATION OF ALTERNATE MEMBER(S)

Ms. Beavin was made an active member for the meeting.

6. APPROVAL OF MINUTES

a. November 21, 2013 Meeting

Motion was made by Bennie Clark, seconded by Bret McCain to approve minutes from the November 21, 2013 meeting.

AYE: Bennie Clark, Joyce Calvert, Bret McCain, Betty Jo Beavin, Chairman Clem Benton, Jr.

Passed

7. NEW BUSINESS

- a. Approval of a Variance to deviate from Section 22-187(6) reducing the landscape strip from 10' to 0' for approximately 90' of the south property line. Also, a request to deviate from Section 22-61(b)(3) reducing the driveway width from 14' to 12' to install drive-thru area for proposed Dunkin Donuts.

Ms. Davis gave an overview of the application. Mr. Howard Ehram, Project Engineer from Bowman Consulting, representing Dunkin Donuts, commented. Mr. Clark inquired about the traffic pattern when leaving the gas station. Ms. Davis explained there are two exits, one on North Causeway and the other facing US Highway 1.

Mr. Nunn asked questions about irrigation, a landscape bond and tree mitigation. Mr. Ehram responded that there is existing irrigation on the property and the landscape will be irrigated during the establishment period. He also stated that they have not gotten as far as getting a landscape bond. Ms. Davis mentioned that anytime a landscape plan is introduced, the code section states that an irrigation plan is on site. Mr. Benton stated a landscape bond is only required for site plan approval. Mr. Nunn asked if this variance requires site plan approval and Mrs. Davis responded it does not. Mr. Nunn asked the standard for replacing a 12" live oak tree. Mr. Benton responded that it varies depending on if the site is developed or underdeveloped. Since this is a developed site the protected thresholds are 8" and 12" and up to 12" requires a replacement.

Mr. Clark asked if the drive thru would affect the boats coming in and out of the gas station. Ms. Davis responded that it would not have an effect. Ms. Calvert asked about having enough room in the drive thru to get out on the roadway. Ms. Davis responded that the width of the drive thru has been approved by the Engineering department. Mr. Ehram commented that the drive thru was strategically placed to allow for plenty of stacking and flow through to avoid any issues.

Chairman Benton asked about the two disapproval letters on the project. Ms. Davis responded that the comments were related to the back of the site. They were under the assumption that the area that is mostly trees on the south property line was going to be cleared out. Nothing is going to be permanently removed from the site. There is actually more trees and shrubbery that will be implemented.

Attorney Steve McCain asked Mr. Ehram, if he is familiar with the condition that staff has cited to the board that they are recommending approval with the condition of a 6 foot dumpster. Mr. Ehram stated his client is acceptable with complying with that condition. Ms. Davis stated that the parameters of the code are listed in the screen enclosure section. Mr. Benton noted that the previously stated 12" for tree mitigation is actually 14" in the city code.

Ms. Calvert asked about the location of the air conditioning and if it will conflict with the drive thru. Mr. Ehram responded that there is no additional equipment going

outside of the building where it will conflict with the drive thru. Mr. Ehram also stated an auto turn analysis with a mock drive thru was run, using a F150 truck with large side mirrors to make sure vehicles would be clear of the corner of the building and through the whole process. This drive thru is actually wider than most drive thru's in the city so there is plenty of room.

Motion was made by Bret McCain to approve the variance as stipulated in the document. The motion died due to lack of a second.

Mr. Clark mentioned that if this variance is approved, the person next door could come in asking for a landscape variance back to zero. Ms. Davis stated that when this variance is approved there is going to be a variable encroachment on the landscape strip itself. From an aerial view, the site to the south looks like a backwards "L" with only 85 feet of the parcel fronting US Highway 1. The larger portions of the site face North Causeway as well as Old Dixie Highway.

Mr. Nunn inquired about approving too many landscape variances. Ms. Davis stated that each variance application is very different than the other. Chairman Benton states that each site should stand on its own and we should not compare what we did last month or last year. Mr. Benton stated we try to eliminate negative externalities when we have a required code section specific to landscaping. Each site is independent and completely different, with different considerations and different concerns.

Mr. Clark asked if anything legally can be done if an applicant down the road is denied for a variance. Attorney Steve McCain responded by asking if the concern is about the city being sued or some type of discrimination. Attorney Steve McCain stated the board is charged with considering the evidence that's been presented to it and determining whether there has been substantial competent evidence submitted that satisfies the five criteria. He also stated that this variance is a super majority requirement and in order for a variance to be approved it requires the affirmative vote of 4.

Mr. Ehram stated that this variance request is providing a net increase in landscape and a net increase in the aesthetics of the whole site and all 5 of the criteria have been met. Mr. Nunn asked about how the drive thru is going to effect the drainage on the property. Ms. Davis responded that there is a small retention area to the southeast of the site. Ms. Calvert asked about the location of the palm trees. Ms. Davis responded that there are a number of queen palms on the site that have died and deteriorated and they are proposing to remove and replace the queen palms with Sabal palms. They are over compensating in the landscape area around the drive-thru. Ms. Beavin stated the proposed enhancements will make an improvement to this site. Mr. McCain asked other board members feelings about setting a precedent in approving too many variances. Chairman Benton states you cannot judge one site against another site because they are altogether different.

Motion was made by Bret McCain seconded by Betty Jo Beavin to approve the variance as submitted.

AYE: Bret McCain, Betty Jo Beavin, Chairman Clem Benton, Jr.

NAY: Joyce Calvert, Bennie Clark

Denied

Mr. Ehram commented on the project after the vote and asked if any additional conditions could be met so the variance could be approved and the board chose not to respond.

- b. Approval of a Special Exception to construct a Florida Room addition to a Non-Conforming Structure

Mr. Benton gave an overview of the application. Mr. Jose Cruz-Tovar, owner, brought in duplicate ballots from the neighboring property owners.

Motion was made by Bennie Clark, seconded by Betty Jo Beavin to approve Special Exception.

AYE: Bennie Clark, Joyce Calvert, Bret McCain, Betty Jo Beavin, Chairman Clem Benton, Jr.

Passed

8. ELECTION OF BOARD MEMBERS

Bret McCain and Chairman Clem Benton, Jr. were nominated for Chairman. By show of hands, Bret McCain received 4 votes and Chairman Clem Benton, Jr. received 1 vote.

Bret McCain was elected for Chairman.

Bennie Clark and Joyce Calvert were nominated for Vice-Chair.

By show of hands, Bennie Clark received 2 votes and Joyce Calvert received 3 votes.

Joyce Calvert was elected for Vice-Chair.

9. DISCUSSION / OTHER BUSINESS

Ms. Beavin stated that we owe applicant some feedback to the objections on the project. Mr. Nunn stated that the applicant did not do a good job stating his case. Chairman Benton stated that we can't compare one variance request with another variance request. Mr. Clark asked why the Board of Adjustment is needed. Ms. Calvert explained the need for the Board of Adjustment. Attorney Steve McCain summarized the need for a Board of Adjustment. Mr. Clark stated the board needs to make the best decisions for the city.

10. ADJOURNMENT

Planning Board of Adjustment

Meeting Date: 05/22/2014

Information

REQUESTED ACTION

Approval of a Variance to deviate from City Code Section 15-8(5)(a)3. to exceed the allowed sign area and utilize a sign with the calculated area of 156.5 square feet.

LOCATION

7001 Okeechobee Road

RESPONSIBLE STAFF

Clarissa Davis, Planner

RECOMMENDATION

Staff recommends approval of the requested Variance.

Attachments

[Staff Report](#)

[Applicant Project Description](#)

[Narrative](#)

[Proposed Sign Plan](#)

[Existing Sign](#)

[Site Plan](#)

[Application](#)

Form Review

Form Started By: Clarissa Davis

Final Approval Date: 05/07/2014

Started On: 05/02/2014 01:57 PM



CITY OF FORT PIERCE

PLANNING DEPARTMENT

REBECCA GROHALL, AICP, PLANNING MANAGER
COMPREHENSIVE PLANNING ♦ DEVELOPMENT REVIEW
HISTORIC PRESERVATION ♦ URBAN DESIGN ♦ URBAN FORESTRY ♦ ZONING

TO: Members of the City of Fort Pierce Board of Adjustment

THROUGH: Rebecca Grohall, AICP, Planning Manager

FROM: Clarissa Davis, Planner

SUBJECT: **Application for Variance**
7001 Okeechobee Road

DATE: May 2, 2014

STAFF REPORT

Owner: Mc Donald's Corporation
10150 Highland Manor Drive
Tampa, FL 33620

Representative: Kim Binkley-Seyer; The Seyer Group
7321 Merchant Court
Sarasota, FL 34240

Requested Action: Approval of a Variance to deviate from City Code Section 15-8(5)(a)3 to exceed the allowed sign area and utilize a sign with the calculated area of 156.5 square feet.

Location: 7001 Okeechobee Road, Fort Pierce, FL

Current Zoning: C-3, General Commercial

Staff Analysis:

In accordance with Chapter 22, Article VIII of the City Code, the applicant is requesting that the Board of Adjustment approve a variance to deviate from Section 15-8(5)(a)3 to exceed the allowed sign area and utilize a sign with the calculated area of 156.5 square feet.

Currently, this site displays a sign that is 33 feet tall with a sign area of 213.61 square feet. The applicant is looking to replace this with a sign whose calculated sign area is 156.5 square feet and 50 feet in height. The proposed sign is smaller in size and area when compared to the existing signage and features a newer open design.

City Code Section 15-8(5)(a)3 states the following: "Any establishment, or group of establishments, which has a main street lot frontage of sixty (60) linear feet or more, shall also be permitted one ground sign. Such sign shall not exceed a sign area equal to one square foot for every three (3) linear feet of main street of lot frontage, up to a maximum of two hundred (200) square feet".

This property currently has a main street frontage of 171.75 linear feet. In accordance with the aforementioned code section, the applicant is able to construct a sign with a maximum sign area of 57.25 square feet. The proposed sign exceeds this by 99.25 square feet and will display a calculated 156.6 square feet in area. The proposed height of 50 feet is permissible within the designated C-3, General Commercial zoning district.

The following five (5) criteria, as specified in Section 22-108 of the City Code, must be satisfied in order for a variance to be granted:

1. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district;
2. The special conditions and circumstances do not result from the actions of the applicant;
3. The literal interpretation of the provision of the zoning ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance and would result in unnecessary and undue hardship on the applicant;
4. The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
5. The granting of the variance will be in harmony with the general intent and purpose of the ordinance and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

The applicant has provided a narrative in response to each of the five (5) criteria.

Staff Recommendation:

As the criteria specified in Section 22-108 of the City Code appears to have been met, Staff recommends **approval** of the requested Variance.

Description of Request:

McDonald's is requesting permission to deviate from Section 15-8(5) a.3 of the City Code to increase the permitted sign area of a ground sign at the subject property to 156.5 square feet, an increase of 99.25 square feet.

Reason for Request:

The McDonald's located at 7001 Okeechobee Road was developed in 1983. It currently has an existing sign that is 33 feet tall and an actual sign area of 213.61 square feet plus the reader board. This sign is located on Okeechobee Road.

The City implemented a change to the code and created an *I-95 and turnpike special sign district*. This McDonald's is located within this area and they are eligible for a 50-foot sign. McDonald's would like to upgrade the sign and the new proposed sign would be located in the sign location as the current sign.

The code states that a business is allowed one square foot for every three (3) linear feet of main street frontage, up to a maximum of 300 square feet. The McDonald's has 171.75 linear feet of frontage so they are allowed 57.25 square feet of sign area. They are not given any credit for the 363.23 feet of frontage along the easement road area. The actual size of the new proposed sign is 54 square feet. When the sign is boxed it becomes 156.5 square feet, however, 102.5 feet is open air.

It should be noted that there is another sign located at the corner of Okeechobee Road and the access easement that services The Three Palms Hotel. A picture is attached and it should be noted that McDonald's is not on this sign. It is a non-conforming sign that is located on McDonald's property. It is our belief that this sign was there when McDonald's purchased the property.

Alterations made to the site since purchased:

An update of the restaurant was recently completed in March 2014. The building was modified to meet the new prototype for McDonald's. The site was upgraded and an additional drive thru was added to enhance traffic circulation. All of the landscaping was upgraded as well.

McDonald's Variance Criteria

McDonald's is requesting permission to deviate from Section 15-8(5) a.3 of the City Code to increase the permitted sign area of a ground sign at the subject property to 156.5 square feet, an increase of 99.25 square feet.

1. Describe those conditions peculiar to the specific property and not applicable to other lands, structures, or buildings in the same zoning district.

This is a unique variance request because we are requesting an additional 99.25 square feet, however, the actual measurement of the sign is 54 square feet.

The code section 15-1 Definitions – Sign Area states the following:

The entire area within and enclosed by the exterior perimeter of all cabinets or modules within a single continuous geometric figure. Including but not limited to, all written copy, logos, symbols, decorative embellishments and border or roof treatments. This shall include all open areas within said perimeters and all space separating said cabinets or modules.

If you refer to the sign measurement page, the sign has 156.5 square feet. That includes 104.5 square feet of open air space. The sign only has 54 square feet and falls within the 57.25 square feet allowed for the site frontage.

There is already an existing sign in place and the actual size of the sign is 213.61 square feet in addition to the reader board. It is considered a non-conforming sign and McDonald's is making this request to update and upgrade the sign. The proposed sign is considerably smaller than the existing sign.

2. Does special conditions or circumstances result from actions other than that of yours? Please explain.

The location of the property is between I-95 and the turnpike overpasses. The sign height is needed to make the traveling customers aware of the services conveniently located at the exit. If a variance is not obtained, the sign would look like a lower case i.

McDonald's Variance Criteria

3. Identify any undue hardships or deprivation of commonly enjoyed property rights that would result in the literal interpretation of the code for the zoning district.

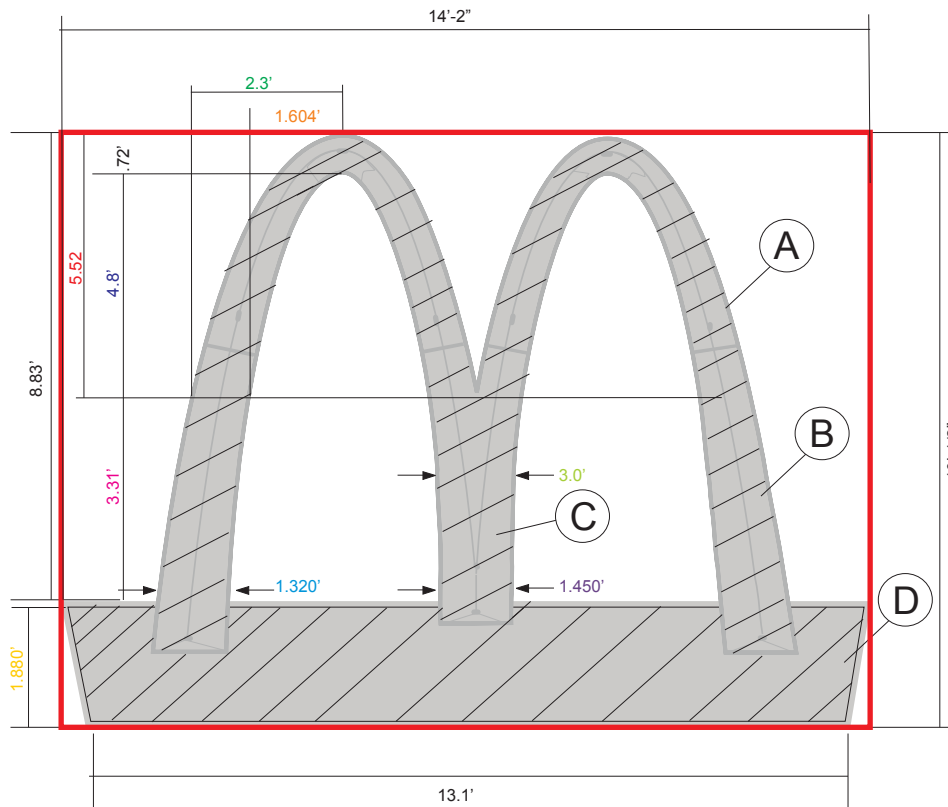
McDonald's is located in the zone referred to as *I-95 and turnpike special sign district* and would like to install a sign at 50 feet as code allows. If the total sign area were limited to 57.25 square feet you would not have a readable sign.

4 What is the minimum variance that would give the reasonable use of the land, building, or structure?

The variance requested is the minimum variance required to have a proportionate sign.

5 Explain how the variance request would not impair the intent of the zoning ordinance or be detrimental to the general public welfare:

The granting of this variance does not impair the intent of the zoning ordinance and is not detrimental to the general public welfare. It may be viewed as an enhancement since it would mean that an existing, much larger, non-conforming sign would be replaced with a conforming sign.



A USE AREA OF PARABOLA FORMULA TO APPROXIMATE ARCHES
 A AREA = $\frac{2}{3} X Y - \frac{2}{3} X Y$
 $A = \frac{2}{3} (5.52')(2.3') - \frac{2}{3} (4.8')(1.604')$
 $A = .67(12.6') - .67(7.6')$
 $A = 8.4' - 5.0'$
 $A = 3.4$ SQFT PER

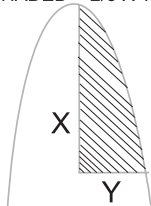
C APPROXIMATE CENTER ARCH LEG
 C AREA = LENGTH X AVERAGE WIDTH
 $C = (3.310') \frac{(3.0' + 1.450')}{2}$
 $C = (3.310')(2.2')$
 $C = 7.36$ SQFT PER LEG

B APPROXIMATE ARCH LEG
 B AREA = LENGTH X AVERAGE WIDTH
 $B = (3.31') \frac{(1.104' + 1.320')}{2}$
 $B = (3.31')(1.212')$
 $B = 4.01$ SQFT PER LEG

D BASE AREA
 D AREA = LENGTH X WIDTH + BOTTOM TRIANGLES
 $D = (1.880')(13.1') + 2[(.292')(1.880')(.5)]$
 $D = 24.6 + .548$
 $D = 25.1$ SQFT

TOTAL AREA = $4(A) + 2(B) + C + D$
 $TA = 4(3.4') + 2(4.01) + 7.36' + 25.1$
 $TA = 54.0'$

PARABOLA AREA SHOWN
 SHADED = $\frac{2}{3} X Y$



HATCHED AREA OF SIGN
 HAS BEEN CALCULATED

156.5 SQ. FT. BOXED
102.5 OF OPEN AIR SPACE
54.0 SQ. FT. TOTAL SIGN AREA



McDonald's

NEW LATE MENU BREAKST
OR LUNCH FROM 12-AM 4AM





CITY OF FORT PIERCE

PLANNING DEPARTMENT

COMPREHENSIVE PLANNING ♦ DEVELOPMENT REVIEW
HISTORIC PRESERVATION ♦ URBAN DESIGN ♦ URBAN FORESTRY ♦ ZONING

VARIANCE

Property address or Location 7001 Okeechobee Rd
Parcel ID #(s) 2324 · 331 · 0016 · 000 · 3
Project description McDonald's

McDonald's Corp.
Property Owner(s)
10150 Highland Manor Dr.
Street Address
Tampa FL 33620
City State Zip
772 · 486 · 4190
Phone Number
tim.chess@us.mcd.com
Email Address

The Seyer Group / Kim Binkley-Seyer
Applicant/Representative, Title, Company
7321 Merchant Court
Street Address
Sarasota FL 34240
City State Zip
941 · 552 · 2200
Phone Number
kim@seyergroup.com
Email Address

Property Owner(s) Acknowledgements: - This application will not be considered complete without the signature of all property owners of record, which shall serve as an acknowledgement of the submission of this application. The property owner's signature below shall also authorize the Applicant (if other than the property owner) and/or Representative to act in his/her behalf for the purposes of seeking approval for the application described herein.

[Signature]
Property Owner(s) Signature(s)

STATE OF FLA -- Sarasota COUNTY

The foregoing instrument was acknowledged before me this 28 day of April, 2014, by Tim Chess who is personally known to me or has produced as identification.

[Signature]
Signature of Notary



INTAKE MEETINGS ARE REQUIRED FOR ALL SUBMITTALS. CALL (772) 467-3739

TO BE COMPLETED BY STAFF

Zoning	Future Land Use	Total Acres	Historic District	Historic Designation
<u>C-3</u>	<u>GC</u>	<u>1.72 acres</u>	<u>N/A</u>	Contributing Individual Non-Contributing None

Pre-Application Meeting Date April 9th 2014 Fees \$1000 Control # _____ B. Permit # _____

Intake Planner Clarissa Davis
Planner Assigned "
Approved By _____ Date _____
Comments _____



VARIANCE

Submit eight (8) hard copies and one (1) CD of the following for initial submittal, subsequent submittals will be required:

- Site plan, to scale, including all relevant improvements:
 - Existing & proposed structures
 - Landscaping & parking,
 - Fencing, signs, etc.
- As-built Survey
- Criteria Narrative
- Complete, notarized application

Description of request: see attached

Reason for request: see attached

Existing Use: McDonald's Date Property was Purchased: 1983

Alterations made to the site since purchase: See attached

Has a request for this variance been denied in the past? Yes No

If yes, what has changed since the denial? _____

Application Outlook



Criteria:

In order to determine whether your request for Variance meets all the criteria in Section 22-108 of the City Code, please answer the following questions. Please provide answers of questions on separate pages:

1. Describe those conditions peculiar to the specific property and not applicable to other lands, structures, or buildings in the same zoning district.
2. Does special conditions or circumstances result from actions other than that of yours? Please explain
3. Identify any undue hardships or deprivation of commonly enjoyed property rights that would result in the literal interpretation of the code for the zoning district.
4. What is the minimum variance that would give the reasonable use of the land, building, or structure?
5. Explain how the variance request would not impair the intent of the zoning ordinance or be detrimental to the general public welfare: