1. CALL TO ORDER

2. ROLL CALL

3. APPROVAL OF DECEMBER 8, 2016 MINUTES

4. REGULAR BUSINESS
   Deliberations will be held at the end of each case after public comment has been closed. No public comment is allowed during deliberations.

   **CASE NO. ZBA 3029**
   Public Hearing on the request of Robert DeAtley of Barber & DeAtley, Inc. for variances from the City of Peoria Unified Development Code Section 4.3.4, Building Envelope Standards, including but not limited to, windows and doors, parking setback, garden wall and transitional buffer yard, and street façade requirements, Section 8.3, Signs, and Section 8.2.14.A, Drive-Through Facilities, in a Class C-G (General Commercial) District, for the property located at 1705 and 1715 N. Knoxville Avenue (Parcel Identification Numbers 18-04-128-033, 18-04-128-034, and 18-04-128-035), Peoria, Illinois. (Council District 2).

5. CITIZENS’ OPPORTUNITY TO ADDRESS THE COMMISSION

6. ADJOURNMENT
WELCOME!

If you plan on speaking, please complete a Blue Speaker Form

For each case the following sequence will apply:

1. Chairperson proceeds with swearing in procedures
2. Chairperson announces the case
3. Staff enters case into the record
   a. Staff presents the case
   b. Staff answers questions from the Commission
4. Petitioner presents case and answers questions from the Commission
5. Chairperson opens the meeting to the public
6. Public comments – Chairperson may ask for response/input from staff and petitioner
7. Petitioner presents closing statements
8. Public testimony is closed (No further public comment)
9. Commission deliberates and may consult staff
10. Commission prepares findings, if applicable
11. Commission votes

All comments and questions must be directed to the Commission
A regularly scheduled Zoning Board of Appeals Meeting was held on Thursday, December 8, 2016, at 1:00 p.m., City Hall, 419 Fulton Street, Room 400, with Vice Chairperson Zachary Oyler presiding.

ROLL CALL

The following Zoning Board of Appeals Commissioners were present: Laith Al-Khafaji, Ed Barry, Jerry Jackson, Zachary Oyler, and Nathan Wagner – 5. Absent: Mark Anderson and Richard Russo – 2.

Staff Present: Syed Ahmad, Leah Allison, Shannon Techie, and Madeline Wolf

MINUTES

Commissioner Barry moved to approve the minutes for the meeting held on December 10, 2016; seconded by Commissioner Jackson.

The motion was approved viva voce vote 5 to 0.

REGULAR BUSINESS

CASE NO. ZBA 3025 (Continued from 11/10/2016)

Petitioner Jim Youngman of Adams Outdoor Advertising, is appealing the Zoning Administrator’s decision for the spacing requirement of an off-premise sign per the Unified Development Code, Section 8.3.10.c.2, in a Class C-1 (General Commercial) District for the property identified as Parcel Identification No. 14-19-402-007 with an address of 2238 W Glen Ave, Peoria, Illinois (Council District 4).

Senior Urban Planner, Leah Allison, Community Development Department, read the case into the record and presented the request. Ms. Allison provided the property characteristics, summary of the appeal as outlined in the memo. Ms. Allison reviewed the purpose of section 8.3.1 as outlined in the memo.

Staff recommended affirmation of the Zoning Administrator’s decision based on the intent of the sign ordinance and specific requirements of section 8.3.10.c.2.

The regulations as interpreted by staff meet the intent of the sign ordinance, specifically to protect and preserve property values, lessen congestion of land and air space, avoid uncontrolled proliferation of signs, and preserve the wholesome and attractive character of the City. The 1,000 lineal foot separation requirement applies to any street in the City of Peoria, not just the street of the subject property. This is evident when considering the language of 8.3.10.C.2.b.1 which stated:

1) 50 lineal feet from the base of the sign to any on-premises freestanding sign located on the same street frontage.

as compared to 8.3.10.C.2.b.2 which stated:

2) 1,000 lineal feet from the base of the sign to any off-premises freestanding sign on either side of the street, permitted or special use

If the intent of the 1,000-foot separation was to be applied to the same street frontage, the regulation would have been written as it is in the sentence 1) above. The 1,000-foot separation regulation was intentionally written without the requirement of the same street frontage. The words “the street” means any street in the City of Peoria. The regulation as written and interpreted allows the placement of off-premise signs to meet the intent of the overall sign ordinance.

The interpretation offered by the petitioner failed to meet the intent of the sign ordinance. If interpreted as suggested by the Petitioner, an off-premise sign may be located on each frontage of a corner property.
The result is a proliferation of 30-foot tall, 300 sq. ft. in size off-premise signs on both frontages of commercial and industrial zoned corner properties.

The petitioner was sworn in by Staff Member Madeline Wolf.

Sam Zabek, petitioner, referred to the packet he prepared and distributed to the commission. Mr. Zabek said the existing sign on Glen Avenue was considered a non-conforming sign as it was near residential; the proposed site was more in conformance with the proximity to residential. Mr. Zabek contended that the ordinance was not subject to interpretation and city staff was bound by the language of the ordinance; stating the 1,000 lineal foot separation requirement applied only to off-premise signs located on the same street as the proposed location of Glen Avenue. Mr. Zabek said denial of the application was wrong and requested the ZBA overturn or reverse the Zoning Administrator’s decision.

Syed Ahmad, Attorney for the City of Peoria, referred to Mr. Zabek’s handout, Sibenaller v. Milschewski page 6 of 8, and said the case demonstrated how legislative bodies are to interpret the code. The intent of the code was to have minimal number of signs. Mr. Ahmad said based on Mr. Zabek’s argument, each intersection would allow a sign; the allowance of four signs at an intersection was not the intent of the ordinance that was written by the City Council. Mr. Ahmad said the Zoning Administrator considers applications in a matter that fulfills the intent of the City Council and legislature, which is to reduce the number of signs.

Mr. Zabek said he understood the intent of City Council; the proposed location would be more in compliance with the ordinance. Mr. Zabek argued the application was for the relocation of an existing sign.

Mr. Ahmad noted the existing nonconforming sign was grandfathered, which does not permit the sign to move locations. Mr. Ahmad said the sign was not allowed at the proposed location per the ordinance as it would be within 1,000 linier feet from an existing sign.

Ms. Allison said the interpretation of section 8.3.10.c.2 has been consistent since the adoption of the Ordinance in 1990; therefore, there had not been an ambiguous interpretation. Ms. Allison noted the provision in the ordinance that stated the removal of non-conforming signs are not permitted to be replaced.

Commissioner Al-Khafaji requested clarification from Mr. Ahmad in regard to his statement of the interpretation that would allow four signs at the intersection.

Mr. Ahmad said if the interpretation of the code was limited to street facing, four signs would be permitted at the intersection, which ultimately defeated the intent of the ordinance.

Vice Chairperson Oyler opened the Public Hearing at 1:28p.m.

Sam Zabek, petitioner, said the ordinance did not allow for hypothetical situations. Mr. Zabek said he understood he would not be allowed to install 8 signs on Glen Avenue.

Vice Chairperson Oyler closed the Public Hearing at 1:30p.m.

Chairperson Oyler read the Findings of Fact for the Appeal.

Motion:
Commissioner Barry made a motion to uphold the position of staff; seconded, by Commissioner Jackson.

The motion was approved by roll call vote 3 to 2.
Yeas: Barry, Jackson, Wagner – 3.
Nays: Al-Khafaji, Oyler – 2.

CASE NO. ZBA 3026 (Continued from 11/10/2016)
Public Hearing on the request of Shirley Weber, to obtain a variance from the City of Peoria Unified Development Code Section 5.4.7.C., Fence Requirements, to install a front yard fence that exceeds the allowed height of 3 feet in a Class R-3 (Single-family Residential) District, for the property identified as Parcel

Senior Urban Planner, Shannon Techie, Community Development Department, read Case No. ZBA 3026 into the record and presented the case. Ms. Techie provided the property characteristics, requested variance, and the Development Review Board recommendation as outlined in the memo. Ms. Techie noted the commission chose to defer the case for one month to provide the petitioner time to measure the recommended setback of 10 feet from the property line.

The Development Review Board felt that the standards for variances are met due to the existing placement of structures on the site, the shape of the site, and the fact that the property was a corner lot.

The Development Review Board recommended APPROVAL of the variance with the following conditions:
1. That the fence be constructed of vinyl or other similar material.
2. The fence not exceed 4 feet in height.
3. The fence be set back 10 feet from the front property line.
4. The existing fence around the pool (that doesn’t meet barrier requirements) be removed and the new fence serve the purpose.

Commissioner Barry questioned if the only distinction between the city and the petitioner was the height of the fence.

Ms. Techie said yes; the deferral was to allow time for the petitioner to measure to verify that she can meet the 10 foot setback.

The petitioner was sworn in by Staff Member Madeline Wolf.

Shirley Weber, petitioner, reviewed her request and spoke to the misunderstanding of the location of the property line. Ms. Weber said applying the 10 foot setback would cause her to remove bushes and trees in the landscape area which would increase her expense. The purpose of the proposed fence was to improve the appearance of the fence, retain personal property, safety and security, and to comply with zoning. Ms. Weber noted there were no objections from neighbors. Ms. Weber said she was not willing to spend $9,500 - $10,000 for a privacy fence that would decrease her use of the property.

Commissioner Barry inquired which of the four conditions Ms. Weber would be willing to meet.

Ms. Weber disagreed with Conditions #3 and #4. Ms. Weber noted when her fence was struck by a vehicle, she thought it was an opportunity to build a higher fence and to improve the material of the fence. Ms. Weber was not willing to adhere to the 10 foot setback from the front property line.

In response to Commissioner Barry's inquiry regarding the proposed fence material, Ms. Weber said she preferred a solid vinyl fence.

In response to Commissioner Al-Khafaji’s inquiry, Ms. Weber said she objected to anything less than 6 feet in height. Ms. Weber noted Cilco required the removal of a tree that also reduced privacy.

Ms. Techie noted Condition #3 stated the fence be set back 10 feet from the front property line and said it was the owner’s responsibility to identify the property line.

Vice Chairperson Oyler closed the Public Hearing at 1:50p.m.

Vice Chairperson Oyler read the Findings of Fact
Motion:
Commissioner Barry made a motion to approve the variance with the four conditions of staff; seconded, by Commissioner Al-Khafaji.

The motion was approved by roll call vote 5 to 0.
Yea: Al-Khafaji, Barry, Jackson, Oyler, Wagner – 5.
Nays: None.

CITIZENS’ OPPORTUNITY TO ADDRESS THE COMMISSION

Shirley Weber, 2006 Gilbert Avenue, questioned if she was obliged to the conditions set forth in the motion for Case No. ZBA 3026 if she chose not to remove the existing fence.

Ms. Techie said the existing fence was on public right-of-way; therefore, it was Public Works’ decision. Ms. Techie said she would follow up with Public Works after the meeting.

There was no further interest from the public to provide public testimony at 1:55 p.m.

ADJOURNMENT
Commissioner Jackson moved to adjourn the Zoning Board of Appeals Meeting; seconded by Commissioner Barry.

The motion was approved unanimously viva voce vote 5 to 0.

The Zoning Board of Appeals meeting adjourned at approximately 1:55 p.m.

Leah Allison, Senior Urban Planner

Shannon Techie, Senior Urban Planner

Madeline Wolf, Development Technician
TO: City of Peoria Zoning Board of Appeals
THRU: Site Plan Review Board
FROM: Shannon Techie, Senior Urban Planner
DATE: March 9, 2017
CASE NO: ZBA 3029

SUBJECT: Public Hearing on the request of Robert DeAtley of Barber & DeAtley, Inc. for variances from the City of Peoria Unified Development Code Section 4.3.4, Building Envelope Standards, including but not limited to, windows and doors, parking setback, garden wall and transitional buffer yard, and street façade requirements, Section 8.3, Signs, and Section 8.2.14.A, Drive-Thru Facilities, in a Class C-G (General Commercial) District, for the property located at 1705 and 1715 N. Knoxville Avenue (Parcel Identification Numbers 18-04-128-033, 18-04-128-034, and 18-04-128-035), Peoria, Illinois. (Council District 2).

PROPERTY CHARACTERISTICS
The subject property is 0.84 acres in size and zoned Class C-G (General Commercial) District. It is surrounded by Class C-G (General Commercial) to the north, east, and south, and R-4 (Single-family Residential) to the west. Two of three parcels have been vacant land since 2005, when a former Burger King Restaurant was demolished. The property at 1705 N Knoxville Avenue contains a small commercial building that will be demolished as part of the proposed Burger King development.

REQUESTED VARIANCE:
As part of the proposed redevelopment of this site, the Petitioner has provided numerous site plan concepts, in an effort to meet Unified Development Code requirements. A concept was provided in which the building was placed within the required 10 to 80 foot build to line. The preference from Staff was for the building to meet this requirement; however, this resulted in vehicle circulation issues on the site. The Development Review Board reviewed this previously proposed concept and provided the following comment:

- To improve operations, Public Works recommends moving the exit on Knoxville to the north driveway. That would allow left turn stacking parallel to Knoxville and would not block cars leaving the pickup window. The south driveway would then provide right turn only.

The site plan, as currently proposed, is a result of multiple revisions and effort from the petitioner to provide a development that, not only meets Burger Kings standards, but also meets City Code where possible, and addresses requirements and recommendations from all members of the Development Review Board.

The following table summarizes the requested variances, the petitioner’s justification for the variances, and the Development Review Board recommendation:

<table>
<thead>
<tr>
<th>Requested Variance</th>
<th>Petitioner Justification</th>
<th>Staff Recommendation</th>
<th>Condition Requested by Staff</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Variance from Appendix A, Section 4.3.4., to eliminate the requirement for a</td>
<td>Property is too shallow; the need to maintain stacking spaces for 7 vehicles (double wide</td>
<td>Staff does not object to this variance request if the petitioner can demonstrate to the</td>
<td>A 6-foot tall cedar wood privacy fence approximately 2.5 feet east of the west property line,</td>
</tr>
<tr>
<td>garden wall or transitional buffer yard (100% variance).</td>
<td>lane) in the drive-thru and minimum drives around the building, prevent the ability to</td>
<td>commission that the property cannot yield a reasonable return if permitted to be used</td>
<td>with landscaping planted and maintained on both sides of the</td>
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<td>provide the required transitional buffer yard.</td>
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ZONING BOARD OF APPEALS
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<td>1. Providing a fence in place of a garden wall would be in keeping with neighboring properties.</td>
<td>only under the conditions allowed by the regulations in the C-G (General Commercial) District. Staff agrees that the standards 2 and 3 of Appendix A, Section 2.6.3 are met, as the variation fits the existing character of the locality with other fast food restaurants built to a similar design, and the inclusion of a drive-thru results in unique circumstances.</td>
<td>fence, must be provided in lieu of a garden wall or the transitional buffer yard and meet the intent of a wall and transitional buffer yard, to provide adequate screening from the adjacent residential property.</td>
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<tr>
<td>2. Variance from Appendix A, Section 4.3.4.8, to reduce the street façade requirements from the required 117 feet (60%) of the lot frontage along Knoxville Avenue to 57 feet (29%) of the lot frontage along Knoxville Avenue.</td>
<td>Unable to meet the façade requirements due to the practicality of needing to provide two drive-thru lanes, parking, and site circulation, while still using an existing Burger King floor plan. This request is similar to the lot width nearby at the two fast food uses immediately north of this site, and are therefore in keeping with the neighborhood.</td>
<td>Staff does not object to this variance request if the petitioner can demonstrate to the commission that the property cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in the C-G (General Commercial) District. Staff agrees that the standards 2 and 3 of Appendix A, Section 2.6.3 are met, as the variation fits the existing character of the locality with other fast food restaurants built to a similar design, and the inclusion of a drive-thru results in unique circumstances.</td>
<td>A pedestrian connection to the public sidewalk on both Knoxville Avenue and Richmond Avenue must be provided to provide increased pedestrian accessibility to the site.</td>
</tr>
<tr>
<td>3. Variance from Appendix A, Section 8.2.15., to allow a drive-thru window adjacent to property zoned single-family residential (100% variance).</td>
<td>If the building is oriented with the drive-thru window facing on any other elevation, the flow of traffic within and specifically from this site is a major issue that would prevent development. The orientation of the Order</td>
<td>Staff does not object to this variance request if the petitioner can demonstrate to the commission that the property cannot yield a reasonable return if permitted to be used</td>
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<tr>
<td>Confirmation Unit (OCU) on the north side of the site is a more important consideration; as oriented, the OCU faces north, and sound will not be projected toward the homes west of this site from the OCU speaker. Concerns brought up by the City led to the decision that the building must be oriented as shown, to maximize the ability for traffic easily to enter and exit the site. The orientation of the building as proposed, provides the best protection of the adjacent residential use, and are in keeping with the neighborhood.</td>
<td>only under the conditions allowed by the regulations in the C-G (General Commercial) District.</td>
<td>Staff agrees that the standards 2 and 3 of Appendix A, Section 2.6.3 are met, as the variation fits the existing character of the locality with other fast food restaurants built to a similar design, and the inclusion of a drive-thru results in unique circumstances.</td>
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<tr>
<td>4. Variance from Appendix A, Section 8.3.10 to allow a 101.15 square foot freestanding sign, which exceeds the allowed 70 square feet (44.5 % variance)</td>
<td>By Ordinance, one sign on Richmond Ave. at 70 square feet and one sign on Knoxville Ave. also at 70 SF are permitted. Because of the residential character of Richmond Ave., they propose eliminating the sign on Richmond Ave., and to instead provide one, larger sign on Knoxville Ave. at the northern end of the property. The proposed sign on Knoxville Ave. is similar in size to other signs on this commercial corridor, and is therefore in keeping with the character of the neighborhood.</td>
<td>Staff does not object to this variance request if the petitioner can demonstrate to the commission that that property cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in the C-G (General Commercial) District.</td>
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<td>Staff agrees that the standards 2 and 3 of Appendix A, Section 2.6.3 are met, as the variation fits the existing character of the locality with other fast food restaurants built to a similar design, and the inclusion of a drive-thru results in unique circumstances.</td>
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<td>In addition, part of the intent of the Sign Ordinance is to provide against undue concentrations of signs which distract and endanger traffic safety</td>
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<td>5. Variance from Appendix A, Section 8.3 to allow a menu board 7 feet 7 inches in height, which exceeds the allowed height of 5 feet (52% variance).</td>
<td>Need to use standard Burger King sizes for the Pre-Sell and Drive Thru Menu Boards, in order to utilize Burger King’s marketing, which is updated regularly. The ordinance height is unusually restrictive. The developer proposes to use sizes that are standard not only for Burger King stores but across most fast food restaurants, including numerous sites within Peoria. The proposed sizes are consistent with nearby similar uses, and are therefore in keeping with the character of the neighborhood.</td>
<td>Staff does not object to this variance request if the petitioner can demonstrate to the commission that that property cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in the C-G (General Commercial) District. Staff agrees that the standards 2 and 3 of Appendix A, Section 2.6.3 are met, as the variation fits the existing character of the locality with other fast food restaurants built to a similar design, and the inclusion of a drive-thru results in unique circumstances.</td>
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<td>6. Variance from Appendix A, 4.3.4 to allow the building to be setback 99 feet, 8 inches from the front property line on Knoxville, instead of the required build to line between 10 feet and 80 feet (24.6% variance).</td>
<td>If the building had to be held to the 80 foot setback, the on-site traffic patterns and parking are greatly affected. First and foremost, only 3 vehicles would be able to stack at each Order Confirmation Unit (OCU), whereas Burger King Corporation requires us to provide 4 vehicles at one lane and 3 vehicles at the second lane. Site circulation,</td>
<td>Staff does not object to this variance request if the petitioner can demonstrate to the commission that the property cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in the C-G (General Commercial) District.</td>
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<td>7. Variance from Appendix A, Section 4.3.4.D to allow the side yard parking setback to be reduced from the required 5 foot setback to 6 inches along the north property line (90% variance).</td>
<td>The lot is too narrow and through a series of revisions, it was determined that keeping a 15'-0&quot; setback at the south, along Richmond Ave., was more important than a setback along the northern edge of the paving adjacent to a commercially zoned property. Therefore, the Richmond setback was brought into compliance at 15'-0&quot; at the expense of a reduction in the setback for the northern side yard. The proposed setback would be similar to the property immediately north of this site, among others, and is therefore in keeping with the character of the existing neighborhood.</td>
<td>Staff does not object to this variance request if the petitioner can demonstrate to the commission that the property cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in the C-G (General Commercial) District.</td>
<td>Staff agrees that the standards 2 and 3 of Appendix A, Section 2.6.3 are met, as the variation fits the existing character of the locality with other fast food restaurants built to a similar design, and the inclusion of a drive-thru results in unique circumstances.</td>
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</table>

**BACKGROUND OF SIMILAR VARIANCES ON NEIGHBORING PROPERTIES**

Please note that as part of the redevelopment of Taco Bell at 1811 N Knoxville Avenue and McDonalds at 2205 N Knoxville Avenue, waivers were granted, similar to the variances requested by Burger King, but were approved through the Special Use process, as expansions of non-conforming restaurants. As a result the variance standards were not applicable.

The Aqua Express Car Wash at 1633 N Knoxville Avenue obtained variances to reduce the required parking setback line along Richmond Avenue from 15 feet to 10 feet (33.3% variance) and to reduce the required width of the building façade from 73.2 feet (60% of the width of the lot frontage) to 32.67 feet (26.8% of the width of the lot frontage; 55.4% variance); however, this request was prior to the current code in which they had to meet one of 10 standards, instead of all of the required three currently.
SITE PLAN REVIEW BOARD RECOMMENDATION
Staff's recommendation is to APPROVE the variances, if the Petitioner demonstrates that all three variance standards are met, and subject to the following conditions:

1. A 6-foot tall cedar wood privacy fence approximately 2.5 feet east of the west property line, with landscaping planted and maintained on both sides of the fence, must be provided in lieu of a garden wall or the transitional buffer yard and meet the intent of a wall and transitional buffer yard, to provide adequate screening from the adjacent residential property.

2. A pedestrian connection to the public sidewalk on both Knoxville Avenue and Richmond Avenue must be installed to provide increased pedestrian accessibility to the site.
Disclaimer: Data is provided 'as is' without warranty or any representation of accuracy, timeliness or completeness. The burden for determining fitness for, or the appropriateness for use, rests solely on the requester. The requester acknowledges and accepts the limitations of the Data, including the fact that the Data is in a constant state of maintenance. This website is NOT intended to be used for legal litigation or boundary disputes and is informational only. Peoria County GIS Division.
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**ZONING BOARD OF APPEALS**

**VARIANCE APPLICATION**

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### 1. PROPERTY INFORMATION

| **a)** Address: 1715 N. Knoxville Rd, Peoria IL 61602 |
| **b)** Tax ID Number(s): 180412-8033, 180412-8034, and 180412-8035 |
| **c)** Parcel Area (acres or square feet): 36,075 sq ft |
| **d)** Current Zoning District: CG - General Commercial District |
| **e)** Current Property Use: 2 parcels are vacant lots; 1 parcel has small storage building on site |

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### 2. OWNER INFORMATION – REQUIRED

| **Name** | Maruti Seth | Maruti Gagan Management, LLC |
| **Address, City, State, ZIP+4** | 1246 E. River, Danville, IL 61832 |
| **Phone** | (302) 783-0797 |
| **Fax** |  | mseth@group2029.com |
| **Signature of Owner(s) & Date** |  |

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### 3. APPLICANT INFORMATION – engineer, architect, attorney or other, if applicable

| **Name** | Robert E. DeAtley | Barber & DeAtley, Inc. |
| **Address, City, State, ZIP+4** | 111 N. Goodwin Ave., Urbana IL 61801 |
| **Phone** | (217) 367-5350 |
| **Fax** | (217) 367-9483 |
| **Signature of Applicant & Date** |  |

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**Applicant’s Interest In Property:**
- Contractor
- Contract Purchaser
- Other

**Send Correspondence To:** Select one entity to receive all correspondence. E-mail will be used for all correspondence unless otherwise requested.
- Owner
- Applicant
- Representative of Applicant

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*Rev. 10/19/2016*
ZONING BOARD OF APPEALS
VARIANCE APPLICATION

1. PROPERTY INFORMATION

a) Address: 1715 N. Knoxville Rd., Peoria, IL 61602

b) Tax ID Number(s): 1804128033, 1804128034, and 1804128035

    Attach additional sheets if necessary

c) Parcel Area (acres or square feet): 36,075

d) Current Zoning District: CG - General Commercial

e) Current Property Use: 2 Properties are vacant lots, 1 parcel has small storage building on site

2. OWNER INFORMATION - REQUIRED (For Pins #1804128033 and #1804128034)

Name
P.O. Box 020783, Miami, FL 33102, 0783

Company

Address, City, State, ZIP+4

Phone

Fax
1/12/17

Email

Signature of Owner(s) & Date

3. APPLICANT INFORMATION - engineer, architect, attorney or other, if applicable

Name
Robert E. DeAtley
Barber & DeAtley, Inc

Company

Address, City, State, ZIP+4

(217) 367-5350  (217) 367-9483 barberdeatley@aol.com

Phone
Fax

Email

Signature of Applicant & Date

 Applicant's Interest in Property:

☐ Contractor
☐ Contract Purchaser
☐ Other

Send Correspondence To: Select one entity to receive all correspondence. E-mail will be used for all correspondence unless otherwise requested.

☐ Owner
☐ Applicant
☐ Representative of Applicant

Rev. 10/19/2016
Zoning Board of Appeals Variance Application - Page 1 of 4
4. VARIANCE INFORMATION

a) Variance being requested Please see attached list.

b) From what section of the zoning ordinance is a variance being requested? Please see attached list.

c) What unique or exceptional characteristics of your property prevent it from meeting the requirements in your zoning district? (Check applicable)

- Too narrow  X
- Subsurface
- Too shallow  X
- Too small
- Elevation
- Soil
- Shape
- Slope
- Other

d) What is your hardship? Please be specific. Please see attached

... (additional text here)

... (additional text here)

... (additional text here)

... (additional text here)

... (additional text here)

e) If granted a variance in the form requested, will it be in harmony with the neighborhood and not contrary to the intent and purpose of the Unified Development Ordinance?

- X Yes  ______ No

Please elaborate: Please See Attached

... (additional text here)

... (additional text here)

... (additional text here)

... (additional text here)

5. FILING FEE (MUST ACCOMPANY APPLICATION)

Variance Application Fees for any property in the City shall be as set forth below:

$750.00 minimum plus $100 per acre to a maximum of $7500.00

* $750 plus 82.82 = + $832.82

Per Unified Development Code Article 2.14 - Fees Table:

6. REQUIRED SITE PLANS

One copy of the site plan and one on a compact disc or appropriate digital media.
7. FINDINGS OF FACT WORKSHEET

Please select true or false for the following three questions:

Sections 2.6.3.E. Standards for Variations
No variations from the regulations of this development code shall be granted unless the entity or person granting such variation shall find based upon the evidence presented to them in each specific case that all three of the following criteria are true:

1) The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zoning district.

   X True    ___ False

   Explanation: The property cannot be developed as a fast-food use if the ordinances are strictly enforced without the requested variances. Fast food is an allowable use of this zoning district.

   Fact to consider:
   a. The purpose of the variation is not based primarily upon a desire to increase financial gain.

2) The plight of the owner is due to unique circumstances.

   X True    ___ False

   Explanation: The proposed redevelopment eliminates an existing urban blight. Even after combining 3 parcels into this redevelopment, strict enforcement of the ordinance would not allow the fast food use on this site. Combined with the requirements on 2 sides of this site, strict enforcement of ordinances prevent re-use of this site.

   Facts to consider:
   a. The particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out.
   b. The conditions upon which an application for a variation is based are unique to the property for which the variance is sought, and are not applicable, generally, to other property within the same zoning classification.
   c. The practical difficulty or hardship is caused by this ordinance and has not been created by any persons presently having an interest in the property.

3) The variation, if granted, will not alter the essential character of the locality or be injurious to the public or other property or properties.

   X True    ___ False

   Explanation: The proposed use is in keeping with adjacent uses to this site. This site was previously a Burger King, too. And each requested variance is similar to existing adjacent developments.

   Facts to consider:
   a. The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.
   b. The proposed variation will not impair an adequate supply of light and air to adjacent property or substantially increase the danger of fire, or impair natural drainage or create drainage problems on adjacent properties, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.
1715 N. Knoxville Road, Variance Request for proposed Burger King

VARIANCE INFORMATION

1) REQUEST TO ALLOW A 6-FOOT TALL SHADOWBOX CEDAR PRIVACY FENCE AT WEST PROPERTY LINE IN LIEU OF A GARDEN WALL.

1a. We request to be allowed to provide a 6-foot tall cedar wood privacy fence approx. 2.5 feet east of the west property line, with landscaping planted and maintained on both sides of the fence, in lieu of a garden wall or the transitional buffer yard.

1b. Zoning Ordinance Reference: Appendix A, 4.3.4 and 8.2.9

1c. Unique or exceptional characteristics: Property is too shallow

1d. The need to maintain to 7 vehicles stacking in the drive thru and minimum drives around the building, prevent us from dedicating the required transitional buffer yard.

1e. We have proposed a wood shadow box privacy fence, 6-foot in height, to match the wood privacy fence already installed at the adjacent two fast-food properties to the north of this site. In addition, we will provide landscaping on both sides of the fence, to include an ivy or similar vine if desired by the commission for the west side of the proposed fence. We believe the fence will provide a better barrier than a landscape hedge with 30” tall plants at the time of planting.

2) REQUEST FOR REDUCTION IN STREET FAÇADE REQUIREMENTS.

2a. We request to be allowed to provide 52'-0” of building frontage along Richmond Ave and 57’-1” of frontage along Knoxville Ave.

2b. Zoning Ordinance Reference: Appendix A, 4.3.4.8

2c. Unique or exceptional characteristics: Other

2d. We are unable to meet the façade requirements due to the practicality of needing to provide two drive thru lanes, parking, and site circulation, while still using an existing Burger King floor plan.

2e. The request is similar to the lot width nearby at the two fast foot uses immediately north of this site, and are therefore in keeping with the neighborhood.
3) REQUEST TO ALLOW A DRIVE THRU WINDOW FACING EXISTING SINGLE FAMILY RESIDENTIAL HOMES.

3a. We request to be able to orient our building as shown on the Conceptual Site Plan, with the drive thru windows on the west elevation of the building.

3b. Zoning Ordinance Reference: Appendix A, 8.2.15

3c. Unique or exceptional characteristics: Other

3d. If the building is oriented with the drive thru window facing on any other elevation, the flow of traffic within and specifically from this site is a major issue that would prevent development. We believe the orientation of the Order Confirmation Unit (OCU) on the north side of the site is a more important consideration; as oriented, the OCU faces north, and sound will not be projected toward the homes west of this site from the OCU speaker. Concerns brought up by the City led to the decision that the building must be oriented as shown, to maximize the ability for traffic easily to enter and exit the site.

3e. For the reasons stated above, we feel that the orientation of the building as proposed provides the best protection of the adjacent residential use, and are in keeping with the neighborhood.

4) REQUEST TO ALLOW ONE STREET SIGN AT KNOXVILLE AVE., 101.15 SF PER SIDE, IN LIEU OF TWO SIGNS (ONE PER FRONTAGE) AT 70 SF EACH.

4a. We request to be allowed to provide one sign, 101.15 SF as shown, along the Knoxville Ave. frontage in lieu of two separate signs, one on Knoxville Ave. and one on Richmond, each 70 SF per face.

4b. Zoning Ordinance Reference: Appendix A, 8.3.10

4c. Unique or exceptional characteristics: Other

4d. By Ordinance, we are allowed one sign on Richmond Ave. at 70 SF. per face, and on sign on Knoxville Ave. also at 70 SF per face. Because of the residential character of Richmond Ave., we propose eliminating the sign on Richmond Ave., and to instead provide one, larger sign on Knoxville Ave. at the northern end of the property. The larger sign would include a 10'-0” diameter BK button logo sign and a 3'-1” tall x 7'-4” wide digital message board, for a total of 101.15 SF.

4e. The proposed sign on Knoxville Ave. is similar in size to other signs on this commercial corridor, and is therefore in keeping with the character of the neighborhood.
5) REQUEST TO ALLOW DRIVE THRU MENU BOARD HEIGHT TO EXCEED 5’-0”

5a. We request to be allowed to utilize Burger King’s standard Pre Sell Menu Board and Drive Thru Menu Boards, which exceed the 5’-0” allowable height limit.

5b. Zoning Ordinance Reference: Appendix A, 8.3

5c. Unique or exceptional characteristics: Other

5d. We need to use standard Burger King sizes for the Pre-Sell and Drive Thru Menu Boards in order to utilize Burger King’s marketing, which is updated regularly. The ordinance height is unusually restrictive. We propose to use sizes that are standard not only for Burger King stores but across most fast food restaurants, including numerous sites within Peoria

5e. The proposed sizes are consistent with nearby similar uses, and are therefore in keeping with the character of the neighborhood.

6) REQUEST TO ALLOW THE BUILDING TO BE SET BACK 99’-8” FROM RICHMOND IN LIEU OF 80’-0” MAXIMUM.

6a. We request to be able to situate our proposed building as per the Conceptual Site Plan, with a 99’-8” setback from Knoxville Ave. in lieu of the maximum 80’-0” allowed.

6b. Zoning Ordinance Reference: Appendix A, 4.3.4

6c. Unique or exceptional characteristics: Other

6d. If the building had to be held to the 80 foot setback, the on-site traffic patterns and parking are greatly effected. First and foremost, only 3 vehicles would be able to stack at each Order Confirmation Unit (OCU), whereas Burger King Corporation requires us to provide 4 vehicles at one lane and 3 vehicles at the second lane. Site circulation, specifically vehicles entering and exiting the site onto Knoxville Ave., also become a significant concern. Lastly, total available parking would need to be reduced.

6e. The proposed setback would be similar to several other existing properties along the Knoxville Ave. corridor, and are therefore in keeping with the character of the existing neighborhood.

7) REQUEST TO ALLOW A REDUCTION IN THE SIDE YARD PARKING SETBACK FOR THE EDGE OF AN ACCESS DRIVE TO BE LOCATED 0’-6” FROM THE PROPERTY LINE.

7a. We request to be able to situate our proposed building as per the Conceptual Site Plan, with 6” setback from the face of the curb to the norther property line at the north circulation drive.

7b. Zoning Ordinance Reference: Appendix A, 4.3.4.D
7c. Unique or exceptional characteristics: Too narrow / Other

7d. Through a series of revisions, it was determined that keeping a 15’-0” setback at the south, along Richmond Ave., was more important than a setback along the northern edge of the paving. Therefore, the Richmond setback was brought into compliance at 15’-0” at the expense of a reduction in the setback for the northern side yard setback.

7e. The proposed setback would be similar to the property immediately north of this site, among others, and is therefore in keeping with the character of the existing neighborhood.
29 Parking Spaces

GENERAL NOTES
1. Cutters, sidewalk, & shoulders shown for clarity.
2. A Landscape Plan shall be provided with the submission to the City of permit ready drawings. The Plan shall maintain a minimum of 5% contiguous open area. Landscape and grass areas are shown with green hatch on this sheet.
3. Street Facade / Frontage Verification
   - Richmond Ave. frontage, 185'-0" Richmond Ave. building occupies 52'-0"
   - Richmond Ave. frontage = 28.11% (25% required)
   - Knoxville Ave. frontage, 195'-0"
   - Knoxville Ave. building as proposed occupies 57'-1" Knoxville Ave. frontage = 29.27 % (variance required)
4. Handicap parking space signage, ramps, apron, and parking lot pavement construction, and striping shall all comply with local ordinances, City Standards, and applicable codes.
5. Elevations, Site Details, Stormwater Management, etc. shall be submitted with final permit ready construction drawings.
6. No portion of the parking lot shall drain across the public right of way.
7. Stormwater Management shall comply with Peoria’s revised Erosion, Sediment and Stormwater Control Ordinance.
LED Drive Thru Menu Board

NOTES:
1) Housing Constructed of Aluminum Extrusion
2) Housing Constructed of Fabricated Aluminum Welded
3) Door Frames Will Be Extruded Aluminum
4) Door Plex Will Be 1/8" Hardcoat Polycarbonate
5) Entire Board and Steel Powder Coat Black
6) Graphics Load Into Graphic Holder Supported By Clear Lexan Panels For Support

NOTES:
MATERIALS:
All Joints To Be Welded All Around
Grade A36 Steel Shapes
Grade A500 B Steel Tube
Grade A325 Fastener Bolts

WIND LOAD: 130 m.p.h.
NOTE: The completed menu board is UL listed.

Electrical:
Rotating Board: 1.26 Amps @ 120 VAC 60Hz
Topper: .35 Amps @ 120 VAC 60Hz
All Day Board Down Light: .15 Amps @ 120 VAC 60 Hz

These are approximate foundation measurements. The soil bearing capacity at the erection site must be considered when designing the foundation. The sign manufacturer is not able to predetermine the specific needs of each location. Consult a local engineer for design specifications.
LED Pre Sell
Menu Board

NOTES:
1) Housing Constructed of Aluminum Extrusion
2) Housing Constructed of Fabricated Aluminum Welded
3) Door Frames Will Be Extruded Aluminum
4) Door Plex Will Be 1/8" Hardcoat Polycarbonate
5) Entire Board and Steel Powder Coat Black
6) Graphics Load Into Graphic Holder Supported By Clear Lexan Panels For Support

MATERIALS:
All Joints To Be Welded All Around
Grade A36 Steel Shapes
Grade A500 B Steel Tube
Grade A325 Fastener Bolts

NOTE: The completed menu board is UL listed.

Electrical:
Rotating Pre Sell Board:
1.26 Amps @ 120 VAC 60Hz
1715 N. Knoxville Road, Photos of Similar Construction to the Proposed Construction

FRONT ELEVATION (SOUTH ELEVATION @ KNOXVILLE ROAD SITE)

MAIN ENTRANCE ELEVATION (EAST ELEVATION @ KNOXVILLE ROAD SITE)
DRIVE THRU ELEVATION (WEST ELEVATION AT KNOXVILLE ROAD SITE)

REAR ELEVATION (NORTH ELEVATION @ KNOXVILLE ROAD SITE)
DRIVE THRU EQUIPMENT