

Variance Review Criteria

The following criteria shall be applied in evaluating and deciding any application for a Variance. No application for a Variance shall be granted by the Zoning Board of Appeals unless satisfactory provisions and arrangements have been made concerning each of the following criteria, all of which are applicable to each application.

(1) The need for the variance arises from a condition that is unique and peculiar to the land, structures, and buildings involved.	
Applicant:	The variance for parking spaces is needed because of the unique and peculiar land, structures, and building involved. The existing number of parking spaces at KFC is less than the required minimum with the new parking standards. The variance for impervious area is needed because of the unique and peculiar land, structures, and building involved. The existing percentage of impervious area at KFC is greater than the maximum required. The variance for accessory building location is needed because of the unique and peculiar land structures and building involved. The existing two accessory buildings are less than 10 feet from the side property line. The required 10 feet offset from the side property line would place the accessory building in the drive-through lane, which would impede accessibility on site and service.
Staff:	The parcel is smaller and developed with a larger building and more pavement, approved and built under a previous set of regulations.
(2) The variance is necessary because the particular physical surroundings, the size, shape or topographical conditions of the specific property involved would result in unnecessary hardship for the owner, lessee or occupants; as distinguished for a mere inconvenience, if the provisions of the LDR are literally enforced.	
Applicant:	The variance for parking is needed because of the particular physical surroundings and size of the property. The required number of 40 parking spaces would cause the property owner to purchase additional land for parking. However the property is in a developed area. The variance for impervious area is needed because of the particular physical surroundings and size of the property. Reducing the current impervious area to meet the maximum would result in parking spaces being lost. The site currently does not meet the minimum parking spaces required. The variance for accessory structures is needed because of the particular physical surroundings and size of the property. The required 10 feet offset from the side property line would place the accessory building in the drive-through lane, which would impede accessibility and service.
Staff:	The property is smaller and developed with a larger building and more pavement, approved and built under a previous set of regulations. However, the improvements, while increasing slightly the nonconformities, will aid in traffic flow, which will relieve traffic circulation on the lot.
(3) The condition requiring the requested relief is not ordinarily found in properties of the same zoning district as the subject property.	
Applicant:	Requested required number of parking spaces, increased allowable impervious area and reduced offset from side property lines are required to improve drive-through service, traffic flow off of N. Ashley Street, and site accessibility.
Staff:	No. Most developments are not as congested as this particular development.
(4) The condition is created by the regulations of Title 2 of the LDR and not by an action or actions of the property owner or the applicant.	
Applicant:	The request for 31 parking spaces is not a direct result of actions by the property owner/applicant. The required number of spaces for fast food facilities increased with the latest edition of the LDR. TJ property owner currently does not meet the required minimum number of spaces. The request to increase impervious area is not a direct result of actions by the property owner/applicant. The existing site was developed in 1973, which was many years before the City's adoption of the impervious surface limitations. The property owner currently exceeds the maximum allowable impervious area. The request to reduce the accessory building location from the side property line is not a direct result of actions by the owner/applicant. The existing two structures were constructed or installed in approximately 1985 and 1995, which was well before the City's adoption of accessory use standards.
Staff:	The condition is not created by the LDR.