

<p align="center"><b>VARIANCE STAFF REPORT</b></p>	<p align="center">City-County Planning Commission 1141 State Street Bowling Green, Kentucky 42101 (270) 842-1953</p>
<p><b><u>Docket Number:</u></b> 2011-V-29</p> <p><b><u>Public Hearing Date:</u></b> December 8, 2011</p> <p><b><u>Pre-Application Meeting Date:</u></b> November 7, 2011</p>	<p><b><u>Applicants:</u></b> WAKY Signs, Inc. 1530 Mudd Avenue Bowling Green, KY 42101</p> <p><b><u>Property Owner(s):</u></b> Greenwood Plaza, LLC 5485 Belt Line Road, Suite 115 Dallas, TX 75254</p>
<p><b><u>Location of Proposed Variance:</u></b> 1770 Campbell Lane</p> <p><b><u>Acreage or Square Footage of Tract:</u></b> 1.459 Acres</p> <p><b><u>PVA Parcel Number:</u></b> 041D-21-089B</p>	<p><b><u>Site District:</u></b> Urban Density Development District</p> <p><b><u>Focal Point:</u></b> 106-4B Campbell Lane</p> <p><b><u>Characteristics:</u></b> Dominant Use Area. Highway and General Business.</p>
<p><b><u>Traffic Considerations:</u></b> The property has road frontage on Campbell Lane, a State maintained roadway with a 100' right-of-way and varying pavement width and Gary Farms Boulevard, a City maintained roadway with varying right-of-way and varying pavement width.</p>	<p><b><u>Existing Land Use:</u></b> Commercial</p> <p><b><u>Zoning History:</u></b> Zoned from R-1 and AG to B-4 in 1973; from B-4 to PSC-N (Planned Shopping Center Neighborhood) in 1980; converted to PUD December 1, 2001.</p>

**DESCRIPTION OF REQUEST**

The applicants are requesting a variance of nine (9) square feet from the six (6) square feet allowed for a menu preview board in order to have a preview board of fifteen (15) square feet for a restaurant drive-through.

## ZONING ORDINANCE REFERENCE

### Article 5.2.4.A

#### VARIANCE REQUEST REFERENCE

The provision of the Zoning Ordinance from which this variance is requested is referenced in Article 5.2.4.A.5.b.(3).

#### Drive-Through Eating Establishments

5.2.4.A.5.b.(3) No preview board shall exceed six (6) square feet.

## VARIANCE FINDINGS

### **KRS 100.243 - Findings necessary for granting a variance:**

- (1) Before any variance is granted, the board must find that the granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the board shall consider whether:
  - (a) The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
  - (b) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and
  - (c) The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.
- (2) The board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.

## MOTIONS

### MOTION TO **APPROVE** THE **VARIANCE** REQUEST:

I make the motion to **approve** the request for a variance at 1770 Campbell Lane, Docket number 2011-V-29, a variance of nine (9) square feet from the allowed six (6) square foot for a preview board within a drive-through.

The testimony presented in this public hearing has shown that the granting of this variance will not adversely affect the public health, safety or welfare; will not alter the essential character of the general vicinity; will not cause a hazard or a nuisance to the public; and will not allow an unreasonable circumvention of the requirements of the zoning regulations.

### OR

### MOTION TO **DENY VARIANCE**:

I make the motion to **deny** the request for a variance at 1770 Campbell Lane, Docket number 2011-V-29, a variance of nine (9) square feet from the allowed six (6) square foot for a preview board within a drive-through.

Sufficient testimony has **not** been presented in this public hearing that the requested variance meet the criteria set forth in KRS 100.243, "Findings necessary for granting variances," as:

#### ***(Choose one or more appropriate finding(s) and specific items)***

- **will** adversely affect the public health, safety or welfare.
  - **will** alter the essential character of the general vicinity.
  - **will** cause a hazard or a nuisance to the public
  - **will** allow an unreasonable circumvention of the requirements of the zoning regulations.
- 
- The proposed development plan does **not** show that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
  - The proposed development plan does **not** show that the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant;
  - The circumstances are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.