

<p align="center">VARIANCE STAFF REPORT</p>	<p align="center">City-County Planning Commission 1141 State Street Bowling Green, Kentucky 42101 (270) 842-1953</p>
<p><u>Docket Number:</u> 2011-V-20</p> <p><u>Public Hearing Date:</u> September 8, 2011</p> <p><u>Pre-Application Meeting Date:</u> August 15, 2011</p>	<p><u>Applicants:</u> Alma's Pita & Café, Inc. 506 Stonehollow Lane Bowling Green, KY 42101</p> <p><u>Property Owner(s):</u> Chou Daksan and Mailin Vong 207 Red Cedar Way Bowling Green, KY 42104</p>
<p><u>Location of Proposed Variance:</u> 850 Morgantown Road</p> <p><u>Acreage or Square Footage of Tract:</u> 0.2536 Acre (11,048 square feet)</p> <p><u>PVA Parcel Number:</u> 040A-09-021</p>	<p><u>Site District:</u> Urban Density Development District</p> <p><u>Focal Point:</u> 103-5A US 231 Strip</p> <p><u>Characteristics:</u> Dominant Use Area. Highway commercial area adjacent to blue collar residential.</p>
<p><u>Traffic Considerations:</u> The property has road frontage on Morgantown Road (U.S. 231) – a state maintained arterial with a right-of-way which varies and a pavement width which varies, and Old Morgantown Road – a city collector street with sixty (60) feet of right-of-way and varying pavement width.</p>	<p><u>Existing Land Use:</u> Commercial</p> <p><u>Zoning History:</u> R-3 (Multi Family Residential) was the original zoning. The property was rezoned from R-3 to B-4 (now HB) (Highway Business) in 1963.</p>

DESCRIPTION OF REQUEST

The applicants are requesting a variance of 140' from the 250' setback in order to have a restaurant outdoor seating area 110' away from a residential district.

ZONING ORDINANCE REFERENCE

Article 5.2.4.A.5.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.a.

Setback from a residential district

5.2.4.A.5.a For any bar or restaurant providing outdoor activities such as an outdoor dining area, such area shall be separated by a minimum of 250' from any residential district.

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 850 Morgantown Road, Docket number 2011-V-20, a 140 foot variance from the 250 foot setback to have a restaurant outdoor seating area 110 feet away from a residential district.

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 850 Morgantown Road, Docket number 2011-V-20, a 140 foot variance from the 250 foot setback to have a restaurant outdoor seating area 110 feet away from a residential district.

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.
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- 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.