

Area Variance:

1. The nature of the zone in which the property lies; Parcel is zoned C-4 Highway Commercial which permits the proposed use, a Restaurant and Drive Through as a by right use.
2. The character of the immediate vicinity and the contained uses therein; There is currently a Grotto's Restaurant to the west and a Chipotle and Vitamin Shoppe to the east of the site. Located to the rear is the Dover Downs Casino and along our frontage is Rt. 13 (DuPont Hwy). In addition, the site currently contains a former Boston Market restaurant which is now closed and vacant as a result of the Company's bankruptcy.
3. Whether, if the restriction upon the applicant's property were removed, such removal would seriously affect neighboring properties and uses; Our client's intention is to redevelop and revitalize the parcel to include replacing the existing aged and vacant building with a new 3,364± SF building and increasing landscaping around the site to be more visually appealing. The variance is being requested in order to construct a canopy over the permitted drive through lanes which will not negatively affect the adjacent commercial restaurant property. This is because the canopy encroachment is minimal and the nearest use has a grass and parking area, none of which would be impacted by the proposed canopy.
4. Whether, if the restriction is not removed, the restriction would create unnecessary hardship or exceptional practical difficulty for the owner in his efforts to make normal improvements in the character of that use of the property that is permitted uses under the provisions of the zoning ordinance. The proposed drive-through canopy is considered a structure (although not enclosed) and is within the 15' side setback. Canopies are essential to the fast-food business, preventing employees and customers from being exposed to the weather, such as rain, snow, UV rays, while waiting for their order to exchange hands and are considered a normal and essential improvement for the proposed use. Removing the proposed order point canopy will drastically decrease the customer experience, which puts the financial viability of the project at risk, but it also risks the customer's and employee's safety, and it is simply not possible to provide a canopy that will meet the setback requirement.