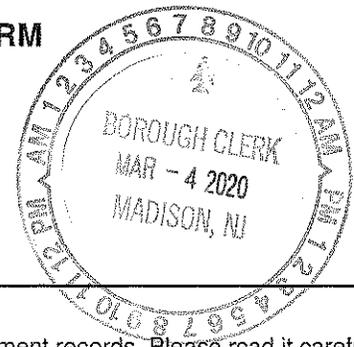




BOROUGH OF MADISON OPEN PUBLIC RECORDS ACT REQUEST FORM

50 Kings Road
Madison, NJ 07940
Telephone Number: 973-593-3042
Fax Number: 973-593-0125
clerk@rosenet.org
Elizabeth Osborne, Borough Clerk



Important Notice

The last page of this form contains important information related to your rights concerning government records. Please read it carefully.

Requestor Information – Please Print

First Name Simone MI _____ Last Name Calli, Esq.

E-mail Address simone@callilawllc.com

Mailing Address 170 Kinnelon Road, Suite 6

City Kinnelon State NJ Zip 07405

Telephone 973-291-8102 FAX 973-756-4111

Preferred Delivery: Pick Up _____ US Mail _____ On-Site Inspect _____ Fax _____ E-mail

If you are requesting records containing personal information, please circle one: Under penalty of N.J.S.A. 2C:28-3, I certify that I **HAVE / HAVE NOT** been convicted of any indictable offense under the laws of New Jersey, any other state, or the United States.

Signature Simone Calli Date 3/3/20

Payment Information

Maximum Authorization Cost \$ _____

Select Payment Method

Cash _____ Check _____ Money Order _____

Fees: Letter Size Pages - \$0.05 per page
Legal Size Pages - \$0.07 per page
Other materials _____
Actual cost _____

Delivery: Delivery / postage fees additional depending upon delivery type.

Extras: Special service charge dependent upon request.

Record Request Information: Please be as specific as possible in describing the records being requested. Also, please note that your preferred method of delivery will only be accommodated if the custodian has the technological means and the integrity of the records will not be jeopardized by such method of delivery.

Prior zoning/planning board resolutions pertaining to the property located at 317 Main Street (Block 5101, Lot 33).

ADDITIONAL INFORMATION NEEDED WHEN REQUESTING POLICE DEPARTMENT INCIDENT REPORTS: (PLEASE NOTE, FOR ACCIDENT REPORTS GO DIRECTLY TO POLICE DESK, NO NEED TO FILL OUT THIS FORM).

DATE OF INCIDENT: _____ APPROXIMATE TIME: _____

DATE REPORTED TO POLICE: _____

NAME OF PERSON ON REPORT _____

WHAT TYPE OF INCIDENT, OR POLICE REPORT NUMBER _____

LOCATION OF INCIDENT: _____

AGENCY USE ONLY

Est. Document Cost _____

Est. Delivery Cost _____

Est. Extras Cost _____

Total Est. Cost _____

Deposit Amount _____

Estimated Balance _____

Deposit Date _____

AGENCY USE ONLY

Disposition Notes
Custodian: If any part of request cannot be delivered in seven business days, detail reasons here.

In Progress - Open _____

Denied - Closed _____

Filled - Closed _____

Partial - Closed _____

AGENCY USE ONLY

Tracking Information		Final Cost	
Tracking #	_____	Total	_____
Rec'd Date	_____	Deposit	_____
Ready Date	_____	Balance Due	_____
Total Pages	_____	Balance Paid	_____
Records Provided			
Custodian Signature _____		Date _____	

RESOLUTION

WHEREAS, Frank A. Marinaccio has applied to the Zoning Board of Adjustment of the Borough of Madison for a variance under Section 195-7(c)(4) of the Madison Land Development Ordinance with respect to floor area ratio concerning Lot 34 in Block 5101 and for impervious coverage requirements, which are pre-existing conditions, and for minor sub-division approval for lot line adjustments in regard to premises located at 311 - 319 Main Street, known as Lots 32, 33, 34 and 36 in Block 5101 and located in a CC Zone; and

WHEREAS the Zoning Board of Adjustment has conducted a public hearing on the Application at a regular meeting of the Board held on the 20th day of March, 1995 at the Borough Hall of the Borough of Madison of which meeting public notice and notice by the applicant has been given as required by law; and

WHEREAS, The Zoning Board of Adjustment has reviewed a map entitled "Sub-division of Lots 32, 33, and 36 in Block 5101, Borough of Madison, Morris County, New Jersey", prepared by Murphy and Hollows Associates, Inc., CE & LS, dated November 1, 1994 and revised March 1, 1995; and

WHEREAS, The Zoning Board of Adjustment, after hearing and considering the testimony and the exhibits presented at the hearing has made the following findings of fact:

1. This property has been in the Applicant's family for approximately 65 years.
2. The Applicant wishes to adjust the lot lines so as to

eliminate a lot to the rear of Lot 32 and 33, which would otherwise be landlocked.

3. The rear portions of Lot 32 and 33, currently known as Lot 36 have been used for many years by Lot 32 and Lot 33, respectively.

4. The Applicant further wishes to adjust the lot line between Lot 34 and Lot 33 so that the current drive-in of the Burger King will actually be on the lot that the Burger King is located on. Presently, the Burger King driveway is located on Lot 34, although the Burger King itself is located on Lot 33.

5. The lot line adjustment between Lot 34 and 33 will result in a requirement for a floor area ratio variance for Lot 34 due to the requirements under the new ordinance imposing a Floor Area Ratio requirement on structures in the CC Zone.

6. The lot line adjustment will result in a floor area ratio of .39 for Lot 34, while a maximum of .25 is permitted.

7. Lots 32, 33 and 34 each exceed the maximum impervious coverage allowed in the CC Zone. However, all are pre-existing conditions.

8. Other than the lot line changes, the Applicant does not propose any other changes to the structures or buildings at this time.

NOW, THEREFORE, BE IT RESOLVED, that the application of Frank A. Marinaccio for a floor area ratio variance and impervious coverage variances, herein described, be and the same is hereby granted for the following reasons:

1. The floor area ratio variance is caused solely by the

change in the Madison land development ordinance and the change in the lot line between Lot 33 and 34. However, the change in the lot line is beneficial to the Borough and is necessary to allow the drive-in to the Burger King to be on the same Lot as the Burger King.

2. There is no detriment to zone plan by the granting of the variance.

3. The granting of the variances described herein would not be substantially detrimental to the public good and will not substantially impair the intent and purpose of the Zone Plan and Zoning Ordinance.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the application of Frank A Marinaccio for minor sub-division approval as described herein, and as shown on the map entitled, "Sub-division of Lots, 32, 33, and 36, Block 5101, Borough of Madison, Morris County, New Jersey", prepared by Murphy & Hollows Associates, Inc. CE & LS, dated November 1, 1994 and revised March 1, 1995, is hereby granted, and the Applicant shall provide copies of the minor sub-division deeds or minor sub-division map to the Planning Board Secretary promptly after same are recorded in the Morris County Clerk's Office.

This Resolution is adopted to memorialize the action taken by this Board at its regular meeting on March 20, 1995.

Adopted and Approved
Madison Zoning Board
April 17, 1995

(Saddle Brook Restaurant
T/A Burger King)

R E S O L U T I O N

WHEREAS, Saddle Brook Restaurant Corporation has applied for site plan approval of the reopening of a Drive-Thru Window on the easterly side of the Burger King Restaurant located at 317-319 Main Street designated on the Assessment Map as Lots 16B, part of 19A and part of 16, Block 69; and

WHEREAS, the Board has reviewed a Site Plan prepared by John Zulick, III, Architect, dated November 12, 1980 and considered the testimony and evidence presented at the public hearing; and

WHEREAS, the Board has determined that all of the review criteria set forth in Chapter 195-124 of the Zoning Code have been complied with.

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby grants preliminary and final site plan approval of the application.

ADOPTED AND APPROVED
December 2, 1980
MADISON PLANNING BOARD

RESOLUTION
OF THE
MADISON BOROUGH PLANNING BOARD
RE: ROSE CITY PROPERTIES, LLC
317 MAIN STREET
TAX BLOCK 5101, LOT 33
MADISON, NEW JERSEY

WHEREAS, the applicant, Rose City Properties, LLC, has applied to the Planning Board of the Borough of Madison for amended site plan approval and dimensional variances and design standard waivers for premises known as Tax Lot 33, Block 5101 located in the CC Zone; and

WHEREAS, the applicant is seeking amended site plan approval and dimensional variances and design standard waivers so as to permit construction of two additions totaling 866 square feet to the existing building which operates as a Burger King Restaurant. The additions will be used for three principal purposes: (1) to bring the existing restaurant into compliance with handicap accessibility requirements; (2) to provide space for an indoor children's recreation facility; and (3) to add fourteen restaurant seats; and

WHEREAS, the Planning Board has conducted public hearings on the application at the regular meeting of the Board held on the 3rd and 31st days of March, 1998, at the Borough Hall of the Borough of Madison of which meeting public notice and notice by the applicant has been given as required by law; and

WHEREAS, the applicant was represented by Brian Burns, Esq.; and

WHEREAS, the Planning Board after hearing and considering the testimony, the plans and exhibits submitted has made the following findings of fact:

1. This is an application for amended site plan approval and associated variances pursuant to N.J.S.A. 40:55D-70C. The applicant proposes a small addition to render the existing rest

rooms at the subject premises to be handicap accessible, said addition to be to the rear/southwesterly corner of the building and a new addition 13 feet 6 inches in depth along the front of the structure as the same faces Main Street.

2. Michael J. Tobia, P.P., a licensed professional planner of the State of New Jersey, was qualified as a planning expert by applicant's counsel and testified both regarding the existing conditions and the applicant's rationale for the site plan and variance relief sought. Mr. Tobia also utilized several exhibits during his presentation to the Board as follows:

A-1. Sheet SP-1 of the Site Plan as prepared by Karen M.

Loungo, Architect, AIA, entitled "Proposed Addition to Burger King for Rose City Properties LLC" dated December 29, 1997, and revised through February 19, 1998.

A-2. Sheet A-3 of the plans prepared by Karen M. Loungo, Architect, revised through January 19, 1998, consisting of south and easterly elevations.

A-3. Sheet A-2 revised through January 19, 1998, showing west and north elevations;

A-4. Sheet A-1 of the plans prepared by Karen M. Loungo, AIA, revised through January 19, 1998, showing the floor plan of the restaurant.

A-5. Rendering of the existing building.

A-6. Rendering of the proposed building.

A-7. This exhibit was a grouping of photographs of the existing site.

Karen M. Longo, AIA, a licensed architect of the State of New Jersey also testified as an architectural expert. The Board accepted into evidence the following exhibits during her presentation to the Board:

A-8a. Sheet A-7 showing existing buildings

A-8b. Sheet A-6, depicting proposed structure with overhang

A-8c. Hypothetical depiction of the structure with a 2 ½ foot overhang.

Upon the continuation of Michael Tobia's testimony, additional exhibits were marked during his second presentation as follows:

A-9. A group of photos depicting signage on the site.

A-10. Three yellow highlighted sketches of building elevations depicting the roof overhang.

A-11a. Site Plan Alternative Design, Sheet SP-1A.

A-11b. Lighting Plan Alternative Design, Sheet L-1A

A-11c. Floor Plan Alternative Design, Sheet A-1A

A-11d. Elevations Alternative Design, Sheet A-2A

A-11e. Elevations Alternative Design, Sheet A-3A

3. Mr. Tobia's testimony described the existing conditions and the surrounding neighborhood and indicated that the subject property is located in the CC Zone. The existing structure on site is utilized as a Burger King restaurant with a drive-thru window. The applicant proposes to continue both the use and the drive-thru aspect in the revised structure. The applicant proposes to repave the existing parking area and reconfigure the striping and add landscaping to the perimeter of the site. Also applicant proposes to add a new

fence along the rear property line. Applicant proposes to enlarge the dumpster area and to install new lighting fixtures to improve lighting on site.

4. The applicant's proposal requires the following variance relief from the Zoning Ordinances of the Borough of Madison:
 - A. Variance relief from Section 195-33.I.(5)(a) to permit a roof overhang on the proposed front building addition to encroach into the required 15 foot minimum front yard set back by approximately 4.5 feet.
 - B. Variance relief from Sections 195-33.I.(5)(c) and 195-32.F.(3)(d) to permit a side yard setback of approximately one foot minimum for an enlarged trash and recycling enclosure, where a minimum setback of 5 feet is required. This setback would, however, continue, an existing nonconforming condition.
 - C. Variance relief from Section 195-33.I.(7)(d)[2] to permit a landscaped buffer of less than 5 feet along side lot lines, where a minimum 5 foot buffer is required.
 - D. Design waiver relief from Section 195-25(H)(3)(d) to permit parking spaces measuring 9 feet wide and 18 feet deep.
5. The reasons advanced for the relief requested by the applicant can be synopsised as follows: The front yard setback, the variance relief sought will permit the roof design in the front of the building addition to conform to the design of the existing mansard roof which is in place on the structure. The roof forms, such as a gable or mansard roof, are required in the CC Zone. See Ordinance Section 195-33.I.(7)(e)[2]. The Board also notes that no part of the

- building wall will encroach on the required setback, only the mansard roof will enter into the required front yard setback.
6. The applicant also proposed to expand the existing trash and recycling area located near the southeasterly corner of the property. The applicant proposes to maintain the existing one-foot setback of the dumpster/recycling area. The Board finds that as the dumpster is adjacent to a commercial parking area (STS Tire Center) and is screened by both the dumpster enclosure itself and a five foot high existing stockade fence the Board finds no adverse impact will be felt from the existing trash/recycling area.
 7. As to the relief sought by the applicant so as to permit a landscape buffer of less than 5 feet along the sidelines of this property, the Board finds that the proposed landscape buffers will be a significant improvement on the existing conditions on site. The easterly side landscape buffer for the front half of the property will be increased from zero feet to four feet. The westerly side landscape buffer for the front half of the property will be maintained at a minimum with 2 feet. Expansion of these buffer areas are not possible given the existing size of the building and the required parking space length and access lanes surround the existing structure. The Board recognizes that the applicant has focused substantial attention to improving the buffers on the rear half of the property which abut residential uses. The Board finds that the benefits from the variance relief requested as to the landscape buffers significantly outweigh any detriment particularly in light of the adjoining uses to either side of this existing facility. The Board also recognizes that the applicant has achieved 10

percent landscaped area within the parking lot of the site in conformity with the Madison Borough Zoning Ordinance. This additional landscaping significantly enhances the site and is meaningful improvement of the existing conditions at the subject premises.

8. The applicant also requires a variance from the maximum impervious coverage permitted under the Land Development Ordinance of the Borough of Madison in that maximum of 70% impervious coverage be permitted in the CC Zone. The existing conditions on site result in impervious coverage of 80% of the site and after construction of the approved plan the impervious coverage will be 76.4%. The Board finds that although a variance condition will still continue after construction of the approved plan, the plan is a significant improvement from the existing conditions and the newly planted areas will confer substantial benefit upon the site and surrounding properties and such improvements substantially outweigh any detriment.
9. At the conclusion of the presentation of the applicant's case on March 3, 1998, the Board focused on the existing traffic conditions particularly at the exit drive from the site onto Main Street. Currently there exists a "no left turn" sign on the westerly side of the exit drive. This sign has never been the subject of Title 39 Ordinance adoption, which would allow the sign to be enforced by the Madison Police Department. The applicant proposes to retain the existing sign and also in response to Board concerns to reconfigure the exit drive so as to make "illegal" left turn onto Main Street west bound more difficult for patrons of the applicant.

10. The Board also heard testimony from the applicant regarding an upgraded site lighting plan. The applicant proposes new shielded 400-watt metal halite lights and requires a waiver for the height of the existing poles which will be utilized. The ordinance contemplates a maximum pole height of 16.5 feet and the proposed pole mounted lights will utilize poles of 22 feet in height. The lighting plan submitted by the applicant confirms that the lighting is in accordance with good engineering practices and the applicant has agreed to modify the lighting plan so as to reduce the intensity of the lighting near the "front" of the structure. The applicant requires a design standard waiver as to lighting intensity, the ordinance permitting a maximum of .1 foot candle at the property line and the applicant's proposal provides for slightly higher lighting intensity at the property lines, the property line adjoiners being commercial users. Given the nature of permitted uses in the CC Zone, the Board finds that the lighting plan, subject to the modifications which will be viewed by the Borough Engineer to be an appropriate lighting plan given the site, its location on a major road, and the use.
11. The applicant also proposes parking space sizes of 9 feet by 18 feet whereas the ordinance requires 180 square foot spaces. All of the spaces proposed by the applicant have a curb overhang and the Board finds that a 9 foot wide space given the nature of this use and the benefit to be obtained from providing increased parking capacity on site to be such that parking space with 9 feet is appropriate.

NOW, THEREFORE, BE IT RESOLVED, that the application of Rose City Properties, LLC, for amended site plan approval front yard and side yard setback variances, impervious coverage variance, variance to permit a landscape buffer of less than 5 feet width, design standard waivers for lighting height and intensity and parking stall size applied for and being described herein are hereby granted strictly on the following conditions being complied with by the applicants:

1. Applicant shall provide such assistance as may be reasonably required to the Planning Board of the Borough of Madison and the Governing Body of the Borough of Madison so as to enable the Mayor and Council to adopt a required ordinance so as to permit motor vehicle code enforcement of the “no left turn” sign which shall remain at the exit driveway from the site onto Main Street. Applicant shall also submit the “no left turn” enforcement to Title 39 jurisdiction through the Borough of Madison.
2. Applicant shall apply to the New Jersey Department of Transportation for approval for reconfiguration of the exit drive. Said modification shall angle the exit drive directing traffic to the east to render “illegal” left hand turns more difficult. The Board specifically finds that the applicant shall have the right to construct the balance of the improvements set forth on the approved site plan and as to such improvements which are impacted by the reconfiguration of the driveway may post a bond with the Borough of Madison for said improvements the amount of the bond to be subject to review and approval of the Borough Engineer. The bond posted with the Borough Engineer shall not be released until such time as the reconfigured driveway construction is approved by NJDOT and completed or, in the alternative, should NJDOT refuse

to allow the reconfiguration of the driveway, then, in that event, site improvements shall be installed by the applicant and, thereafter, the bond returned to applicant.

3. Applicant agrees to consult with the residential neighbors abutting the rear of the subject premises and, if consent is obtained to remove the existing fence along the south portions of the subject premises abutting the residential uses, thereafter, to install a new proposed fence which shall be a minimum of 6 feet in height to the bottom of each of the scallops of said fence.
4. Applicant agrees to remove the tallest fir tree adjacent to lot 37 near the southerly corner of the subject premises.
5. Compliance with all applicable Borough, County, State and Federal laws, ordinances, regulations and directives.
6. Approval by all other governmental authorities with jurisdiction.
7. The property is to be developed in accordance with the plans designated "SP-1" with the last revision date of March 19, 1998 marked "A-1" in evidence at the hearing of this matter.
8. Lighting plan to be submitted to the Borough Engineer to demonstrate lighting intensity as close in compliance as possible to ordinance requirements. Applicant agrees that the lighting shall be field adjusted under the supervision of the municipal engineer.
9. The new speaker system for the drive-thru shall comply with Borough noise ordinances.
10. All mansard decorative lighting at upper edge, both existing and proposed, shall be removed from structure and the plans. This is in compliance with Section E(17) of the Borough Sign Ordinance.

11. The applicant shall be responsible to maintain the landscaping, existing and proposed, for the site.
12. The applicant shall prepare and submit a litter management plan and will implement and enforce said plan on a regular and reasonable basis.
13.
 - A. Applicant has agreed to pursue, with the assistance of the Board, consent from franchiser, Burger King, to replace the existing free standing sign located at the northwesterly corner of the property. Applicant shall return to the Board within 30 days of the date of this Resolution with a proposed replacement free standing sign. The Board shall hold a "concept" hearing with reference to the free standing sign and reach a consensus with the applicant on proposed replacement sign.
 - B. The applicant shall submit to the Board attorney for prior review and approval a proposed letter directed to Burger King specifically requesting permission to replace the existing sign with the "Palm Spring Sign" (a picture of the same is attached hereto) or other sign acceptable to the Board.
 - C. If permission is received from Burger King to permit the replacement of the existing free standing sign, applicant shall return to the Planning Board for review and approval of the design and size of the sign, and consideration of such issues as sight lines, traffic safety and visual impact of the free standing sign and its visibility for passing motorists. If Burger King refuses to grant permission for replacement of the existing sign, applicant shall submit written verification of the same to the Board and, thereafter, shall be relieved of this condition. The size

of the replacement sign may exceed the maximum area allowed by the Borough Sign Ordinance but will not exceed the area of the current sign.

14. The existing "Burger King" roof sign shall be removed from the building and shall not be reinstalled on the renovated structure.

Adopted and Approved
April 7, 1998
Madison Borough Planning Board

RESOLUTION
OF THE
MADISON BOROUGH PLANNING BOARD
RE: ROSE CITY PROPERTIES, LLC
317 MAIN STREET
TAX BLOCK 5101, LOT 33
MADISON, NEW JERSEY

WHEREAS, the applicant, Rose City Properties, L.L.C., has previously applied to the Planning Board of the Borough of Madison for amended site plan approval and dimensional variances and design standard waivers for premises known as Tax Lot 33, Block 5101 located in the CC Zone; and

WHEREAS, the Planning Board adopted a resolution with reference to the aforesaid application on April 7, 1998, the provisions and terms and conditions of which are hereby incorporated herein by reference; and

WHEREAS, Condition 13 of said Resolution contemplated that the applicant would pursue consent from its franchiser, Burger King, to replace the existing free-standing sign located on the northwesterly corner of the property; and

WHEREAS, applicant has complied with the procedural methodology in condition 13 of the April 7, 1998 Resolution; and

WHEREAS, the Planning Board conducted a public hearing on the terms and conditions pursuant to condition 13 of the April 7, 1998 Resolution on June 2, 1998, at the regular meeting of the Board at the Borough Hall, Borough of Madison, of which meeting public notice and notice by the applicant has been given as required by law; and

WHEREAS, the applicant was represented by Brian Burns, Esq.; and

WHEREAS, the Planning Board after hearing and considering the testimony, the plans and exhibits submitted has made the following findings of fact:

1. This is an application to replace the existing free-standing sign serving the applicant's property with a new sign as depicted on a drawing prepared by DVS Sign Systems from Coast-to-Coast, 112 Connecticut Drive, Burlington, New Jersey as marked A-1 into evidence at the public hearing of this matter.
2. The applicant has submitted a series of correspondence between Mega Management Corp., the operator of the Burger King owned by applicant, Rose City properties, L.L.C., and Jeffrey S. Bonasia, the Director of Restaurant Image & Retailing, for Burger King Corporation in Miami, Florida. Said correspondence is as follows:
 - A. May 4, 1998 correspondence to Mr. Bruce Weiss, Director of Operations at Mega Management from Jeffrey S. Bonasia;
 - B. May 18, 1998 letter from Mega Management, Bruce R. Weiss, Director of Operations, to Jeffrey S. Bonasia;
 - C. May 22, 1998 correspondence to Bruce Weiss at Mega Management from Jeffrey S. Bonasia.

As a result of the exchange of correspondence set forth above, applicant applied for permission to reduce the size of the existing free-standing sign and replace the same with a sign 30 square feet in size per side and 12 feet in height made of sand-blasted wood. The variances required by the applicant to permit the construction of the sign are as follows:

HEIGHT – Maximum permitted 4 feet; proposed 12 feet;

Height of the existing sign is 17 feet;

SIZE OF SIGN – 6 square feet in area per side the maximum permitted; proposed 30 square feet; size of the existing sign is 42 square feet;

SETBACK OF SIGN – From front property line, a 10-foot setback is required; the existing sign is located at 8 feet. Both the proposed and existing signs have identical locations at 8 feet from the property line.

LETTERING - The maximum letter height is 10 inches pursuant to the Zoning Ordinance requirements. The word “King” on the sign has letters 15 inches in height and the word “Burger” has letters 10 inches in height.

3. In addition to the request for the free-standing sign, applicant has applied so as to permit the mansard decorative lighting, the red band, to remain on the structure and to be continued around the previously approved building addition. Condition 10 of the April 7, 1998 Resolution specifically requires the removal of the mansard decorative lighting pursuant to Section 195-33.1E(17) of the Land Development Ordinance of the Borough of Madison which prohibits neon or gas-filled decorations which outline facade elements or windows.
4. Michael Tobia, a licensed professional planner of the State of New Jersey, testified regarding both the free-standing sign and the illuminated band on behalf of the applicant. Mr. Tobia opined that the free standing sign was a substantial improvement over the existing “plastic” free standing Burger King sign and also reminded the Board that the applicant had removed the Burger King sign from the front facade of the building. Mr. Tobia asserted that the approval of the proposed freestanding sign would be a substantial improvement over the existing signage condition at the site and that given the size and location of the existing sign that

the variances sought for the smaller sign were minimal in nature and should be granted, considering the substantial benefits conferred as a result of the change in the size and lighting of the proposed free-standing sign.

5. With reference to the decorative illuminated red band around the roof of the structure, Mr. Tobia asserted that such band was important to the corporate image of Burger King and he felt that as the band was an existing condition, the continuation of that band both on the existing structure and the extension of the same on the newly approved addition, would not negatively impact the Zone Plan and Zoning Ordinance and would have no adverse impact on the surrounding properties.
6. As a result of the testimony of Mr. Tobia and a review of the exhibits submitted, the Board finds that the benefits to be gained from the grant of both the variance as required for the new, smaller free-standing sign and allowing the red illuminated band to remain on the structure substantially outweigh any detriment. The Board also finds that the variances can be granted without substantial impairment to the zone plan and zoning ordinances of the Borough of Madison.

NOW, THEREFORE, BE IT RESOLVED, that the application of Rose City Properties, L.L.C., for amended site plan approval, signage variances for the height, area setback, letter height of the freestanding sign, and continuation of the illuminated band encircling the structure as being described herein are hereby granted strictly on the following conditions to be complied with by the applicant:

1. All conditions in the April 7, 1998 resolution, except those inconsistent herewith, are hereby ratified and continued.

2. Compliance with all applicable Borough, County, State and Federal laws, ordinances, regulations and directives.
3. Approval by all other governmental authorities with jurisdiction.

Adopted and Approved
July 7, 1998
Madison Borough Planning Board

RESOLUTION
OF THE
MADISON BOROUGH PLANNING BOARD
RE: ROSE CITY PROPERTIES, LLC
317 MAIN STREET
TAX BLOCK 5101, LOT 33
MADISON, NEW JERSEY

WHEREAS, the applicant, Rose City Properties, L.L.C., has previously applied to the Planning Board of the Borough of Madison for amended site plan approval and dimensional variances and design standard waivers for premises known as Tax Lot 33, Block 5101 located in the CC Zone; and

WHEREAS, the Planning Board adopted a resolution with reference to the aforesaid application on April 7, 1998, the provisions and terms and conditions of which are hereby incorporated herein by reference; and

WHEREAS, Condition 13 of said Resolution contemplated that the applicant would pursue consent from its franchiser, Burger King, to replace the existing free-standing sign located on the northwesterly corner of the property; and

WHEREAS, applicant has complied with the procedural methodology in condition 13 of the April 7, 1998 Resolution; and

WHEREAS, the Planning Board conducted a public hearing on the terms and conditions pursuant to condition 13 of the April 7, 1998 Resolution on June 2, 1998, at the regular meeting of the Board at the Borough Hall, Borough of Madison, of which meeting public notice and notice by the applicant has been given as required by law; and

WHEREAS, the applicant was represented by Brian Burns, Esq.; and

WHEREAS, the Planning Board after hearing and considering the testimony, the plans and exhibits submitted has made the following findings of fact:

1. This is an application to replace the existing free-standing sign serving the applicant's property with a new sign as depicted on a drawing prepared by DVS Sign Systems from Coast-to-Coast, 112 Connecticut Drive, Burlington, New Jersey as marked A-1 into evidence at the public hearing of this matter.
2. The applicant has submitted a series of correspondence between Mega Management Corp., the operator of the Burger King owned by applicant, Rose City properties, L.L.C., and Jeffrey S. Bonasia, the Director of Restaurant Image & Retailing, for Burger King Corporation in Miami, Florida. Said correspondence is as follows:
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As a result of the exchange of correspondence set forth above, applicant applied for permission to reduce the size of the existing free-standing sign and replace the same with a sign 30 square feet in size per side and 12 feet in height made of sand-blasted wood. The variances required by the applicant to permit the construction of the sign are as follows:

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permitted; proposed 30 square feet; size of the existing sign is 42 square feet;

SETBACK OF SIGN - From front property line, a 10-foot setback is required; the existing sign is located at 8 feet. Both the proposed and existing signs have identical locations at 8 feet from the property line.

LETTERING - The maximum letter height is 10 inches pursuant to the Zoning Ordinance requirements. The word "King" on the sign has letters 15 inches in height and the word "Burger" has letters 10 inches in height.

3. In addition to the request for the free-standing sign, applicant has applied so as to permit the mansard decorative lighting, the red band, to remain on the structure and to be continued around the previously approved building addition. Condition 10 of the April 7, 1998 Resolution specifically requires the removal of the mansard decorative lighting pursuant to Section 195-33.1E(17) of the Land Development Ordinance of the Borough of Madison which prohibits neon or gas-filled decorations which outline facade elements or windows.
4. Michael Tobia, a licensed professional planner of the State of New Jersey, testified regarding both the free-standing sign and the illuminated band on behalf of the applicant. Mr. Tobia opined that the free standing sign was a substantial improvement over the existing "plastic" free standing Burger King sign and also reminded the Board that the applicant had removed the Burger King sign from the front facade of the building. Mr. Tobia asserted that the approval of the proposed freestanding sign would be a substantial improvement over the existing signage condition at the site and that given the size and location of the existing sign that

the variances sought for the smaller sign were minimal in nature and should be granted, considering the substantial benefits conferred as a result of the change in the size and lighting of the proposed free-standing sign.

5. With reference to the decorative illuminated red band around the roof of the structure, Mr. Tobia asserted that such band was important to the corporate image of Burger King and he felt that as the band was an existing condition, the continuation of that band both on the existing structure and the extension of the same on the newly approved addition, would not negatively impact the Zone Plan and Zoning Ordinance and would have no adverse impact on the surrounding properties.
6. As a result of the testimony of Mr. Tobia and a review of the exhibits submitted, the Board finds that the benefits to be gained from the grant of both the variance as required for the new, smaller free-standing sign and allowing the red illuminated band to remain on the structure substantially outweigh any detriment. The Board also finds that the variances can be granted without substantial impairment to the zone plan and zoning ordinances of the Borough of Madison.

NOW, THEREFORE, BE IT RESOLVED, that the application of Rose City Properties, L.L.C., for amended site plan approval, signage variances for the height, area setback, letter height of the freestanding sign, and continuation of the illuminated band encircling the structure as being described herein are hereby granted strictly on the following conditions to be complied with by the applicant:

1. All conditions in the April 7, 1998 resolution, except those inconsistent herewith, are hereby ratified and continued.

2. **Compliance with all applicable Borough, County, State and Federal laws, ordinances, regulations and directives.**
3. **Approval by all other governmental authorities with jurisdiction.**

**Adopted and Approved
July 7, 1998
Madison Borough Planning Board**

RESOLUTION
OF THE
MADISON BOROUGH PLANNING BOARD
RE: ROSE CITY PROPERTIES, LLC
317 MAIN STREET
TAX BLOCK 5101, LOT 33
MADISON, NEW JERSEY

WHEREAS, the applicant, Rose City Properties, L.L.C., has previously applied to the Planning Board of the Borough of Madison for amended site plan approval and dimensional variances and design standard waivers for premises known as Tax Lot 33, Block 5101 located in the CC Zone; and

WHEREAS, the Planning Board adopted a resolution with reference to the aforesaid application on April 7, 1998, the provisions and terms and conditions of which are hereby incorporated herein by reference; and

WHEREAS, Condition 13 of said Resolution contemplated that the applicant would pursue consent from its franchiser, Burger King, to replace the existing free-standing sign located on the northwesterly corner of the property; and

WHEREAS, applicant has complied with the procedural methodology in condition 13 of the April 7, 1998 Resolution; and

WHEREAS, the Planning Board conducted a public hearing on the terms and conditions pursuant to condition 13 of the April 7, 1998 Resolution on June 2, 1998, at the regular meeting of the Board at the Borough Hall, Borough of Madison, of which meeting public notice and notice by the applicant has been given as required by law; and

WHEREAS, the applicant was represented by Brian Burns, Esq.; and

WHEREAS, the Planning Board after hearing and considering the testimony, the plans and exhibits submitted has made the following findings of fact:

1. This is an application to replace the existing free-standing sign serving the applicant's property with a new sign as depicted on a drawing prepared by DVS Sign Systems from Coast-to-Coast, 112 Connecticut Drive, Burlington, New Jersey as marked A-1 into evidence at the public hearing of this matter.
2. The applicant has submitted a series of correspondence between Mega Management Corp., the operator of the Burger King owned by applicant, Rose City properties, L.L.C., and Jeffrey S. Bonasia, the Director of Restaurant Image & Retailing, for Burger King Corporation in Miami, Florida. Said correspondence is as follows:
 - A. May 4, 1998 correspondence to Mr. Bruce Weiss, Director of Operations at Mega Management from Jeffrey S. Bonasia;
 - B. May 18, 1998 letter from Mega Management, Bruce R. Weiss, Director of Operations, to Jeffrey S. Bonasia;
 - C. May 22, 1998 correspondence to Bruce Weiss at Mega Management from Jeffrey S. Bonasia.

As a result of the exchange of correspondence set forth above, applicant applied for permission to reduce the size of the existing free-standing sign and replace the same with a sign 30 square feet in size per side and 12 feet in height made of sand-blasted wood. The variances required by the applicant to permit the construction of the sign are as follows:

HEIGHT - Maximum permitted 4 feet; proposed 12 feet;

Height of the existing sign is 17 feet;

SIZE OF SIGN - 6 square feet in area per side the maximum permitted; proposed 30 square feet; size of the existing sign is 42 square feet;

SETBACK OF SIGN - From front property line, a 10-foot setback is required; the existing sign is located at 8 feet. Both the proposed and existing signs have identical locations at 8 feet from the property line.

LETTERING - The maximum letter height is 10 inches pursuant to the Zoning Ordinance requirements. The word "King" on the sign has letters 15 inches in height and the word "Burger" has letters 10 inches in height.

3. In addition to the request for the free-standing sign, applicant has applied so as to permit the mansard decorative lighting, the red band, to remain on the structure and to be continued around the previously approved building addition. Condition 10 of the April 7, 1998 Resolution specifically requires the removal of the mansard decorative lighting pursuant to Section 195-33.1E(17) of the Land Development Ordinance of the Borough of Madison which prohibits neon or gas-filled decorations which outline facade elements or windows.
4. Michael Tobia, a licensed professional planner of the State of New Jersey, testified regarding both the free-standing sign and the illuminated band on behalf of the applicant. Mr. Tobia opined that the free standing sign was a substantial improvement over the existing "plastic" free standing Burger King sign and also reminded the Board that the applicant had removed the Burger King sign from the front facade of the building. Mr. Tobia asserted that the approval of the proposed freestanding sign would be a substantial improvement over the existing signage condition at the site and that given the size and location of the existing sign that

the variances sought for the smaller sign were minimal in nature and should be granted, considering the substantial benefits conferred as a result of the change in the size and lighting of the proposed free-standing sign.

5. With reference to the decorative illuminated red band around the roof of the structure, Mr. Tobia asserted that such band was important to the corporate image of Burger King and he felt that as the band was an existing condition, the continuation of that band both on the existing structure and the extension of the same on the newly approved addition, would not negatively impact the Zone Plan and Zoning Ordinance and would have no adverse impact on the surrounding properties.
6. As a result of the testimony of Mr. Tobia and a review of the exhibits submitted, the Board finds that the benefits to be gained from the grant of both the variance as required for the new, smaller free-standing sign and allowing the red illuminated band to remain on the structure substantially outweigh any detriment. The Board also finds that the variances can be granted without substantial impairment to the zone plan and zoning ordinances of the Borough of Madison.

NOW, THEREFORE, BE IT RESOLVED, that the application of Rose City Properties, L.L.C., for amended site plan approval, signage variances for the height, area setback, letter height of the freestanding sign, and continuation of the illuminated band encircling the structure as being described herein are hereby granted strictly on the following conditions to be complied with by the applicant:

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**Adopted and Approved
July 7, 1998
Madison Borough Planning Board**