

General Waiver Justification:

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers four criteria. Please answer all of the following questions. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Waiver of: Section 10.1.4.A to omit the preservation of twenty percent (20%) of the existing tree canopy for a site containing greater than fifty percent (50%) tree canopy.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because of the applicant's commitment to pay for and install additional trees off-site on nearby public property, in addition to planting new trees on the subject property to fully comply with the overall tree canopy for the existing site (being 35% of the site area). The end result of the granting of the waiver will be a greater overall tree canopy in the immediate area, due to the above referenced mitigation plantings, than would result with the compliance with the tree preservation. Further, being a small 1.44 acre site, the tree preservation waiver request would amount to five (5) new type A trees, underscoring the overall benefit to the area.
2. The waiver will not violate the Comprehensive Plan. The waiver complies with multiple provisions of Plan 2040 as stated in the previously-submitted Compliance Statement.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant due to the inability to lay out the proposed building and infrastructure in a way that would preserve any of the existing trees (due to grading, etc.). Also, the applicant had an arborist visit the site and provide an analysis of all the invasive species on the site, such as honeysuckle, such that the actual existing tree canopy percentage of non-invasive healthy trees is less than the overall fifty percent (50%), which would mean the tree preservation would not apply. However, because the aforementioned invasive species (ie., honeysuckle) is so thick, an existing tree inventory could not be completed to verify same.
4. Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land and would create an unnecessary hardship on the applicant due to fact the subject site is small (being only 1.44 acres) and requires substantial regrading in order to match up with the two already constructed entrances to the development directly south and make a connection to the north. Any development on the subject site, whether now or in the future will need to perform very substantial grading work. The strict application of the regulation is exacerbated by the fact that the only area where existing tree canopy could have been retained was along the rear property line (west property line), but the trees in that area had to be removed as part of the installation of the sanitary sewer line to service the greater surrounding area.