

Variance Justification:

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

Variance of Section 5.3.1, Table 5.3.1 to allow lots 1-6 to have a 20 ft front/street side yard setback.

1. The variance will not adversely affect the public health, safety or welfare because the request is limited to five feet and, due to the flat terrain in the area, the reduced front yard setback will not affect the ability to provide sidewalks throughout the development or cause issues with the ability to make the sidewalk and driveway section ADA compliant.
2. The variance will not alter the essential character of the general vicinity because the variance is limited to the first six lots and is internal to the new proposed subdivision. The variance is requested as lots 1-6 are on average 25-27 feet shorter in depth than the remaining lots in the proposed subdivision causing difficulty laying out homes on these lots that would need to be so much smaller than the remainder of the subdivision that the homes would be impractical to build. As a result, a front yard variance is requested rather than a rear yard variance as this would locate a proposed home closer to the retail Houchens development recently approved.
3. The variance will not cause a hazard or a nuisance to the public because any effect of the variance will be internal to the subdivision with buffering due to the open space lot along Smyrna Parkway. Further, the adjacent existing single family residence across the proposed public street already exists and is almost exclusively across from the proposed open space lot.
4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because, despite these lots being 25-27 feet shorter than the remainder of the lots, only a 5 foot variance is requested, which is the minimum to allow the proposed use.

Additional consideration:

1. The Variance arises from special circumstances, which do not generally apply to land in the general vicinity because, as said these lots are far smaller than the remainder of the subdivision

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and in obtaining the adjoining church's support, the applicant agreed to certain conditions such as style and design of the proposed homes. Without the variance, the applicant would not be able to meet this commitment.

2. Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because, as said, it would make it impossible to meet the agreed upon terms with the church.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation because this is due to a site constraint related to the width of the entrance area of the subdivision in existence prior to the adoption of the regulation.

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