

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 5.7.1.B.1 to increase the maximum building height within a Transition Zone from 45 ft to 60 ft along Aiken Road, between the Suburban Marketplace and Neighborhood Form Districts

- a) The building height will not adversely affect the public health, safety or welfare because only one building is located within the transition zone and the properties on the other side of Aiken Road are also developed as an apartment project or other similar retail. The Middletown Land Development Code also allows those properties on the other side of Aiken Road to be up to 60 feet tall depending on the use of property and the setbacks, etc.
- b) Will not alter the essential character of the general vicinity for the reason set forth above and because the proposed building in the Transition Zone is next to very large Aiken Road right of way and will be in fitting with the nearby developments.
- c) Will not cause a hazard or a nuisance to the public because there is no safety issue involved in this height variance. And, to the extent that aesthetics might sometimes prove to be a nuisance issue, this building, with this little bit of additional height, will probably not be very noticeable anyway given how far it is removed from the property lines.
- d) Will not allow an unreasonable circumvention of the requirements of the zoning regulations because the added height is pretty typical with modern day apartment buildings for the reasons set forth above.

2. Additional considerations:

- a. The variance arises from special circumstances which do not generally apply to land in the general vicinity because of the reasons set forth above, including the fact that apartment buildings nowadays, require the little bit of additional height to accommodate the customary modern-day ceiling heights and roof pitches customary therein.
- b. 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 because the applicant would have to design residential units with low ceilings and/or compress mechanicals into a space between floors and above ceilings that would be too small, and/or would have to move to an aesthetically unpleasing roof pitch.
- c. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation which relief is sought but rather are a consequence of a

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design not functionally or practically working for all the reasons set forth hereinabove.

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