

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 Land Development Code (“LDC”) Section 5.6.1.B.1.a to allow the planned building expansion to be of similar color, materials, and design as the existing building and to not fully comply with the animating feature requirement for 60% of the horizontal length.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because even with the waiver, the overall building extension will still be of a similar color, style, and design as the existing building on site at 3560 Bashford Avenue (the “Property”). While this addition will extend the façade currently facing Bashford Avenue, there will be no real change in appearance from the current design and appearance of the Property. The applicant will be providing a new vegetative screen along the area of the new parking effectively screening the new building façade even more than it is screened currently. Because the area of the Property where the building expansion will be located is outdoor storage, this will result in a positive change in the view and will not have any adverse effects on any adjacent property owners.
2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Statement of Compliance with all Applicable Goals, Objectives, and Policies Of the Plan 2040 Comprehensive Plan (“Compliance Statement”), filed in this rezoning case and as shown on the detailed district development plan (“DDDP”).
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the building expansion is to take the exterior storage on the Property to an instead locate same inside the proposed building expansion necessitating loading/unloading overhead doors along the front façade. This prohibits the use of the options set forth in the LDC for animating features as same would render the building expansion’s use as no longer viable. These options would include transparent doorways, windows, or tree plantings within 15’ of the building expansion.

The waiver now requested pertains to the aesthetics of a loading area of a building in an industrial area which will be screened from view from the street.

4. Strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because as stated, requiring compliance with this animating feature requirement would render the new building expansion useless for its intended use and where the applicant will be providing screening and buffering along the new parking area.

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Waiver of LDC Chapter 10.2.4.B.8 to omit the required landscape buffer area along a portion of the side and rear property line.

1. The waiver will not adversely affect adjacent property owners because there will be no change to longstanding existing site conditions. The neighboring properties in the area of the waiver request have outdoor storage up to the shared property line and the subject site likewise has had outdoor storage in the area of the waiver request since it was developed. The addition to the existing building and additional parking accompanying the rezoning request will not adversely affect the adjacent property owners because additional plantings will be provided and the area of the existing outdoor storage adjoining the neighboring property will be reduced.
2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Comp Plan 2040 filed with the rezoning application.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the applicant is reducing the existing encroachment through going through the rezoning application process. Eliminating the existing outdoor storage completely is not a viable alternative for the existing business.
4. Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because the applicant is proactively and voluntarily going through the rezoning process rather than waiting to be cited in the future and is making the existing condition better through plantings and reduction of the outdoor storage area.