

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 is requested to reduce the front yard from 25 ft to 4.3 ft

1. The variance will not adversely affect the public health, safety or welfare. The three properties to the northwest and the southeast of the subject property are all zoned C1 and are in the same Form District. Additionally, the one adjacent property to the northeast, though with a different zoning, R5, and in a different Form District, Neighborhood, will not be affected by this variance because it adjoins the rear of the property, not the front. It is also not clear whether a front yard setback variance is even required as the infill setback standards should arguably apply and the front setback would be within the setback difference from the two adjoining properties.

2. The variance will not alter the essential character of the general vicinity because this addition to the existing structure will serve as an infill. The properties to the north and south of this subject property are all situated within a few feet of Preston Highway. This front variance will bring aesthetic uniformity to the Preston Highway corridor. Moreover, application of this regulation in light of the other properties' proximities to Preston Highway does not serve any real purpose and will not adversely affect any adjacent or nearby property owners.

3. The variance will not cause a hazard or a nuisance to the public because the regulation is merely aesthetic. Rather, the variance will reduce hazards by bringing this multi-purpose retail and residential complex nearer to Preston Highway, thus increasing visibility for patrons seeking to locate and use the retail aspects of this property. Further, this variance will permit development of missing middle housing units in an area in need.

4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the intent of the regulation does not serve any purpose due to the varying setbacks which already exist in the adjacent properties and because the variance will permit this property to serve as an infill lot. Notably, the properties to the northwest and southeast have almost no setback from Preston Highway.

Additional considerations:

1. The Variance arises from special circumstances, which do not generally apply to land in the general vicinity because it serves as an infill lot, which is a pre-existing condition that cannot be changed by the applicant
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 the location along this part of the street frontage is an existing condition which the applicant cannot change and it would unnecessarily limit the available building area in the site.
3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation because this is an adaptive use of a property in a transition area.