

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.C.5, to allow the maximum front yard setback to exceed 80 ft.

1. The variance will not adversely affect the public health, safety or welfare because this is an aesthetic regulation, not one pertaining to public health, safety or welfare. Nevertheless, the Variance will not adversely affect anything because it is standard to include two rows of parking plus drive aisle in front of a retail building; otherwise that parking has to try to fit in the back of the building, which, as in this case, is impossible because that results in an additional driving aisle which adds more impervious surface and thus requires a greater depth to lot. Furthermore, as respects to this overall site, the lot is irregular in shape and not perfectly parallel to Hurstbourne Parkway. And moreover the Parkway setback plus rear LBA just doesn't permit the reduced 80 ft street to building setback that the regulation requires.
2. The variance will not alter the essential character of the general vicinity because this is a common setback requirement for retail facilities of this kind, especially on an irregularly shaped lots. And this is consistent with the retail center next door.
3. The variance will not cause a hazard or a nuisance to the public because, as stated above, this is an aesthetic regulation, not a nuisance one, and there are no evident nuisances that would be created as a result of this added setback.
4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because, as stated above, this added setback is a necessity because of the irregular shaped lot, the Parkway setback and the common requirement for parking and access at the fronts of buildings which make achieving this 80 ft or less setback impossible.

Additional consideration:

1. The Variance arises from special circumstances, which do not generally apply to land in the general vicinity because, as stated above, this is a common variance to retail centers of this kind, like the one next door. And this is especially critical when a lot fronts on a Parkway and when it is irregularly shaped, like this one.
2. Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create unnecessary hardship because it could not be practically developed, surely as a retail center without this variance.
3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation, but rather are the results of the site's "Parkway" location and its irregular shape.

E:\CLIENT FOLDER\Schafer, Dale\N. Hurstbourne\application\Variance Justification_setback.doc

RECEIVED

DEC 16 2013

PLANNING &
DESIGN SERVICES

13Z ONE 1013