

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 5.3.4.d.4.a to allow the proposed building height to exceed the 50' height allowed to a 67' maximum building height.

1. The variance will not adversely affect the public health, safety or welfare because this is an aesthetic code requirement. Further, the building has been set back an additional 20' from the required front yard setback such that, according to the Suburban Form District guidelines, an additional 4' of height is arguably allowed per 1' of additional setback. Therefore, the 67' height would be conceptually be permitted with an additional 5' of front yard setback. As a result of the attempt to comply with the intent of LDC 5.2.4.d.4.a., there will not be any adverse effects on the public health, safety, or welfare, particularly because there is no evidence that the extra height will cause any traffic or other safety problems. Further, the site is in the Blankenbaker Station II development and thus subject to the strict covenants, conditions, and restrictions for all properties within the development. The building will meet the same standards the other properties owners expect for buildings within the development.
2. The variance will not alter the essential character of the general vicinity this is an aesthetic code requirement and, as said, the property is subject to the Blankenbaker Station II covenants, conditions and restrictions prepared and recorded to ensure all properties in the development meet certain design standards.
3. The variance will not cause a hazard or a nuisance to the public because this is an aesthetic code requirement and the proposed building height is similar to other buildings in the business park.
4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because this is an aesthetic code requirement. Further, the additional setback being provided is anticipated to allow additional building height, and because the building will be in compliance with the Blankenbaker Station II CCRs.

Additional consideration:

1. The Variance arises from special circumstances, which do not generally apply to land in the general vicinity because building height is already governed by private deed restrictions, which does not apply to all properties in this area of town.
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 this is an aesthetic code requirement, which is already regulated by private restrictions.
3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation, but rather are a result of a constrained site for the proposed use.