

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: Section 10.2.4 to allow an encroachment or proposed pavement and retaining wall into the property perimeter LBA along the northern, eastern and western property lines

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Explanation of Waiver:

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1. The waiver will not adversely affect adjacent property owners because the pavement encroachment on the western property line is extremely small and hardly noticeable and the applicant is providing more green open space along the western line closer to the intersection mitigating any impact. The proposed retaining wall along the northwestern property line is due to site topography and will not be seen by neighbors due to the screening and buffering

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 Cornerstone 2020 Comprehensive Plan filed with the original rezoning application.

3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because these minor encroachments into the LBA are the minimum required for the pharmacy to locate on the property with the circulation around the front and rear of the property and to provide the required parking.

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 without the waiver the site could not be used for a pharmacy or many other retail businesses that require a drive through.

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 5.3.2.C.2.B to allow the proposed pavement to encroach into the required 25 ft setback along the northern property line.

1. The variance will not adversely affect the public health, safety or welfare because only a portion of the pavement in this area encroaches into the setback and there is still a very large distance between this proposed pavement and the neighboring residence along Candlewood Way.
2. The variance will not alter the essential character of the general vicinity because the pavement is located along the rear portion of the property, away from Ruckriegel Parkway and Taylorsville Road and will not cause a negative impact with the neighbor to the North. Screening and buffering will be provided through plantings or a fence.
3. The variance will not cause a hazard or a nuisance to the public because it will not cause any unsafe condition and the impact of the variance will be mitigated through screening and buffering.
4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because this is the minimal amount required for the proposed pharmacy to fit on the site and provide vehicular maneuvering in the front and a drive through lane in the rear as required by all pharmacy locations.

Additional consideration:

1. The Variance arises from special circumstances, which do not generally apply to land in the general vicinity because of the narrow portion of the site in the area requested.

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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 site could not be used for a pharmacy use, or any other retail business that requires a drive through aisle on the rear of the property.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation because the applicant has owned this property for a long time and this is the only use that is a potential at this time.

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