

MAR 20 2018

PLANNING &  
DESIGN SERVICES**Additional Variance Justifications – Section 4.8.4.B.1:**

Variance of: Section 4.8.3.D to allow the hotel and parking areas to be constructed in the waterway buffer area (from 100 ft to 16 ft)

In order to justify approval of any variance, the Board of Zoning Adjustment may consider the following additional criteria:

a. The variance is necessary because the requirements of this section represent an extreme hardship such that minimal or no reasonable economic use of the land is available without reducing the width of the required Type B Water protection Buffer zones because the requirements of this section represent an extreme hardship such that minimal or no reasonable economic use of the land because the lot size was long ago established. Had the stream bank setback requirement been in place at the time that the lots in this area were created, they would have been significantly enlarged, but they weren't. So the proposed re-use of this property that does not encroach into the stream bank buffer zones would be impossible. Further, once the stream bank setback requirement was adopted, it effected this property far worse than some others due to the fact this man made stream was constructed with such steep walls. Therefore, in heavy rain events the width of the creek does not enlarge like it normally would with a natural creek. This resulted in the buffer area extending far further into the property than would normally be the case with a natural stream. Further, because the North bank of the creek is a couple of feet lower than the bank on the subject property, when there is a flood event, the flooding first occurs on the other side and does not flood this property.

The size, shape, or topography of the property, as of March 1, 2003, is such that it is not possible to construct a single family detached dwelling without encroaching into the required Buffer Area. This is so because this is a commercially zoned property and location; consequently no one would ever consider reconstructing a single family residence at this site.

b. Encroachment into the required Buffer Area shall be limited to the minimum necessary to accommodate the proposed use. The existing building and parking already encroach into the stream bank setback as the setback did not exist at the time of their original construction. The site has been designed so as to limit the encroachment into the setback as much as possible, but to still allow its use as a Best Western hotel. This will be a new Best Western with their most modern concept which will result in a welcomed economic redevelopment of this property and area of Fern Valley Road.

c. The Applicant shall commit, to the satisfaction of the County, to mitigation measures that substantially offset any potential adverse impacts of the proposed encroachment during site preparation, construction, and post-construction. The construction plans must comply with MSD's soil erosion and sedimentation control ordinance now in effect and stringently enforced due to the EPA Consent Decree.

d. Approval of the variance will not result in a reduction in water quality. The current

detention basin on this property is currently not functional. As a result, the applicant will install a brand new detention basin to offset any new displacement that will be fully functional and result in an improvement to the property and area. Further, the applicant shall provide floodplain compensation at a rate of 1.5 to 1 as noted on the plan, with the excess paid to MSD in the form of a \$18,503 payment for a Regional Facilities Fee. In addition, the applicant shall install water quality measures through a storm water treatment system to satisfy the MS4 requirements. Currently, the runoff from the existing encroachments on the property run off into the creek, but in the future will be properly treated by the storm water treatment system resulting in improved water quality.

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