

**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.**

**1. Will the waiver adversely affect adjacent property owners?**

The waiver will not adversely affect the adjacent property owners since the screening required will be provided and since almost double the typical setback from the centerline of the road is provided along the sites frontage. With the additional existing right of way provided along the site the reduction in the parkway buffer will not be noticeable. Hurstbourne Parkway is classified as a primary arterial level road which would have a requirement for 130' of right of way, 65' from centerline. The existing right of way adjacent to this site is approximately 129' from centerline at its closest point and as much as 200' at the furthest point.

**2. Will the waiver violate the Comprehensive Plan?**

The waiver will not violate the Comprehensive Plan since in regard to the Community Form Plan Element the parking area and dumpster as proposed is located further back from the road than along a typical requirement of 65'R/W + 50' Pky Buffer a total of 125' from centerline. The nearest edge of this site is 129' from the centerline of Hurstbourne Parkway. In addition, the plan addresses the Livability Plan Element since the required screening will be provided and also with the preservation of the stream buffer, tree canopy and floodplain and with the provision of a dog park and walking path for the benefit of the residents

**3. Is extent of waiver of the regulation the minimum necessary to afford relief to the applicant?**

Since the development of the site is already limited by the stream corridor and its required setbacks, the steep slopes, floodplain, as well as, impacted with the larger existing right of way, the waiver is the minimum necessary to make the development of the property feasible.

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**4. Has either (a) the applicant incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect) or would (b) the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant?**

The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and create an unnecessary hardship given the existing larger right of way that results in further setback from the road, since the required screening can still be provided in the area shown and since the applicant is preserving open space on the site that is more than 4 times the requirement which will benefit the community, as well as, this development.