

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 to exceed the maximum 80 ft building setback along Indian Springs Drive

Reason for request A slightly lesser maximum setback variance was approved by BOZA on 2/2/15. The applicant is requesting the setback be increased by an additional 10ft for a total of 245 ft from Indian Springs Drive. As stated in the Applicant's previous justification statement, the Hotel building is best located in terms of access, circulation, parking and topographical conditions basically in the middle of the overall site, not up against Indian Lake Drive where these factors become difficult, indeed to some extent impossible, to address. The Applicant is requesting an additional 10 ft setback in order to accommodate the added building setback based on current engineered/architectural plans.

1. Reasons that the granting of the variance:
 - a) Will not adversely affect the public health, safety or welfare because there is no purpose served by locating the hotel building up along the Indian Lake Drive, especially anything relating to the public health, safety or welfare. Furthermore, this hotel project has the support of the Indian Springs Community Association as to location, access, circulation and design.
 - b) Will not alter the essential character of the general vicinity because the location of this hotel building in proximity to Indian Lake Drive is not dissimilar to the location of the Aldi grocery store on the opposite side of Indian Lake Drive and because the location as shown on the Revised Detailed District Development Plan retains an open view from Westport Road into the Indian Springs residential subdivision.
 - c) Will not cause a hazard or a nuisance to the public because locating the building farther away from Indian Lake Drive required under the LDC is not a hazard or nuisance issue but rather an aesthetic one which is better addressed by retaining the open view from Westport Road into the Indian Lake subdivision as presently planned and as explained above. Further, the 10 ft addition to the previously granted setback is requested to assure compliance with the already engineered/architectural plans.
 - c) Will not allow an unreasonable circumvention of the requirements of the zoning regulations because no purpose is served in moving the building closer to Indian Lake Drive as explained above.
2. Additional consideration:
 - a. The variance arises from special circumstances, which do not generally apply to land in the general vicinity because this is an effort to locate the hotel/restaurant building where one would logically be located and where it is best situated for purposes of good access, circulation, limiting walking distances and addressing existing grade conditions.

- b. Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship because, if the hotel/restaurant building was located closer to Indian Lake Drive, then access and circulation would be made more difficult, walking distances would increase, and grade conditions would be more challenging to address. Further, the added 10 ft is a consequence of the final engineered/architectural plans.

- c. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation which relief is sought, but rather are the result of this property being proposed for a hotel/restaurant at a location that is optimal for these uses – that being at a major arterial and interstate highway, and the result of topographical conditions.

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