

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 5.7.1 is requested to reduce the rear yard from 25 ft to 5 ft

1. The variance will not adversely affect the public health, safety or welfare. The three properties to the northwest and the southeast of the subject property are all zoned C-1 and are in the same Form District. Additionally, there is only one adjacent property to the rear property line. That adjacent property to the northeast, though with a different zoning, R-5, and in a different Form District, Neighborhood, will not be affected by this variance because the applicant seeks to improve screening for this adjoining property by installing a 6-foot wooden privacy fence along the property line. Furthermore, the subject property currently has a building that is nearer to the property line than the 25 feet requested in Section 5.7.1, which has not, to the best of the applicant's knowledge, caused adverse effects to the public health, safety, or welfare.
2. The variance will not alter the essential character of the general vicinity because the existing structure is already nearer than 25 feet away from the property line. This variance will largely maintain the existing structure as it relates to the rear property line, save for a small, one-story bump out on the northeast corner of the property, which is the farthest point away from the residence adjoining the rear property line. That bump out will be a refrigerated addition to the liquor store. The proposed second-story building, as it relates to the rear property line, will be built atop the current one-story building, thus not altering the pre-existing condition of the property.
3. The variance will not cause a hazard or a nuisance to the public because the applicant is mitigating the effects by installing a 6-foot high wood privacy fence along the rear property line, where there currently exists only a chain link fence. Further, this variance will revitalize an aging structure and permit development of missing middle housing units in an area in need.
4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the intent of the regulation does not serve any purpose due to the already existing structure on the property that is not in conformity with the setback. The variance will permit the applicant to revitalize the existing building and adaptively reuse its footprint to add missing middle housing to this area along Preston Highway.

Additional considerations:

1. The Variance arises from special circumstances, which do not generally apply to land in the

general vicinity because applicant seeks to adaptively re-use the existing structure, which is a pre-existing condition that cannot be changed by the applicant

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 structure's placement in relation to the rear property line is an existing condition which the applicant cannot change, and it would be fiscally unattainable to raze this structure just to build a new structure a few feet further on the property.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation because this is an adaptive use of a property in a transition area.