

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 5.3.4.D.3.a to allow buildings to encroach into the required front setback.

1. The variance will not adversely affect the public health, safety or welfare because the adjoining property this standard is not a health safety or welfare issue, but rather is an aesthetic one based on the form district. And a greater setback at this location is necessitated as a consequence of the very large 80 foot right-of-way along Blankenbaker Access Drive, which was likely obtained for a material and equipment site when Blankenbaker Parkway was expanded. The site was already narrow because of the railway to the north of the property, but the expansive right-of-way makes the property virtually unusable for most industrial applications if the variance is not allowed. The site will retain some present natural screening and in other areas it will be landscaping trees will be added, so that the public interest will not be adversely affected.

2. The variance will not alter the essential character of the general vicinity because this area is largely industrial with all sorts of distances from property lines, probably many not in conformance with LDC current setback requirements as many have been located where they are since prior to adoption of the present LDC. As respects this site, use of it is further burdened by its narrow shape, made even more narrow because of the large right-of-way, business requirements for access, circulation and parking, and further combined with the location of the existing railroad tracks.

3. The variance will not cause a hazard or a nuisance to the public because this setback variance is an aesthetic one, not one relating to hazards or nuisances.

4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because, as set forth above, the setbacks requiring variances in this case are justified because of the wide right-of-way making the site narrow for nearly any type of use, but particularly any intensive industrial use which is common in this area. Furthermore, it will not result in development of this property atypical from anything nearby.

Additional consideration:

1. The variance arises from special circumstances, which do not generally apply to land in the general vicinity because the wide right-of-way does not affect all of Blankenbaker Access Drive, and, as stated above, this in-fill development is located on an irregularly shaped property, resulting in multiple pressures on workable redevelopment of this underutilized site.

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 after all of the iterations of this plan that the applicant's land planners and engineers have drawn, this is the only one that reasonably works for it.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather are the result of the size and shape of this property combined with the existence of the above referenced right-of-way and railroad tracks.