

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.C.5, Table 5.3.2 to allow the building to encroach into the 50 ft setback.

1. The variance will not adversely affect the public health, safety or welfare because the setback only applies if the adjoining property is "residential", and the adjoining property is a office park such that the intent of the requirement does not truly apply.
2. The variance will not alter the essential character of the general vicinity because if the adjoining property were zoned anything other the an OR zoning district, that technically would allow a residential use in the future, just as would a C-1 or C-2 zoning district, this requirement would not be applicable.
3. The variance will not cause a hazard or a nuisance to the public because it is only requested due to a prior interpretation as the LDC provision requiring the setback.
4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the intent of the requirement is to have additional setbacks when the proposal adjoins a residential property, which is not the case here.

Additional consideration:

1. The Variance arises from special circumstances, which do not generally apply to land in the general vicinity because this property is adjacent to an OR zoned property for which this additional setback is being required.
2. Strict application of the provisions of the regulation would deprive the applicant of the

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reasonable use of the land or would create unnecessary hardship because many other developments have been approved without requiring the additional setback on the potential that the site could in the future be used for residential.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation because the adjoining property was approved for, and built as, an office condominium project.

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