

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.

1. Explain how the variance will not adversely affect the public health, safety or welfare.

The requested variances will not adversely affect public health safety or welfare since the building height will be in keeping with similar structures with the area and the retaining wall in the rear yard is being utilized to prevent encroachments into the stream buffer from Hite Creek. Tree canopy will be preserved along the rear yard to minimize the impacts of both requested variances.

2. Explain how the variance will not alter the essential character of the general vicinity.

The requested variances will not alter the essential character of the general vicinity since there is an established pattern of extensive encroachments to the west of the property along Chamberlain Lane and buildings at heights above 45' within the area. The requested variances on the subject site are well below the threshold of the existing pattern within the larger mixed use center on Chamberlain Lane.

3. Explain how the variance will not cause a hazard or a nuisance to the public.

The requested variances will not cause a hazard or nuisance to the public since extensive tree canopy will be preserved along the rear property perimeter to minimize impacts of the building and retaining wall. There are no residential structures located along the rear portion of the subject site which further minimizes any nuisance to the public.

4. Explain how the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.

The variances will not allow an unreasonable circumvention of the requirements of the zoning regulations since there are extensive encroachments and varying heights throughout the existing regional center area along Chamberlain Lane.

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Additional consideration:

5. Explain how the variance arises from special circumstances, which do not generally apply to land in the general vicinity (please specify/identify).

The variances arise from specific conditions of the subject site such as large grade changes, Hite Creek and the corresponding stream buffer to the east and vacant residential areas to the rear of the property. The requested variances result from balancing these varying requirements, preserving tree canopy and minimizing impacts of the development on any residential uses in the area.

6. Explain how the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship.

The strict application of the provisions of the regulations would create an unnecessary hardship by preventing the needed additional height along portions of the building to accommodate stairwells and parapets as well as preventing the use of a needed retaining wall to address the major grade changes on the property.

7. Are the circumstances the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought?

The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since no construction has occurred and the variances result from existing property conditions.

17 VARIANCE 1079