

**General Waiver Justification:**

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers four criteria. Please answer all of the following questions. Use additional sheets if needed. **A response of yes, no, or N/A is not acceptable.**

**1. Will the waiver adversely affect adjacent property owners?**

Granting the waiver requests will not adversely affect the adjacent property owners. Allowing parking in front of the building will allow for a site design that will provide for safe pedestrian and vehicular movement in and around the property. More landscaping will be provided after redevelopment of the site even if the requested landscape waiver is granted.

**2. Will the waiver violate the Comprehensive Plan?**

Granting the requested waivers will not violate the Comprehensive Plan. The site is currently a surface parking lot so allowing parking close to Preston Highway would not be a significant change to the character of the site compared to its current configuration. The redevelopment of the site will result in significantly more landscaping than currently exists on the site.

**3. Is extent of waiver of the regulation the minimum necessary to afford relief to the applicant?**

The applicant is requesting the minimum relief necessary to allow the site to be redeveloped in a reasonable and functional manner that will still be compatible with the surrounding area.

RECEIVED  
FEB 25 2019  
PLANNING &  
DESIGN SERVICES

**4. Has either (a) the applicant incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect) or would (b) the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant?**

The applicant is providing the required amount of landscaping, but because of technical requirements in the Land Development Code a waiver is still required. Strict application of the regulation would create a hardship on the applicant and not allow the property to be redeveloped in an efficient manner required for the business to function successfully.

**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.**

Granting this variance will not adversely affect the public health, safety or welfare because the site layout will allow for safe pedestrian and vehicular movement to, from and within the property. In fact, placing the building closer to Preston Highway, as required, could potentially cause safety conflicts for pedestrians and motorists.

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

Granting this variance will not alter the essential character of the vicinity because the area already has a mixture of land uses and development patterns, both suburban and traditional in design, and this proposal will be compatible with the neighborhood.

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

Granting the variance will not cause a public hazard and the site will be designed to safely accommodate the patrons of the business as well as area residents and citizens. Additionally, this layout provides the best maneuvering options for delivery vehicles entering and exiting the site.

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

Granting this variance will not allow an unreasonable circumvention of the requirements of the zoning regulations as the proposal will still be compatible with the established development pattern in the area.

RECEIVED

*Additional consideration:*

FEB 25 2019

PLANNING &  
DESIGN SERVICES

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

This very small property is bounded on two sides by an alley which hinders the ability to design an adequate parking area if required to comply with the maximum setback requirement.

**2. 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.**

Strict application of the regulation would create a hardship on the applicant and not allow the property to be redeveloped in an efficient manner required for the business to function successfully.

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

This area was designated a Traditional Marketplace Corridor Form District long after the pattern of development was established and the applicant is requesting the minimum relief possible to allow reasonable redevelopment of the property.