

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 variance will not adversely affect the public health, safety or welfare as the buffer will still be provided within open space, it will be reduced to 60' compared to the 75' as required.

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

The variance will not alter the essential character of the general vicinity but also allow this character to be preserved. The area that the buffer is provided within allows an existing pedestrian thoroughfare to remain in open space and ultimately used by the public.

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

The reduction of the minimum width of this buffer will not cause hazard or nuisance to the public as the buffer will still be provided and function as it would normally be required.

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

The variance will not allow an unreasonable circumvention as the buffer will still be provided, only reduced. This buffer is required between an ADI development and the existing neighborhood but will only be buffering a proposed single-family subdivision from an existing single-family subdivision.

Additional consideration:

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

This variance arises from special circumstances as the developer is using the ADI development (which triggers this buffer) to utilize smaller dimensional standards within the zoning district to allow open space for an existing pedestrian thoroughfare to remain accessible and usable to the public.

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.

The strict application of these provisions would cause unnecessary hardship to the applicant as it would either require a development outside of the ADI incentives or it would require the development to be shifted Northward with the potential loss of additional lots.

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

These circumstances are not actions of the applicant but instead the applicant's willingness to come to a compromise and work with both community and governmental agencies to design a plan in such a way to meet the common needs of both parties, bringing about this variance.

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?

This waiver will not adversely affect adjacent property owners as it will be internal to the proposed development and will function as any other access drive or roadway would.

2. Will the waiver violate the Comprehensive Plan?

This waiver will not violate the comprehensive plan as it is an alley, providing primary access to 4 lots that do not have street frontage.

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

The granting of this waiver is the minimum necessary to afford relief to the applicant as there is not enough depth to provide a standard roadway/right-of-way within the front of the property and maintain the minimum lot size due to the restricted depth of the site.

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 strict application of the provisions of the regulation deprive the applicant of reasonable use of the land as well as create unnecessary hardship. This parcel of land is restricted to only one side having access to a public roadway and is land locked with a "public area," cutting off access to Indian Trail. The strict application of the provision of the regulation would then force the developer to remove a row of single-family lots due to the lack of access, reducing the overall productivity and value of the development. Granting this waiver would have no adverse affects and the denial of said waiver would only create unnecessary hardship.

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