

### **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 5.2.2 to allow building #5 to exceed the 25 ft maximum building setback (per the Town Center form District Section 5.2.4(C)(2) election to have the Traditional Neighborhood Form District standards apply).

1. The variance will not adversely affect the public health, safety or welfare because the building setback is an aesthetic issue only and the increased distance from Herr Lane only increases the site distance for vehicular traffic.
2. The variance will not alter the essential character of the general vicinity because the subject site is the only portion of Herr Lane within a Town Center Form District or any other Traditional Form District. As a result, all surrounding properties (other than the properties to the north on the other side of Brownsboro Road) are in Suburban Form Districts with greater setbacks. As a result, the variance will not in any way alter the essential character of the general vicinity.
3. The variance will not cause a hazard or a nuisance to the public because again this is an aesthetic not hazard or nuisance issue. The proposed apartment community will be a Class A apartment project with additional landscaping provided along Herr Lane to help hold the sense of streetscape, being the goal of the lower Traditional Neighborhood setbacks.
4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the need for the variance arose as a result of the change in orientation of building #5 due to a very small portion of the subject site being zoned C-N (Commercial Neighborhood) and the potential issues caused by C-N having a lower maximum density.

Additional consideration:

1. The variance arises from special circumstances, which do not generally apply to land in the general vicinity because, the subject site is the only property on Herr Lane south of Brownsboro Road that has Traditional Form District standards.
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 moving the building closer to Herr Lane would be impractical due to the drive lanes, parking, and the aforementioned C-N zoning issues, and would result in a loss of use of a portion of the subject property. Additional landscaping will mitigate any potential negative impact that could be contemplated.
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 application of Traditional Neighborhood Form District standards in a suburban area.