



CITY OF TONTITOWN PLANNING OFFICE

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Meeting: **October 17, 2022**
Project: **Norris Plaza Variance**
Planner: Courtney McNair, Garver

BOARD OF ADJUSTMENTS AGENDA ITEM

PH2 & BZA1

VARIANCE REQUEST

1291 Henri de Tonti Blvd. - Norris Plaza
Parcel # 830-37730-005

SUMMARY: Applicant is requesting a variance to reduce the number of trees required for perimeter screening by one (1) tree, and to allow zero (0) feet of perimeter screening along the site's southern boundary.

CURRENT ZONING: C-2 General Commercial-the proposed development meets the current zoning.

CITY WARD: 3- Penny Baskin, Tim Burress

FLOODPLAIN: No

INFRASTRUCTURE SERVICE AREAS (not a guarantee of service availability):

Water: Tontitown Water, existing 4" and 8" waterline

Electric: Ozarks Electric

Sewer/Septic: Tontitown Sewer

Phone: AT&T

Natural Gas: Black Hills Energy

Cable: Cox Communications

School District: Springdale

PROJECT SYNOPSIS:

Applicant is requesting Large Scale Development (LSD) approval to construct a 10,632 SF commercial building with associated parking and drives. Currently proposed to be 100% Office, as indicated on plans provided. The development site is part of a two-lot development, whereas this project would take place on an existing lot of record – lot 2 @ 2.46 acres +/- . The other lot, lot 1 @ 2.05 acres, is recorded and immediately adjacent and to the west of the development site. Stormwater detention is shown as a proposed detention pond between the east side of the proposed building and the west side of Spallone Blvd. (private).

The variance request is to reduce the number of trees required for perimeter screening by one (1) tree, and to reduce the amount of perimeter screening along the south side to zero (0) linear feet. The reason for this request is based on a proposed parking area (8 spaces) being located along the southern side of the site, in an area that would otherwise accommodate a perimeter tree at a ratio of one-tree for every 50 feet, and due to the boundary of the parcel overlapping and being encroached by a private roadway / right-of-way, making it impossible to adhere to this portion of the landscape code.

Variance Perimeter Trees/Perimeter landscaping:

Section 153.262 Powers and Duties:

*(B)To authorize upon appeal, in specific cases, such variance from the terms of this zoning chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations would result in unnecessary hardship that would deprive the owner of any reasonable use of the land or building involved. **A variance from the terms of these zoning regulations, shall not be granted by the***

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Board of Zoning Adjustment unless and until:

- (1) The applicant demonstrates that special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district.

Staff's Response: This project was designed to have shared drives and on street parking. Additionally, unusual physical limitations do exist as it relates to private ROW in relation to property lines.

that literal interpretation of the provisions of these regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these regulations.

Staff's Response: This project could feasibly reduce parking based on the requested use.

that special conditions and circumstances do not result from the actions of the applicant.

Staff's Response: This project was designed to have shared drives and on street parking. Additionally, unusual physical limitations do exist as it relates to private ROW in relation to property lines. This was previously platted.

and that granting the variance requested will not confer on the applicant any special privilege that is denied by the zoning regulations to other lands, structures, or buildings in the same district.

Staff's Response: This variance will not convey special privilege to the applicant.

- (2) *No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.*

Staff's Response: There are no nonconforming uses in the surrounding area.

- (3) *The Board of Zoning Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of land, building, or structure.*

Staff's Response: Only a small portion of the site is impacted by this request.

- (4) *The Board of Zoning Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of these zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.*

Staff's Response: Granting this waiver will not be injurious to the general neighborhood area or detrimental to the public.

- (5) *In granting any variance, the Board of Zoning Adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of these regulations.*

Staff's Response: No additional conditions are recommended at this time.

- (6) *Under no circumstances shall the Board of Zoning Adjustment grant a variance to allow a use not permissible under the terms of these zoning regulations in the district involved, or any use expressly, or by implication, prohibited by the terms of these regulations in said district.*

Staff's Response: Granting this request will not allow a use that is not permissible by code.

STAFF RECOMMENDATION:

Staff recommends **APPROVAL** of the applicant's variance request to reduce the number of trees required for perimeter screening by one (1) tree, and to reduce the amount of perimeter screening along the south side to zero (0) linear feet.