



CITY OF TONTITOWN PLANNING OFFICE

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Meeting: **August 22, 2023**
Project: **Neighborhood Waiver**
Planner: Mark Latham

PLANNING COMMISSION AGENDA ITEM 6 WAIVER REQUEST

Pozza Lane

SUMMARY: The owner of Neighborhood Storage is requesting a waiver from the City of Tontitown Drainage Manual, Section 6-Other Design Consideration.

CURRENT ZONING: C-2 -Commercial

CITY WARD: 3- Mike Washkowiak and Tim Burress

FLOODPLAIN: No

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

Water: Tontitown Water

Electric: Ozarks Electric

Sewer/Septic: Tontitown Sewer

Phone: AT&T

Natural Gas: Black Hills Energy

Cable: Cox Communications

REQUEST:

The applicant is requesting one (1) Waiver from City's Drainage Criteria Manual, Section 6-Other Designs Considerations, requiring concrete swales in dry detention basins sloped between 0.5%-1,0%. In lieu of the concrete swale, Insta turf Shear force 10 turf will be used.

152.026 WAIVERS.

(A) General.

(1) When, by the **strict interpretation of these regulations, an applicant incurs undue restrictions on the physical property to be subdivided**, a waiver for such requirements may be granted by the Planning Commission.

(2) **Under no circumstance should a waiver be granted because of a personal hardship or for personal or emotional reasons. Waivers shall not be granted based strictly on financial hardship.**

(3) A waiver is determined by the strict interpretation and enforcement of the rules and regulations upon a given piece of property to be subdivided.

(B) Procedures.

(1) No waiver shall be granted except upon written petition by the applicant when the application is filed. The petition shall state fully the grounds for the waiver and all the facts upon which the petition is made.

(2) In granting the waiver, the Planning Commission shall prescribe any conditions that it

deems necessary to or desirable in the public interest.

(3) In considering the petition for a waiver, the Planning Commission shall take into account the **nature of the proposed use of land involved, existing uses of land in the area, proximity to public utilities, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such waiver upon traffic conditions and upon the public health, safety and general welfare in the vicinity.**

(4) The findings of the Planning Commission, together with the specific facts upon which findings are based, shall be incorporated into the official minutes of the Planning Commission meetings at which such waiver is granted. Waivers may be granted only when in harmony with the general purpose and intent of these regulations.

WAIVER

Waiver from Drainage Criteria Manual – to allow In lieu of the concrete swale, Insta turf Shear force 10 turf. The hybrid turf instant armoring permanent erosion control mat will possess flow properties akin to concrete swale and the aesthetic appeal of natural grass.

- (a) *That there are special circumstances or conditions affecting the land involved such that the strict application of the provision of these regulations would deprive the applicant of the reasonable use of this land.*

Applicant's Letter: NOT DIRECTLY ADDRESSED

Staff's Response: Circumstances or conditions surrounding the site are not special and/or unique in their own right.

- (b) *That the waiver is necessary for the preservation and enjoyment of a substantial property right of the applicant.*

Applicant's Letter: NOT DIRECTLY ADDRESSED

Staff's Response: Waiver outcome will not have any bearing on the preservation and enjoyment of the property rights of the applicant.

- (c) *That the granting of the waiver will not be detrimental to the public health, safety and welfare or injurious to other property in the area.*

Applicant's Letter: NOT DIRECTLY ADDRESSED

Staff's Response: Granting this waiver will not be detrimental to the public health, safety, and welfare or injurious to other property in the area.

- (d) *That the granting of the waiver will not have the effect of preventing the orderly subdivision of other land in the area in accord with the provision of these regulations.*

Applicant's Letter: NOT DIRECTLY ADDRESSED

Staff's Response: Granting this waiver will not prevent the orderly subdivision or development of other land in the area.

STAFF RECOMMENDATION:

Staff recommends approval of the waiver to allow the use of Insta Turf Shearforce 10 lining in lieu of concrete swale. Further, the City Engineer has reviewed and approved the use of Turf ShearForce 10 as an alternative. One condition is recommended.

CONDITIONS RECOMMENDED FOR APPROVAL:

1. Final inspection and approval by the City Engineer shall be required prior to the Final Plat being signed.