

City of Galveston



Department of Planning and Community Development

P.O. Box 779 / Galveston, Texas 77553-0779 / Ph (409) 797-3600 / Fax (409) 797-3601

**AGENDA
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
4:00 p.m., Wednesday, August 8, 2012
City Council Chambers, 2nd Floor of City Hall
823 Rosenberg, Galveston, Texas**

- A. Attendance
- B. Conflict of Interest
- C. Minutes: July 11, 2012
- D. Old Business and associated Public Hearing:

12Z-21 (7805 and 7809 Broadway) Request for variances from the Galveston Zoning Standards Section 29-107: Height and Density Development Zone (HDDZ) and Section 29-106: Development Standards regarding wall plane articulation and outdoor lighting associated with a Marina and Restaurant development within the Commercial, Height and Density Development Zone, Zone 1, (C-HDDZ-1) zoning district. Property is legally described as part of Lot 516 (516-10), Tremble & Lindsey, Section 1, Lease Tract, and part of Lot 516 (516-6), Trimble and Lindsey, Section 1; in the City and County of Galveston, Texas.

Applicant: Harry C. Schultz, Jr., % Shelmark Engineering, % Rhonda Gregg
Property Owner: Schultz Partners, LTD

- E. Old Business and associated Public Hearing:

12Z-23 (2017 Saladia) Request for variances from the Galveston Zoning Standards Section 29-65 regarding setback requirements in a One-Family, Two (1F-2) zoning district. Property is legally described as the north half of Lots 13 and 14, Block A, Colorado Addition, a subdivision, in the City and County of Galveston, Texas.

Applicant and Property Owner: Mary Sandra Foster

12Z-24 (1313 54th Street) Request for a variance from the Galveston Zoning Standards Section 29-65 regarding setback requirements in a General Residence (GR) zoning district. Property is legally described as North 30.33, feet of lots 13 & 14 (13-4), Block 46, Denver Resurvey, in the City and County of Galveston, Texas.

Applicant and Property Owner: Tomasa Crear

12Z-25 (5305 Avenue K) Request for a variance from the Galveston Zoning Standards Section 29-65 regarding setback requirements in a General Residence (GR) zoning district Property is legally described as Lot 10, Block 21, Denver Resurvey, a subdivision, in the City and County of Galveston, Texas.

Applicant: Tegrity Homes % Steve Kimborowicz

Property Owner: Verna Thompson

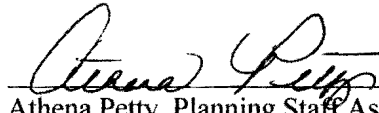
12Z-26 (5902 Avenue Q ½) Request for variances from the Galveston Zoning Standards Section 29-65 regarding setback requirements in a One Family-Two (1F-2) zoning district. Property is legally described as a portion of Lot 24 (24-5), Trimble and Lindsey Section 1, in the City and County of Galveston, Texas.

Applicant: JW Turner Construction % Mark Lealy

Property Owner: Michael N. Zientek

F. Adjournment

Prepared By:



Athena Petty, Planning Staff Assistant

Date Prepared:

July 30, 2012

IN ACCORDANCE WITH THE PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT (ADA), PERSONS IN NEED OF A SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHALL, WITHIN THREE (3) DAYS PRIOR TO ANY PROCEEDING, CONTACT THE CITY SECRETARY'S OFFICE, SUITE 201, 823 ROSENBERG, GALVESTON, TEXAS 77550 (409 797-3510).

MEMBERS OF CITY COUNCIL MAY BE ATTENDING AND PARTICIPATING IN THIS MEETING.

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POSTED
AUG 02 2012
CITY SECRETARY'S
OFFICE

*RB
5pm*

MEMORANDUM

TO: Carolyn Sunseri, Chairperson and Zoning Board of Adjustment Members

FROM: Pete Milburn, Urban Planner II
Department of Planning and Community Development 

DATE: August 3, 2012

RE: **12Z-21 (7805 and 7809 Broadway)** Request for variances from the Galveston Zoning Standards Section 29-107: Height and Density Development Zone (HDDZ) and Section 29-106: Development Standards regarding wall plane articulation and outdoor lighting associated with a Marina and Restaurant development within the Commercial, Height and Density Development Zone, Zone 1, (C-HDDZ-1) zoning district. Property is legally described as part of Lot 516 (516-10), Tremble & Lindsey, Section 1, Lease Tract, and part of Lot 516 (516-6), Trimble and Lindsey, Section 1; in the City and County of Galveston, Texas.
Applicant: Harry C. Schultz, Jr., % Shelmark Engineering, % Rhonda Gregg
Property Owner: Schultz Partners, LTD

The Zoning Board of Adjustment, at their regular meeting of July 11, 2012, voted to continue the above referenced request until the August 8, 2012 regular meeting. The applicant requested the continuance in order to allow more Zoning Board members to be present at the meeting.

This was the first continuance of this case and there are no additional costs associated with the continuance.

xc: Lori Feild Schwarz, AICP, Interim Director
Department of Planning and Community Development

12Z-23 (2017 Saladia) Request for variances from the Galveston Zoning Standards Section 29-65 regarding setback requirements in a One-Family, Two (1F-2) zoning district. Property is legally described as the north half of Lots 13 and 14, Block A, Colorado Addition, in the City and County of Galveston, Texas.

Applicant and Property Owner: Mary Sandra Foster

Existing Zoning and Land Use:

Zoning	One-Family, Two (1F-2)
Land Use	Single-Family Residential

Surrounding Zoning and Land Use:

	North	South	East	West
Zoning	One-Family, Two (1F-2)	One-Family, Two (1F-2)	One-Family, One (1F-1)	One-Family, Two (1F-2)
Land Use	Residential	Residential	Residential	Residential

Property Owner Notification as of August 8, 2012:

Sent	Returned	In Favor	In Opposition	No Comment
25				

Advertisement Date: July 26, 2012

City Department Notifications:

Airport: No Objection
 Building Department: Pending
 Fire Chief: No Objection
 Fire Marshal: No Objection
 Police Department: No Objection
 Public Works: No Objection

Private Utility Notifications:

A T & T: Pending
 CenterPoint Energy: Pending
 Comcast: No Objection
 Texas Gas Service: Pending

Background

At the June 1, 2011 Zoning Board of Adjustment meeting, the Board approved case 11Z-25 requesting variances reducing the front yard setback from 15-feet to 12-feet and the rear yard setback from 10-feet to 7-feet. The property was granted variances in order to complete the construction of a new home built through the CDBG disaster recovery program. Another contractor began the construction of this home and requested the variances. However, the new home, as built, is encroaching the previously approved variance and the applicant is requesting an additional variance. As completed, the home encroaches the approved 7' front yard setback.

ANALYSIS

The applicant is requesting a variance in order to obtain a Certificate of Occupancy for a new home constructed through the CDBG disaster recovery program. Prior to the completion of construction modifications were made, altering the location of the access stairs. The access stairs were relocated from the north side of the structure to the east side.

1. Variance regarding setbacks in the One-Family, Two (1F-2) zoning district

Please reference the table below for the required setbacks for single-family residential development in the One-Family, Two (1F-2) zoning district, per Section 29-65. The setbacks for the proposed new construction are also shown below:

Zoning District: One-Family, Two (1F-2)

Setback	Front Yard	Side Yard	Rear Yard
Required	12'	5'	7'
Proposed	7'	5'	7'

Variance Requested - the applicant is requesting variances from the following:

- Front yard setback – from 12' to 7'.

Applicant's Justification

"Because of disability, I need access to the front stairs from my parking area."

CONDITIONS FOR A VARIANCE

The Board of Adjustment may grant a variance under this Section only if the variance is not prohibited by Section 14.401.C. in Article 14, Administrative Bodies, and if the Board makes a determination in writing that all of the following are demonstrated:

1. The request for the variance is rooted in special conditions of the applicant's property that do not generally exist on other properties in the same zoning district.
2. Due to said special conditions, the literal enforcement of the strict terms of these Land Development Regulations would impose an unnecessary hardship on the applicant.
3. The variance is not contrary to the public interest, in that:
 - i. It does not allow applicants to impair the application of these regulations for:
 - a. Self-imposed hardships;
 - b. Hardships based solely on financial considerations, convenience or inconvenience; or
 - c. Conditions that are alleged to be "special," but that are actually common to many properties within the same zoning district.
 - ii. The variance will not have a detrimental impact upon:
 - a. The current or future use of adjacent properties for purposes for which they are zoned;
 - b. Public infrastructure or services; and
 - c. Public health, safety, morals and general welfare of the community.
4. The degree of variance allowed from these Land Development Regulations is the least that is necessary to grant relief from the identified unnecessary hardship.
5. The variance shall not be used to circumvent other procedures and standards of these Land Development Regulations that could be used for the same or comparable effect (e.g., if alternative development patterns, alternative development standards, or other flexible measures in these regulations are available that would avoid or mitigate hardship without using a variance, then they must be used).
6. By granting the variance, the spirit of these Land Development Regulations is observed and substantial justice is done.

APPEAL FROM DECISION OF BOARD

In accordance with Section 29-112, any person aggrieved by any decision of the Board, or any officer, department or other Board of the City, may appeal the decision or action of the Board by filing a petition for the same in a court of competent jurisdiction, setting forth that such decision is illegal in whole or in part, and specifying the grounds for the alleged illegality. Such petition shall be filed with the Court within ten (10) days from the day the Board renders its decision, and not thereafter. The time period set forth herein shall be deemed jurisdictional.

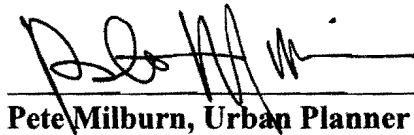
ATTACHMENTS

"A" – Zoning Map

"B" – Site Plan

"C" – Survey

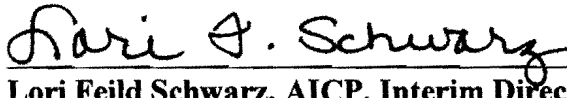
Respectfully Submitted,



Pete Milburn, Urban Planner II

8-2-12

Date



Lori Feild Schwarz, AICP, Interim Director

8/1/12

Date

12Z-24 (1313 54th Street) Request for a variance from the Galveston Zoning Standards Section 29-65 regarding setback requirements in a General Residence (GR) zoning district. Property is legally described as North 30.33, feet of lots 13 & 14 (13-4), block 46, Denver Resurvey, in the City and County of Galveston, Texas.

Applicant: J.W. Turner Construction

Property Owner: Tomasa Crear

Existing Zoning and Land Use:

Zoning	General Residence (GR)
Land Use	Residential

Surrounding Zoning and Land Use:

	North	South	East	West
Zoning	General Residence (GR)	General Residence (GR)	General Residence (GR)	General Residence (GR)
Land Use	Residential	Residential	Residential	Residential

Property Owner Notification as of August 8, 2012

Sent	Returned	In Favor	In Opposition	No Comment
36				

Advertisement Date: July 26, 2012

City Department Notifications:

Airport: No Objection
 Building Department: Pending
 Fire Chief: No Objection
 Fire Marshal: Pending
 Police Department: Pending
 Public Works: No Objection

Private Utility Notifications:

A T & T: Pending
 CenterPoint Energy: Pending
 Comcast: No Objection
 Texas Gas Service: Pending

BACKGROUND

The applicant was granted variances from setback requirements through (Case 11Z-55) for the front, side and rear yard setbacks in order to complete the construction of a new home built through the CDBG disaster recovery program. Another contractor began the construction of this home and was granted variances. However, the home, as built, is encroaching the original variances and the applicant is requesting additional variances to obtain the final Certificate of Occupancy for this home. As completed, the home encroaches the 10' front yard, the 3' side yard, and the 10' rear yard setback.

Section 29-67(b), (1) states that there is a minimum of one (1) space of off-street parking required for a detached single-family residential use. As proposed, the new single-family construction on the lot does not provide an off-street parking space. However, the Zoning Board of Adjustment at their regular meeting of August 11, 2011, (Case 11Z-55), approved a variance to omit the parking pad.

ANALYSIS

The applicant is requesting additional variances for the front, side and rear yard setbacks in order to complete the construction of a new home built through the CDBG disaster recovery program.

Previously approved variances regarding setbacks

Please reference the table below for the variances that were previously granted for setbacks in a single-family residential development in the General Residence (GR) zoning district, per Section 29-65. The variances that were granted for Case 11Z-55 are listed below:

- Front yard setback – from 10' to 1'
- Side yard setbacks – from 3' to 1.7'
- Rear yard setback – from 10' to 1'
- Parking Pad – a variance was granted to not provide an off-street parking space

Zoning District: General Residence (GR)

Setback	Front Yard	Side Yard	Rear Yard
Required	10'	3'	10'
Proposed	1'	1.7'	1'

Variance(s) Requested - the applicant is requesting variances from the following:

- Front yard setback – from 1' to 0'
- Side yard setbacks – from 1.7' to 1.4'
- Rear yard setback – from 1' to 0'

Zoning District: General Residence (GR)

Setback	Front Yard	Side Yard	Rear Yard
Required	1'	1.7'	1'
Proposed	0'	1.4'	0'

Applicant's Justification

The new structure was built to the property line in the front and rear yards and encroaches the side yard an additional three-inches (3"), by Compass Pointe Homes. J.W. Turner Construction has been given the house to complete and in order to complete the house will need the additional variances to complete the house.

CONDITIONS FOR A VARIANCE

The Board of Adjustment may grant a variance under this Section only if the variance is not prohibited by Section 14.401.C. in Article 14, Administrative Bodies, and if the Board makes a determination in writing that all of the following are demonstrated:

1. The request for the variance is rooted in special conditions of the applicant's property that do not generally exist on other properties in the same zoning district.
2. Due to said special conditions, the literal enforcement of the strict terms of these Land Development Regulations would impose an unnecessary hardship on the applicant.
3. The variance is not contrary to the public interest, in that:
 - i. It does not allow applicants to impair the application of these regulations for:
 - a. Self-imposed hardships;
 - b. Hardships based solely on financial considerations, convenience or inconvenience; or
 - c. Conditions that are alleged to be "special," but that are actually common to many properties within the same zoning district.

- ii. The variance will not have a detrimental impact upon:
 - a. The current or future use of adjacent properties for purposes for which they are zoned;
 - b. Public infrastructure or services; and
 - c. Public health, safety, morals and general welfare of the community.
4. The degree of variance allowed from these Land Development Regulations is the least that is necessary to grant relief from the identified unnecessary hardship.
5. The variance shall not be used to circumvent other procedures and standards of these Land Development Regulations that could be used for the same or comparable effect (e.g., if alternative development patterns, alternative development standards, or other flexible measures in these regulations are available that would avoid or mitigate hardship without using a variance, then they must be used).
6. By granting the variance, the spirit of these Land Development Regulations is observed and substantial justice is done.

APPEAL FROM DECISION OF BOARD

In accordance with Section 29-112, any person aggrieved by any decision of the Board, or any officer, department or other Board of the City, may appeal the decision or action of the Board by filing a petition for the same in a court of competent jurisdiction, setting forth that such decision is illegal in whole or in part, and specifying the grounds for the alleged illegality. Such petition shall be filed with the Court within ten (10) days from the day the Board renders its decision, and not thereafter. The time period set forth herein shall be deemed jurisdictional.

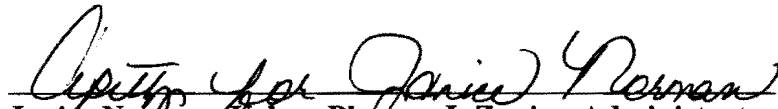
ATTACHMENTS

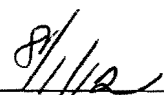
"A" – Zoning Map

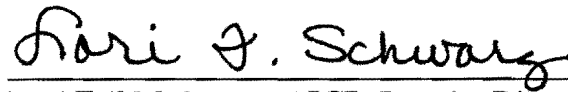
"B" – Aerial Map

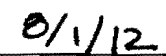
"C" – Survey

Respectfully Submitted,


Janice Norman, Urban Planner I, Zoning Administrator


Date


Lori Feild Schwarz, AICP, Interim Director
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Date

12Z-25 (5305 Avenue K) Request for a variance from the Galveston Zoning Standards Section 29-65 regarding setback requirements in a General Residence (GR) zoning district. Property is legally described as Lot 10, Block 21, Denver Resurvey, a subdivision, in the City and County of Galveston, Texas.

Applicant: Tegrity Homes % Steve Kimborowicz

Property Owner: Verna Thompson

Existing Zoning and Land Use:

Zoning	General Residence (GR)
Land Use	Residential

Surrounding Zoning and Land Use:

	North	South	East	West
Zoning	General Residence (GR)	General Residence (GR)	General Residence (GR)	General Residence (GR)
Land Use	Residential	Residential	Residential	Residential

Property Owner Notification as of August 8, 2012

Sent	Returned	In Favor	In Opposition	No Comment
37				

Advertisement Date: July 26, 2012

City Department Notifications:

Airport: No Objection
Building Department: Pending
Fire Chief: No Objection
Fire Marshal: No Objection
Police Department: No Objection
Public Works: No Objection

Private Utility Notifications:

A T & T: Pending
CenterPoint Energy: Pending
Comcast: No Objection
Texas Gas Service: Pending

Background

At the April 4, 2012 Zoning Board of Adjustment meeting, the Board approved case 12Z-12 requesting variances reducing the front yard setback from 10-feet to 6.8-feet and the side yard setback from 3-feet to 1.3-feet. The property was granted variances in order to complete the construction of a new home built through the CDBG disaster recovery program. Another contractor began the construction of this home and requested the variances. However, the new home, as built, is encroaching the previously approved variance and the applicant is requesting an additional variance. As completed, the home encroaches the approved 1.3' side yard setback.

ANALYSIS

The applicant is requesting a variance in order to obtain a Certificate of Occupancy for a new home constructed through the CDBG disaster recovery program.

1. Variance regarding setbacks in the General Residence (GR) zoning district

Please reference the table below for the required setbacks for single-family residential development in the General Residence (GR) zoning district, per Section 29-65. The setbacks for the proposed new construction are also shown below:

Zoning District: General Residence (GR)

Setback	Front Yard	Side Yard	Rear Yard
Required	6.8'	1.3'	10'
Proposed	6.8'	1.2'	10'

Variance(s) Requested - the applicant is requesting variances from the following:

- Side yard setbacks – from 1.3' to 1.2'

Applicant's Justification

Please see Attachment "B".

CONDITIONS FOR A VARIANCE

The Board of Adjustment may grant a variance under this Section only if the variance is not prohibited by Section 14.401.C. in Article 14, Administrative Bodies, and if the Board makes a determination in writing that all of the following are demonstrated:

1. The request for the variance is rooted in special conditions of the applicant's property that do not generally exist on other properties in the same zoning district.
2. Due to said special conditions, the literal enforcement of the strict terms of these Land Development Regulations would impose an unnecessary hardship on the applicant.
3. The variance is not contrary to the public interest, in that:
 - i. It does not allow applicants to impair the application of these regulations for:
 - a. Self-imposed hardships;
 - b. Hardships based solely on financial considerations, convenience or inconvenience; or
 - c. Conditions that are alleged to be "special," but that are actually common to many properties within the same zoning district.
 - ii. The variance will not have a detrimental impact upon:
 - a. The current or future use of adjacent properties for purposes for which they are zoned;
 - b. Public infrastructure or services; and
 - c. Public health, safety, morals and general welfare of the community.
4. The degree of variance allowed from these Land Development Regulations is the least that is necessary to grant relief from the identified unnecessary hardship.
5. The variance shall not be used to circumvent other procedures and standards of these Land Development Regulations that could be used for the same or comparable effect (e.g., if alternative development patterns, alternative development standards, or other flexible measures in these regulations are available that would avoid or mitigate hardship without using a variance, then they must be used).
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APPEAL FROM DECISION OF BOARD

In accordance with Section 29-112, any person aggrieved by any decision of the Board, or any officer, department or other Board of the City, may appeal the decision or action of the Board by filing a petition for the same in a court of competent jurisdiction, setting forth that such decision is illegal in whole or in part, and specifying the grounds for the alleged illegality. Such petition shall be filed with the Court within ten (10) days from the day the Board renders its decision, and not thereafter. The time period set forth herein shall be deemed jurisdictional.

ATTACHMENTS

- "A" – Zoning Map
- "B" – Applicant's Justification
- "C" – Site Plan
- "D" – Survey

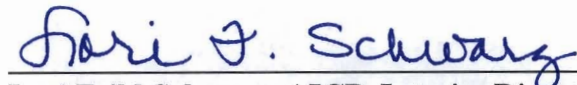
Respectfully Submitted,



Pete Milburn, Urban Planner II

8-2-12

Date



Lori Feild Schwarz, AICP, Interim Director

8/1/12

Date

12Z-26 (5902 Avenue Q ½) Request for variances from the Galveston Zoning Standards Section 29-65 regarding setback requirements in a One Family-Two (1F-2) zoning district. Property is legally described as a portion of Lot 24 (24-5), Trimble and Lindsey Section 1, in the City and County of Galveston, Texas.

Applicant: JW Turner Construction % Mark Lealy

Property Owner: Michael N. Zientek

Existing Zoning and Land Use:

Zoning	One Family-Two Dwelling District (1F-2)
Land Use	Single-Family Residential

Surrounding Zoning and Land Use:

	North	South	East	West
Zoning	Planned Development (PD)	One Family-Two Dwelling District (1F-2)	One Family-Two Dwelling District (1F-2)	Planned Development (PD)
Land Use	Travel Trailer Park	Residential	Residential	Travel Trailer Park

Property Owner Notification as of August 8, 2012:

Sent	Returned	In Favor	In Opposition	No Comment
25				

Advertisement Date: July 26, 2012

City Department Notifications:

Airport: No Objection
Building Department: Pending
Fire Chief: No Objection
Fire Marshal: No Objection
Police Department: No Objection
Public Works: No Objection

Private Utility Notifications:

A T & T: Pending
CenterPoint Energy: Pending
Comcast: No Objection
Texas Gas Service: Pending

Background

At the August 3, 2011 Zoning Board of Adjustment meeting, the Board approved case 11Z-60 requesting a variance reducing the front yard setback from 15-feet to 10.1-feet. The property was granted a variance in order to complete the construction of a new home built through the CDBG disaster recovery program. Another contractor began the construction of this home and requested the variance. However, the new home, as built, is encroaching the previously approved variance and the applicant is requesting an additional variance. As completed, the home encroaches the approved 10.1' front yard setback.

ANALYSIS

The applicant is requesting a variance in order to obtain a Certificate of Occupancy for a new home constructed through the CDBG disaster recovery program. Prior to the completion of construction

modifications were made, altering the location of the access stairs. The access stairs were relocated closer to the front property line.

Variance regarding setbacks in the One Family-Two (1F-2) zoning district

Please reference the table below for the required setbacks for single-family residential development in the One Family-Two (1F-2) zoning district, per Section 29-65. The setbacks for the proposed new construction are also shown below:

Zoning District: One Family-Two (1F-2)

Setback	Front Yard	Side Yard	Rear Yard
Required	10.1'	5'	10'
Proposed	4.6'	5'	10'

Variance(s) Requested - the applicant is requesting a variance from the following:

- Front yard setback – from 10.1' to 4.6'

Applicant's Justification

"CDBG house left unfinished by previous builder (Compass Pointe Homes) was constructed to encroach the front building. A variance is being requested to allow the egress stairs and landing at the building front to remain in the setback."

CONDITIONS FOR A VARIANCE

The Board of Adjustment may grant a variance under this Section only if the variance is not prohibited by Section 14.401.C. in Article 14, Administrative Bodies, and if the Board makes a determination in writing that all of the following are demonstrated:

1. The request for the variance is rooted in special conditions of the applicant's property that do not generally exist on other properties in the same zoning district.
2. Due to said special conditions, the literal enforcement of the strict terms of these Land Development Regulations would impose an unnecessary hardship on the applicant.
3. The variance is not contrary to the public interest, in that:
 - i. It does not allow applicants to impair the application of these regulations for:
 - a. Self-imposed hardships;
 - b. Hardships based solely on financial considerations, convenience or inconvenience; or
 - c. Conditions that are alleged to be "special," but that are actually common to many properties within the same zoning district.
 - ii. The variance will not have a detrimental impact upon:
 - a. The current or future use of adjacent properties for purposes for which they are zoned;
 - b. Public infrastructure or services; and
 - c. Public health, safety, morals and general welfare of the community.
4. The degree of variance allowed from these Land Development Regulations is the least that is necessary to grant relief from the identified unnecessary hardship.
5. The variance shall not be used to circumvent other procedures and standards of these Land Development Regulations that could be used for the same or comparable effect (e.g., if alternative development patterns, alternative development standards, or other flexible measures in these regulations are available that would avoid or mitigate hardship without using a variance, then they must be used).

6. By granting the variance, the spirit of these Land Development Regulations is observed and substantial justice is done.

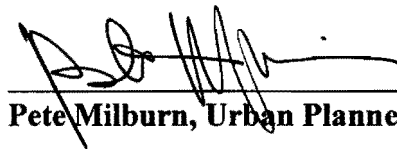
APPEAL FROM DECISION OF BOARD

In accordance with Section 29-112, any person aggrieved by any decision of the Board, or any officer, department or other Board of the City, may appeal the decision or action of the Board by filing a petition for the same in a court of competent jurisdiction, setting forth that such decision is illegal in whole or in part, and specifying the grounds for the alleged illegality. Such petition shall be filed with the Court within ten (10) days from the day the Board renders its decision, and not thereafter. The time period set forth herein shall be deemed jurisdictional.

ATTACHMENTS

- "A" – Zoning Map
"B" – Site Plan (case 11Z-60)
"C" – Survey

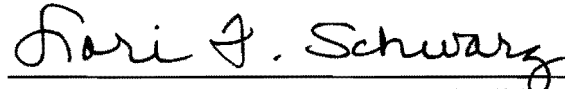
Respectfully Submitted,



Pete Milburn, Urban Planner II

8-2-12

Date



Lori Feild Schwarz, AICP, Interim Director

8/1/12

Date