ORDINANCE NUMBER 20-19

AN ORDINANCE OF THE VILLAGE OF EAST DUNDEE, COOK
AND KANE COUNTIES, ILLINOIS APPROVING A VARIATION FROM THE
LANDSCAPING CHAPTER OF THE VILLAGE OF EAST DUNDEE VILLAGE CODE
REQUIRING LANDSCAPE ISLANDS FOR MORE THAN TEN PARKING SPACES IN
A ROW FOR THE PROPERTY AT 855 E. MAIN STREET

WHEREAS, the Village of East Dundee ("Village") is a home rule unit of local government pursuant to Section 6 of Article VII of the Constitution of the State of Illinois, and has the authority to exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, Billitteri Enterprises ("Applicant") is the contract purchaser of the property located at 855 E. Main Street, East Dundee, Illinois, legally described in Section 2 below ("Subject Property"); and

WHEREAS, the Applicant filed an application with the Village seeking a variation from Section 158.04(D)(2)(d)(2) of the Village of East Dundee Village Code ("Village Code") that prohibits more than ten (10) parking spaces in a row without a landscape island with regard to the Subject Property ("Application") to allow for the redevelopment of the Subject Property with multifamily dwellings with a parking lot with more than ten (10) parking spaces in a row, as depicted and described in the Application ("Project"); and

WHEREAS, pursuant to Section 158.04 of the Village Code, and the Village's home rule authority, the President and Board of Trustees of the Village (collectively the "Corporate Authorities") may provide for and allow variances to the landscaping requirements of Chapter 158 of the Village Code as long as the intent of specified requirements are met; and

NOW, THEREFORE, BE IT ORDAINED by the Village President and Board of Trustees of the Village of East Dundee, Cook and Kane Counties, Illinois, as follows:

SECTION 1: Incorporation. That each Whereas paragraph above is incorporated by reference into this Section 1 and made a part hereof as material and operative provisions of this Ordinance.

SECTION 2: **Variation.** That the Corporate Authorities hereby grant the Application for the Subject Property, legally described as:

LOT 5 IN RIVER HAVEN SUBDIVISION, BEING A SUBDIVISION OF PART OF THE SOUTHEAST QUARTER OF SECTION 23 AND THE NORTHEAST QUARTER OF SECTION 26 TOWNSHIP 42 NORTH, RANGE 8, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF

RECORDED APRIL 26, 2012 AS DOCUMENT NO. 2012K026783, IN THE VILLAGE OF EAST DUNDEE, KANE COUNTY, ILLINOIS.

with Property Index Numbers 03-26-227-012, and a variation from Section 158.04(D)(2)(d)(2) of the Village Code is approved for the Project on the Subject Property and more than ten (10) parking spaces may be in a row on the Subject Property without a landscaping island, as depicted in the Application. The variation granted in this Ordinance is specific to the Project as proposed in the Application and shall not apply to any other development of the Subject Property.

<u>SECTION 3</u>: Severability. That if any Section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such Section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 4: **Repeal.** That all ordinances, resolutions, motions or parts thereof in conflict herewith shall be and the same are hereby repealed.

SECTION 5: **Effect.** That this Ordinance shall be in full force and effect forthwith upon its adoption, approval and publication in pamphlet form as provided by law.

[THIS SPACE INTENTIONALLY LEFT BLANK]

PASSED this 18th day of May	2020 pursuant to a	a roll call vote as follows:
------------------------------------	--------------------	------------------------------

AYES: Trustees Lynam, Selep, Wood, Mahony, Andresen and Kunze
NAYES: NONE
ABSENT: NONE
APPROVED by me this 18th day of May, 2020.
Lael Miller, Village President
ATTEST:

Published in pamphlet form this 19th day of May, 2020, under the authority of the Village President and Board of Trustees.

Recorded in the Village records on May 19, 2020.

Katherine Holt, Village Clerk

P&Z	File	#			
-----	------	---	--	--	--



APPLICATION FOR DEVELOPMENT APPROVAL: SPECIAL USE, REZONING AND VARIANCE REVIEW AND APPROVAL

This form is to be used for all special use applications (except Planned Developments) to be heard by the Village of East Dundee. To complete the form properly, please review the accompanying Village of East Dundee Instruction Manual for Application for Development Review. Failure to complete this form properly will delay its consideration.

	PART I. GENERAL INFORMATION		
A	. Project Information		
1.	Project/Owner Name: 811 Main St. Apts., LLC		
2.	Project Location: 855 E. Main St., East Dundee, IL 60118		
3.	Brief Project Description: The project consists of two (2) multifamily rental apartment buildings with eighteen (18) units each, with thirty-six (36) units in total,		
	with a mix of twenty-four (24) one (1) bedroom units and twelve (12) two (2) bedroom units amongst the two (2) buildings.		
	There will be fifty-seven (57) proposed surfaced parking spaces, with an anticipated parking ratio (spaces/units) of 1.58		
4.	Project Property Legal Description: Lot 5 in River Haven Subdivision, being a subdivision of part of the southeast quarter of section 23 and the northeast quarter		
	of section 26 township 42 north, range 8, east of the third principal meridian, according to the plat thereof recorded April 26, 2012		
	as document No. 2012K026783, in the Village of East Dundee, Kane County, Illinois.		
5.	Project Property Size in Acres and Square Feet: 2.6 Acres+/- 115,000 sq ft.		
6.	Current Zoning Status: B-3		
7.	Current Use Status: Vacant		
8.	Surrounding Land Use Zoning: Apartments on the West. Residential to the North & Commercial Retail to the East.		
9.	Zoning District Daine Demont 1/6 11 11		
	Zoning District Being Requested (if applicable):		
10.	Parcel Index Numbers of Property: 03-26-227-012		
В.	Owner Information		
1.	Signature:		
2.	Name: Joseph Billitteri - managing member (811 Main St Apts, LLC)		
3.	Address: 1055 Nimco Dr., Ste. E., Crystal Lake, IL 60014		
4.	Phone Number: 847.833.5004 Fax: Email: JoeB@profit-success.net		
C.	Billing Information (Name and address all bills should be sent to) Name/Company: 811 Main St. Apts., LLC		
2.	Address: 1055 Nimco Dr., Ste. E., Crystal Lake, IL 60014		
3.	Phone Number: 847.417.9884 Fax: Email: csccommercial@gmail.com		

PART III. JUSTIFICATION OF THE PROPOSED SPECIAL USE

Please answer all questions but be concise and brief in your answers. If additional pages are needed to complete your answers, please be sure to include the appropriate and complete question number for each response. Applicants are encouraged to refer to drawings or other application materials as necessary to add clarity to their answers. Applicants are also encouraged to refer to Special Use Criteria Section 157.224(C)(2) or Variances, Section 157.207(C) or Rezoning.

IF YOU ARE APPLYING FOR A REZONING PLEASE WRITE A PARAGRAPH ON WHAT THE CURRENT ZONING IS AND WHY YOU ARE REQUESTING A REZONING

FOR A SPECIAL USE COMPLETE THE FOLLOWING, FOR VARIANCES ONLY SKIP TO PAGE #4:

1.	Will the Special Use be injurious to the enjoyment of other property in the immediate vicinity for the purposes alread permitted, nor will the special use substantially diminish and impair property values within the neighborhood?
	Properties surrounding this parcel will not loose enjoyment. Land is currently vacant; one side is apartments, Residential to the North and
	commercial to the east. This development will add a buffer between the residential and commercial.
2.	Will the establishment of the Special Use impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district?
	This development does not impede any future development or property improvements.
3.	Have or will adequate utilities, access roads, drainage or necessary facilities be provided for?
	Yes, proposed site plan attached.
4.	Have or will adequate measures be taken to provide ingress and egress to minimize traffic congestion in the public streets?
	Access will be through the existing highway 72 access for the 811 E Main St property and a cross access agreement already
	in place with the retail center to the east.
5.	How is the proposed special use in harmony with the purposes, goals, objectives, policies and standards of the Village of East Dundee Comprehensive Plan, the Zoning Ordinance, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice, by the Village?
	This project falls within the goals, policies and standards of the Village of East Dundee.

IF YOU ARE APPLYING FOR A VARIANCE COMPLETE THE FOLLOWING:

1.	From which specific standard of the Village Code is a Variance requested (include Code section number)?
2.	For this site, what does the Code require? B-3 is existing Zoning - need to change to R-5 multi-family dwelling (Residential District).
3.	What is proposed? R-5
	36 Apartments - two (2) - 18 unit buildings consisting of one (1) and two (2) bedroom units.
4.	What unique circumstances have caused the need for a variance? Market conditions are prohibitive for new retail or office development.
5.	What specific mitigation measures will be an in the second
υ.	What specific mitigation measures will be used to ensure that the essential character of the area will not be altered? (Suitability of Present Area) This property will fit in with the existing apartments adjacent.
	apartificitis adjacent.

Phys	ical surroundings are good. Market conditions drive to change the us	e of the land.
same ze	cally, what conditions are present on the property that would not be applicable oning classification? (Suitability of Zoning)	e generally to other property within
Confi	guration of the property lends itself to the variance requested.	
	nan financial return, what other purposes is the variance request based on?	
Use o	f land is only viable for apartments at this economic time.	
las the	alleged difficulty been created by any person presently having an interest in the p	
No.	by the state of any person presently having an interest in the p	roperty?
Please gi	ive an explanation for any questions answered YES.	
a.	Will the granting of the variation be detrimental to the public welfare? (Circle)	YES NO
	Injurious to surround properties? (Circle) Impair an adequate supply of light and air to adjacent property? (Circle)	YES ✓ NO
d.	Endanger public health and safety? (Circle)	YES NO
e.	Substantially diminish property values within the neighborhood? (Circle)	YES VNO
f.	Conformance to the Land Use Plan? (Circle)	YES NO
I his pr	roject will conform to the Village use plan.	



PLANNING AND ZONING & HISTORIC COMMISSION MEETING SCHEDULE MEETING TIME 7:00PM *THURSDAY EVENING UNLESS DENOTED

Planning & Zoning petitions must be received 35 days prior to meeting date for petitions requiring Public hearings. 15 days prior when no Public hearing is required.

Historic Commission Meetings (as needed)

Applications submittals must be received & approved by the Building official for presentation to the Commission minimum of 15 days prior to meeting date.

Per ordinance, the Historic Commission must meet within 15 days of application submittal acceptance date and be dully considered by the Commission or a Certificate of Appropriateness would be deemed issued for failure to meet in the designated time.



APPLICATION AGREEMENT TO PAY COSTS INCURRED AND HOLD THE VILLAGE HARMLESS

The Undersigned applicant acknowledges that the Village of East Dundee may seek advice and counsel from professional sources outside the employee staff of the Village of East Dundee in consideration of the application submitted to the Village of East Dundee by the applicant, including the services as those provided by the Village Staff, Village Attorney, Village Engineer, Planner and Fire Protection District.

The applicant further acknowledges that testimony of all witness at Public Hearings may be recorded before a court reporter and that full transcripts of the proceedings may be prepar4ed and retained by the Village of East Dundee as part of the official record concerning the said applicant and the applicant's costs.

As an express condition in making the said application and the consideration thereof by the Village of East Dundee, the undersigned, both personally and on behalf of the applicant, agrees to hold the Village harmless and agrees to pay forthwith the costs and expenses that may be incurred by the Village of East Dundee for such professional services, including the costs and expenses of recording and transcribing any testimony at Public Hearings in connection with the said application.

The owner hereby authorizes, support and consents to this request for variation, and further authorizes, agrees and consents to allow the temporary installation and display by the Village of East Dundee of Public Notice (signage) upon the subject property.

The applicant, having read this application and fully understanding the purpose thereof, declares that the proceeding statement made are true and that the information provided herein is complete to the best of the applicant's knowledge and belief.

3/24/2020

Individually and for the Applicant

Date

1055 Nimco Dr., Ste, Crystal Lake, IL 60014

Address

Phone Number

Project Description:



Affidavit of Ownership & Control

I (We), Joseph Bill H contract purchasers, or beneficiary(s) of the application of such.	do herby certify or affirm that I am the ower(s), e title holding trust for the aforesaid described property and hereby make
Signature	
Owner: Managing men	mba
Address: 1055 Nimco Dr., Ste. E	
Crystal Lake , ,	IL 60014
Phone: 847.833.5004	

SUBSCRIBED AND SWORN TO before me this 24 day of Mara, 200.

(NOTARY SIGNATURE)

KAREN J PUENNER OFFICIAL SEAL Notary Public, State of Illinois My Commission Expires December 04, 2022

(NOTARY STAMP)



Affidavit & Disclosure Agreement

To cover the Village expenses relating to applications for site plans, Subdivisions, Annexations, Zoning Amendments, Special Uses, Variations and the like:

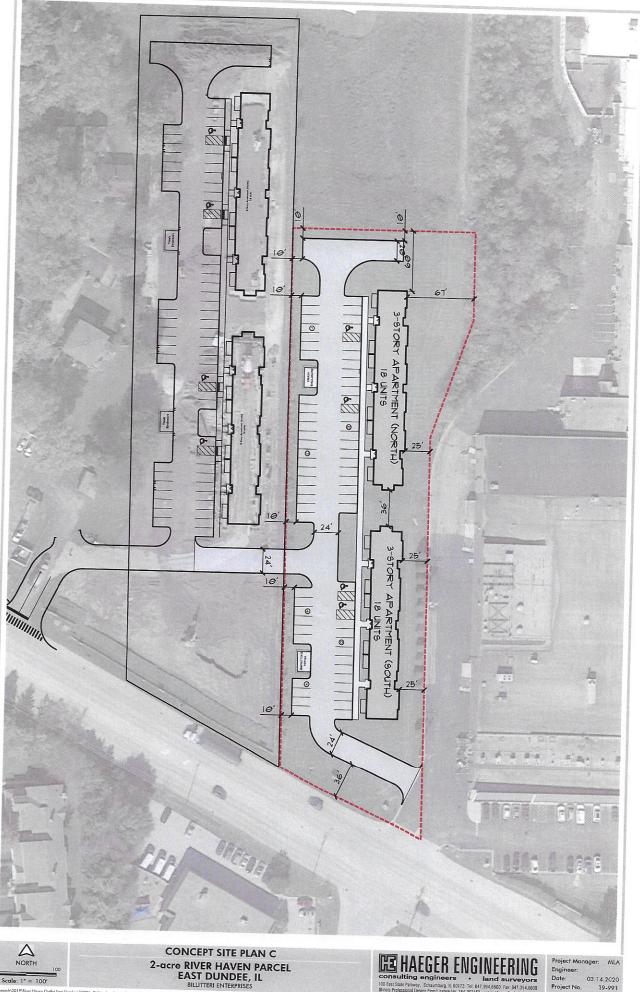
Applications shall deposit the sum required based on the type and extent of the applicants project. Any bills received by the village and any costs incurred by the Village related to the project will be billed to the applicant. Upon payment of all bills to the Village the applicant will receive their deposit back.

Signature:

Print Name

Joseph Di

EMT BUNDA.





Gerald L. Heinz & Associates, Inc.

Consulting Engineers and Professional Land Surveyors

MEMORANDUM

DATE: March 18, 2020

TO: Brad Mitchell, Assist. Village Administrator Chris Ranieri, Building Official AT: East Dundee

Chris Kameri, Bunding Officia

FROM: Joseph D. Heinz, P.E.

SUBJECT: 855 Main Apartment Complex Concept Plan

Job No. ED-2194

We have reviewed the concept plan for the development of the property located at 855 Main Street. The concept plan proposes two (2) 3 Story – 18 unit apartment buildings on a Lot 5 in River Haven Subdivision. The following is a list of variances that would be required to allow this development based on the Concept Site Plan C, prepared by Haeger Engineering dated February 28, 2020 received March 16, 2020:

Zoning

- The development is proposed on a parcel which are currently zoned B-3. The proposed use is multi-family residential. We would recommend that the residential lot be zoned R-5 to closely match the proposed use. Village code section §157.036.
- The residential lot as zoned R-5 would still need variances for:
 - a. Lot size. 24 1-bedroom units and 12 2-bedroom units require that the lot size be a minimum 3.39 acres and the current parcel is approximately 2.0 Acres in size. Village code section §157.036(A)(1)
 - b. Floor area ratio. The maximum floor area ratio (FAR) is not to exceed 0.4. Using the previous development building size, the potential FAR is 0.43. Village code section §157.036(A)(4)
 - c. Building Height. The maximum height is 2.5 stories or 30' and the proposed building is 3 stories. Village code section §157.036(A)(5)
 - d. Off-street parking. The proposed driveway extension from the 811 Main Street site will remove four (4) stalls which will result in a parking deficiency for the site. The 36 units require 63 parking stalls and there will be 59 stalls remaining with the proposed driveway extension. Village code section §157.036(A)(9)

General Comments

- An off-site ingress/egress easement will be necessary.
- The scale of the Concept Plan should be corrected to indicate 1"=60'.

Utilities

- The parcel can obtain sanitary sewer service from existing sanitary sewers along the westerly and southerly side of the property.
- The parcel can obtain water service from existing mains along the northerly and possibly easterly side of the parcel. Water main extensions necessary for hydrant coverage should not result in a dead end main. The fire hydrants in front of the apartment buildings should be moved at least 30' from the building and within 100' of the building fire service connection.
- The storm sewer detention was provided as part of the River Haven development. The development will still need to comply with the current Kane County Stormwater Management Ordinance.

Street Layout

- The layout should also be tested by the design engineer to confirm that the drives can accommodate the fire district vehicles.
- There should be a connecting sidewalk from the 811 Main Street development to this development and also connect to the public walk along Illinois Route 72.

Landscaping & Lighting

- The parking lots should provide landscaping islands so that there is a maximum of 10 stalls in a row. Given the current layout a variance would be necessary. Village code section §158.04(D)(2)(d)2
- A photometric plan will need to be submitted to prove that the proposed lighting will not reflect into adjacent residential districts.
- Parkway trees will be required along Illinois Route 72.

This review is based on a concept site plan. The need for additional variances may be required when subsequent plans or additional information is provided.

Please let me know if you have any questions on my comments.

cc Jennifer Johnsen, Village Administrator Phil Cotter, Dir. Of Public Works John Curtis, Developer

State of Illinois)	
County of Kane)	SS
Village of East Dundee)	

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Planning and Zoning Commission of the Village of East Dundee will hold a public hearing on May 7, 2020 at 7:00 P.M. via teleconference call by authorization of Gov. Pritzker waiving a portion of the Illinois Open Meetings act to allow local governments to hold "remote" meetings to help control the spread of COVID-19

- 1. A text amendment amending various sections of Chapter 157 of the Village of East Dundee Village Code regarding building on lots.
- 2. A request to rezone the following described property from B-3 Service Business to the R-5 Multiple Dwelling.
- 3. A request for a variance from Section 157.036(A)(1) of the Zoning Chapter of the East Dundee Village Code requiring that the lot size be a minimum of 3.39 acres in the R-5 Multiple Dwelling Residential District.
- 4. A request for a variance from Section 157.036(A)(4) of the Zoning Chapter of the East Dundee Village Code requiring the maximum floor area ratio (FAR) is not to exceed 0.4.
- 5. A request for a variance from Section 157.036(A)(5) of the Zoning Chapter of the East Dundee Village Code requiring the maximum building height is 2.5 stories or 30'.
- 6. A request for a variance from Section 157.036(A)(9) of the Zoning Chapter of the East Dundee Village Code requiring 63 parking stalls with proposed driveway extension.
- 7. A request for a variance from Section 158.04(D)(2)(d)(2) of the Landscape Chapter of the East Dundee Village Code requiring landscape islands so that there is a maximum of 10 parking spaces in a row.

Property Legal Description:

LOT 5 IN RIVER HAVEN SUBDIVISION, BEING A SUBDIVISION OF PART OF THE SOUTHEAST QUARTER OF SECTION 23 AND THE NORTHEAST QUARTER OF SECTION 26 TOWNSHIP 42 NORTH, RANGE 8, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 26, 2012 AS DOCUMENT NO. 2012K026783, IN THE VILLAGE OF EAST DUNDEE, KANE COUNTY, ILLINOIS.

PINS: 03-26-227-012

All interested persons will be given an opportunity to be heard.

VILLAGE OF EAST DUNDEE, ILLINOIS Findings of Fact – Rezoning

Property Location: 855 E. Main Street

Rezoning requested: Rezone the property located at 855 E. Main Street from B-3 – Service

Business District to the R-5- Multiple Dwelling District

Hearing date: May 7, 2020

The Planning and Zoning Commission has made the following findings regarding the variation request:

1. Existing uses of property within the general area of the property in question.

Uses within the general area include retail, restaurant, amusement, automotive, and residential.

2. The zoning classification of property within the general area of the property in question.

All incorporated adjacent property is zoned B2 – Community Business District and R2 – Single Family District and R4- General Residence District. B3 – Service Business District, B4 – Automotive Service District and R5 – Multiple Dwelling District are also within the general area. River Haven is to the north of the subject property and is zoned R5 – Multiple Dwelling District.

3. The suitability of the property in question to the uses permitted under the existing zoning classification.

The property is designed for uses permitted within the B3 - Service Business District and is vacant.

4. The trend of development, if any, in the general area of the property in question, including changes, if any, which have taken place since the day the property in question was placed in its present zoning classification.

Portion of the River Valley Shopping Center is for sale, which includes the former Dominick's site and the future use of the general area is being reevaluated due to long-term vacancy in area.

5. The extent to which property values are diminished by the particular zoning restrictions.

The property value remains low as there is no/little market for commercial development on the property.

6.	The extent to which the destruction of property values of promotes the health, safety, morals, and general welfare of the public.
	N/A
7.	The relative gain to the public as compared to the hardship imposed upon the individual property owner.
	The public will gain residential apartment building in place of a vacant piece of land and will be able to liquidate its assets.
8.	The length of time the property has been vacant as zoned considered in the context of land development in the vicinity of the subject property.
	The property has been vacant.
9.	The community need for the proposed use.
	The Village's Comprehensive Plan acknowledges the Village's position to provide for a variety of housing options. The development will add a buffer between residential and commercial. Future land use plan calls for planned residential development in the immediate general area.
10	. The care with which the community has undertaken to plan its land use development.
	The Village updated its Comprehensive Plan in 2002.
the pu	on the information contained in the application and the testimony and evidence presented at ablic hearing, the Planning and Zoning Commission voted on the approval of these findings of the requested variation(s) resulting in the following vote: yesnaysabsentabstain
Date:	Planning and Zoning Commission Chairman

VILLAGE OF EAST DUNDEE, ILLINOIS Findings of Fact – Variance

Property Location: 855 E. Main Street

Variance(s) requested: A variance from Section 157.036(A)(1) of the Zoning Chapter of the

East Dundee Village Code requiring that the lot size be a minimum of

3.39 acres.

A variance from Section 157.036(A)(4) of the Zoning Chapter of the East Dundee Village Code requiring the maximum floor area ratio

(FAR) is not to exceed 0.4.

A variance from Section 157.036(A)(5) of the Zoning Chapter of the East Dundee Village Code requiring that the maximum building height is not to exceed two and one-half stories or 30 feet, whichever

is lower.

Hearing date: May 7, 2020

The Planning and Zoning Commission has made the following findings regarding the variation request:

1. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zoning district; Circle one; Yes/No/Not Applicable(N.A.), Explain:

Yes, without the variances, the property would not allow for the apartment building as proposed.

2. The plight of the owner is due to unique circumstances; Yes/No/N.A. and

Yes, the property's unique circumstances limits the ability to develop the property.

3. The variation, if granted, will not alter the essential character of the locality. Yes/No/N.A.

Yes, the character of the locality would not be affected and would be enhanced due with the apartment buildings instead of a vacant property.

For the purpose of supplementing the above standards, the Planning and Zoning Commission, in making its decision whenever they are practical difficulties or particular hardship, shall also take into consideration the extent to which the following facts favorable to the applicant, have been established by the evidence that:

1. The particular physical surroundings, shape or topographical conditions of the specific property involved would bring a particular hardship upon the owner as distinguished from a mere inconvenience if the regulations were strictly enforced; Yes/No/N.A.

Yes, if the regulations are strictly enforced, the apartment buildings could not be built as proposed and, therefore, the project would not be completed.

2. The conditions upon which the petition for variation is based would be applicable generally to other property within the same zoning classification; Yes/No/N.A.

Yes, should these conditions reoccur on a development with the same zoning classification, the basis for the variation would be applicable.

3. The purpose of the variation is not based exclusively upon a desire to make more money out of the property; Yes/No/N.A.

Yes. Without the variations, the overall use of the property would be affected and not viable for apartments and remain vacant.

4. The alleged difficulty or hardship has not been created by any person presently having an interest in the property; Yes/No/N.A.

Yes.

5. The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; Yes/No/N.A.

Yes, the granting of the variances would not be detrimental or injurious to the surrounding properties.

6. The proposed variation will not impair an adequate supply of light and air to adjacent property or substantially increase the danger of fire or otherwise endanger the public safety or substantially diminish or impair property values within the neighborhood. Yes/No/N.A.

Yes, the proposed variation would not have any of the above negative effects.

the public hearing, the fact and the requested	ation contained in the application and the testimony and evidence presented at the Planning and Zoning Commission voted on the approval of these findings of a variation(s) resulting in the following vote:
ayesnays _	absentabstain
Date:	
	Planning and Zoning Commission Chairman