

Prince George's County Departure from Design Standards Application No. 511 and Variance Departure from Design Standard Application No. 511A

Applicant: Michael and Debra Franklin, Owners

Location: The subject property is located on the east side of Baltimore Avenue south of its intersection with Alternate US 1

Request: Departure from Design Standards

R E S O L U T I O N

WHEREAS, the applicants are requesting a departure from the required 10-foot-wide landscape strip; and

WHEREAS, the advertisement of the public hearing was posted on the property in accordance with the adopted Rules of Procedure of the Prince George's County Planning Board; and

WHEREAS, the Technical Staff Report released April 26, 2000, recommends APPROVAL, with conditions; and

WHEREAS, after consideration of the Technical Staff Report and testimony at its regular meeting on May 4, 2000, the Prince George's County Planning Board agreed with the staff recommendation; and

WHEREAS, the Prince George's County Planning Board decision is based on the findings and conclusions found in the Technical Staff Report and the following DETERMINATIONS:

J. Required Findings - Departure from Design Standards (DDS-511):

(a) **Section 27-239.01(b)(9) of the Zoning Ordinance provides that in order for the Planning Board to grant the departure, it shall make the following findings:**

1. **The purposes of this Subtitle will be equally well or better served by the applicant's proposal.**
2. **The departure is the minimum necessary, given the specific circumstances of the request.**
3. **The departure is necessary in order to alleviate circumstances which are unique to the site or prevalent in areas of the County developed prior to November 29, 1949.**
4. **The departure will not impair the visual, functional or environmental quality or integrity of the site or of the surrounding neighborhood.**

5. **For a departure from a standard contained in the *Landscape Manual*, the Planning Board shall find, in addition to the requirements above, that there is no feasible proposal for alternative compliance, as defined in the *Landscape Manual*, which would exhibit equal or better design characteristics.**

The purposes of the Zoning Ordinance are set forth in Section 27-102. They are varied in nature, but in general, are to protect the health, safety and welfare of the residents and workers in Prince George's County. In this instance, the facts establish that granting the requested departures will in no way jeopardize these purposes. The subject property is located in an older area inside the Beltway that was developed before most of current zoning and development standards came into effect. The current condition of the immediate area can be described as an older commercial corridor with many of the buildings in need of repair and a high number of vacancies. The proposed redevelopment of the subject property will create an environment and related amenities that will enhance and revitalize the commercial corridor and the neighborhood.

The departure is necessary to alleviate circumstances which are unique to the site. The subject property is part of the few remaining parcels of land that were originally subdivided over a century ago. Portions of the original subdivision were dedicated to or incorporated in road constructions and improvements. The remaining lots are fully developed, and any improvement or redevelopment on these lots would require some kind of relief from current development standards.

The departure will not impair the visual, functional or environmental quality or integrity of the site or of the surrounding neighborhood. The proposed project will be compatible with the existing street-scape on Baltimore Avenue as well as existing development within the commercial corridor.

In addition, since the building will virtually be constructed at the property lines, there is essentially no space within which to provide the required landscaping. Therefore, there is no feasible proposal for alternative compliance with the requirements of the *Landscape Manual*.

K. Variance from Building Setbacks in Commercial Zones:

Section 27-462 requires for a 10-foot setback from the street. The section further specifies that for this regulation, a street shall mean a right-of-way line, as shown on the current approved Master Plan, Functional Master Plan of Transportation or General Plan, Prince George's County Capital Improvement Program, or Maryland State Five-Year Highway Construction Program, whichever indicates the greatest right-of-way width. Any other street shall be deemed to have a right-of-way width of at least 70 feet.

The applicants are requesting the following variances:

1. A variance of 6.7 feet from the required 10-foot building setback from Baltimore Avenue's 60-foot-wide rights-of way on the west side (front) of the property.
2. A variance of 9 feet from the required 10-foot building setback from the right-of-way for Alternate US 1 (overpass), the northeastern corner of the property.
3. A variance of 10 feet from the required 10-foot building setback from the Prince George's Realty Development Co. 37-foot-wide transit right-of- way, eastern side of the property.

The subject property has 49 feet of frontage on Baltimore Avenue. Baltimore Avenue at this location has a 60-foot-wide right-of way. Upon reviewing the Subdivision Application 4-00001 for the subject property, The Transportation Section had made the following determination:

1. US 1 along the frontage of the subject property is currently constructed to operate as a four-lane collector roadway within the current right-of-way.
2. The Master Plan recommendations along this section of US 1 were developed in consideration of the City of Hyattsville's desire to retain the existing facade line along US 1. If the right-of-way were to be held at 80 feet at this location, the right-of-way needs would cut 10 feet into the existing facade line.
3. In consideration of (1) and (2) above, the transportation staff has determined that the Master Plan requires no additional right-of-way within this block of US 1. Therefore, additional right-of-way dedication or possible reservation is not appropriate.

The Transportation Section has also made the following determination with regard to the Prince George's Realty Development Co. right-of-way,

The Planning Area 68 Master Plan includes a facility - an unlabelled commercial street extension of Rhode Island Avenue - passing behind the subject property. This facility is defined to be a 70-foot right-of-way along an unused transit right-of-way. Concern was initially raised because there is not 70 feet available between the existing CSX railroad right-of-way (which is in use and cannot be relocated) and the subject property.

However, the intent of the plan was that the feasibility of the proposed commercial roadway was recommended for further study by M-NCPPC staff along with the municipalities of Hyattsville and Riverdale Park. This further study has not occurred to date, and it should occur as a part of the preparation of a development plan and detailed guidelines for the Hyattsville Town Center. As the Master Plan only recommended that a feasibility study be conducted, there does not appear to be a basis to preserve right-of-way for this roadway. Therefore, the transportation staff has no recommendation at this time regarding this roadway.

Preliminary Plat of Subdivision 4-00001 was approved, with conditions, by the Prince Georges Planning Board on April 3, 2000 (see attached resolution).

L. Required Findings - Variances (VDDS-511A):

Section 27-230 provides that a variance may be granted based on the following findings:

- (1) A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions.**
- (2) The strict application of this Subtitle will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property.**
- (3) The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan.**

The block in which the subject property is located consists of lots that were a part of an area originally subdivided in the late 1800s. While some of these lots have been absorbed by road improvements in the area, some including the subject site remained with part or all of their original size, shape and improvements on them. In the case of the subject property, it is the last improved property at the northern end of the east side of the block and bordered by more rights-of way than other properties on the block. The relative small size of the property, its irregular size and its location surrounded by roadways make it difficult for any type of improvement to conform to current zoning requirements. These characteristics of the subject property constitute an extraordinary condition that is inherent in the property which would justify the requested variances.

The proposed redevelopment of the property would benefit the surrounding area by replacing the existing structure which is currently vacant and a potential blighting influence on the immediate neighborhood. The proposed development will also be in keeping with the existing pattern of development on the block in terms of placement of buildings on the individual lots, setbacks from Baltimore Avenue and lot coverage. The established land use pattern on the block presents a unified appearance and a distinctive setting. The requested variances are essential to maintain and preserve the development pattern and character of the block. Very few, if any, improvements could ever be made on the property without triggering a need for most of the requested variances or other types of relief. Full compliance with current zoning standards would mean inconsistency with the established development pattern along the block, and it could render the property undevelopable. The strict application of this Subtitle will result in undue hardship upon the applicants.

The requested variances will not impair the intent, purpose or integrity of the approved Master Plan for Planning area 68. The Master Plan recognizes the fact that current zoning

and development standards are inappropriate for much of the development in the Planning Area and are often impossible to meet. The plan proposes the creation of alternative methods to meet certain zoning requirements and encourages flexibility and speed in the permit process to assist in revitalization.

NOW, THEREFORE, BE IT RESOLVED, that Variance Request No. VDDS-511A is hereby APPROVED and that Departure from Design Standards Application No. 511 is hereby APPROVED, subject to the following conditions:

1. All conditions of the approved subdivision (Preliminary Plat 4-0001) shall be complied with. The site plan shall be revised to reflect all applicable changes in accordance with the approved subdivision of the property.
2. The site plan shall be revised to reflect the correct number of floors for the existing structure.
3. The site plan shall be revised to show a ramp/drop curb or other means of access for the physically handicapped.
4. The site plan shall be revised to reflect compliance with the requirements of Section 4.4(b) of the *Landscape Manual* with regard to screening of dumpsters, trash pads, and trash collection or storage areas.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the District Council of Prince George's County within thirty (30) days following the final notice of the Planning Board's decision.

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This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Brown, seconded by Commissioner Boone, with Commissioners Brown, Boone and McNeill voting in favor of the motion and Chairman Hewlett absent, at its regular meeting held on Thursday, May 4, 2000, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 25th day of May 2000.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

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