

R E S O L U T I O N

WHEREAS, the Prince George's County Planning Board has reviewed DDS-521 requesting departure from design standards of up to 12 feet from the required driveway width of 22 feet in accordance with Subtitle 27 of the Prince George's County Code; and

WHEREAS, after consideration of the evidence presented at the public hearing on June 21, 2007, the Prince George's County Planning Board finds:

1. **Request:** This case is a companion to DSP-01021, is for approval of a contractor's office without outdoor storage in the C-O Zone. The business will be housed in an existing one-story building of 1,055 square feet. The departure from design standards application requests a departure of up to 12 feet from the required driveway width of 22 feet.

2. **Development Data Summary:**

	EXISTING	PROPOSED
Zone(s)	C-O	C-O
Use(s)	Contractor's Office (without outdoor storage)	Contractor's Office (without outdoor storage)
Acreage	0.489	0.489
Parcels	1	1
Building square footage/GFA (existing building)	1,055	1,055

OTHER DEVELOPMENT DATA

	REQUIRED	PROPOSED
Total Parking Spaces	3	5
Of which handicapped spaces	1	1
Loading spaces	0	0

3. **Location:** The subject property is located on the north side of Kerby Hill Road, approximately 300 feet west of MD 210. It is in Planning Area 80, Council District 8, and is within the Developing Tier.
4. **Surroundings and Use:** The site is bounded to the south by Kerby Hill Road. To the north and east lies land owned by the Wilson Towers multifamily apartment complex. There is a concrete drainage swale running adjacent to the eastern edge of the site on the Wilson Towers property. To the west are single-family dwellings in the R-55 zone. Facing the subject property on the south side of Kerby Hill Road are a gas station and the Shalom Ministries Christian Center.
5. **Previous Approvals:** Zoning Map Amendment A-9917 rezoned the subject property from R-18 to C-O in July of 1998. However, the site, which had been in use as a landscape contractor's business for many years, was never issued a proper use and occupancy permit. The current contractor's business requires a use and occupancy permit as well.

The District Council, on February 26, 2007, granted authorization for the Planning Board to approve a site plan for the subject property, notwithstanding the presence of structures within the right-of-way, and for the Department of Environmental Resources to grant the applicant a building permit within the future right-of-way subject to the approval of the site design. The resolution of the District Council also requires that “any applicant construction done pursuant to this order must be removed or altered, if that is required for State or County construction within the right-of-way.” To ensure that this requirement is clear, staff recommends that this condition be added to any approval of the site plan.

The subject applications have been filed in order to validate the existing use and design of the site, which has numerous design constraints.

6. **Design Features:** The subject property is developed with an existing single-story building. This building is located at the southern end of the property, approximately three feet from the 70-foot ultimate right-of-way for Kerby Hill Road at its closest point. The property is accessed by a driveway from Kerby Hill Road at the property’s southwestern corner. This driveway is only 10 feet wide along its narrowest length, widening to 20 feet as it turns eastwards to access the parking areas. There is a proposed handicapped van-accessible parking space on the north side of the building, and four standard parking spaces are provided in a row northeast of the handicapped space. The driveway and parking areas on the site are made of bluestone gravel surface.

The entire site is surrounded by fencing. A six-foot tall wood fence runs along the front property line, within the 70-foot ultimate right-of-way for Kerby Hill Road. The six-foot tall wood fence continues along the western and northern sides of the site, and the southern portion of the eastern side. A three-foot tall chain link fence runs along the remainder of the eastern side. It should be noted that these fences do not follow the property lines exactly, and areas of land not part of the subject property are enclosed by the fences on the west and north sides. It appears that the chain link fence is associated with the adjacent dwellings and the wood fence is associated with the subject property. A condition of approval is recommended to require the off-site fencing associated with the subject property either be relocated onto the subject property or removed from the plan.

The eastern two-thirds of the property, including the entire area occupied by the building and parking area, lie within the floodplain. It should be noted that the application does not propose additional structures within the floodplain.

The existing fence along the southern property line falls within the ultimate right-of-way for Kerby Hill Road. More importantly, the entire subject property falls within the ultimate right-of-way proposed for the future interchange of Indian Head Highway with Kerby Hill Road. The Transportation Planning staff has indicated that this interchange is currently being designed and might be implemented between 2010-2012.

COMPLIANCE WITH EVALUATION CRITERIA

7. **Zoning Ordinance:** The subject application has been reviewed for compliance with the requirements of the C-O Zone and the site plan design guidelines of the Zoning Ordinance.
 - a. The proposed driveway on the site is only ten feet wide where it enters the site from the

public right-of-way and for part of its length within the site, widening to 20 feet as it turns eastward to access the parking areas. Under Section 27-563, a two-lane driveway providing access from a street to a parking area should be a minimum of 22 feet wide. Furthermore, the Department of Public Works and Transportation (see Finding 10 below) has indicated that a commercial driveway should be no less than 30 feet wide. The applicant has applied for a Departure from Design Standards, DDS-521, to allow the driveway to be narrower than would normally be required.

As set forth in Section 27-239.03 of the Zoning Ordinance, the Planning Board may grant a departure if it makes the following findings:

- i. **The purposes of this subtitle [i.e., Subtitle 27, Purposes set forth in Section 27-102] will be equally well or better served by the applicant's proposal.**

Comment: The apparent purpose of Section 27-563 is to provide safe and convenient access from the street to the parking area. As noted by the Transportation Planning Section (see Finding 9 below), the small size of the site serves to limit the magnitude of the contractor's business. The amount of traffic that will enter and exit the site using the driveway will be very small and it is unlikely there will be multiple vehicles entering and exiting at the same time. It is the staff's belief that the purposes of the subtitle will be equally well served by the narrower driveway proposed by the applicant.

- ii. **The departure is the minimum necessary, given the specific circumstances of the request.**

Comment: The narrow width of the site and the plantings that have been proposed to provide required screening and landscaping on the site would make it difficult to expand the driveway. This departure is the minimum necessary, given the specific circumstances of the request.

- iii. **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.**

Comment: The presence of the site within a planned right-of-way constitutes a unique circumstance that makes significant improvements on the site uneconomical and impractical.

- iv. **The departure will not impair the visual, functional, or environmental quality or integrity of the site or of the surrounding neighborhood.**

Comment: The proposed driveway will not impair the visual, functional, or environmental quality or integrity of the site or of the surrounding neighborhood. Visually, functionally and environmentally, the proposed driveway will be very similar to the existing driveway.

The Urban Design staff feels that the required findings for approving a departure from design standards under Section 27-239.03 have been made and that proposed Departure

from Design Standards DDS-521 should be approved.

8. Council Order of February 26, 2007, approving authorization to issue building permit for structure within a planned right-of-way included the following conditions:

To protect the State's interest in C-709, and to preserve State and County rights in and adjacent to the subject property, the applicant's request is approved as follows:

1. **Construction as proposed in SP 01021/01 and DDS 521 may be approved, if the applicant meets standards and regulations, notwithstanding the subject property's location within a planned right-of-way.**

Comment: If the requested variance, departure from design standards, and alternative compliance are approved, the applicant will have met standards and regulations.

2. **Any applicant construction done pursuant to this order must be removed or altered, if that is required for State or County construction within the right-of-way.**

Comment: To ensure that this condition is clear, it is recommended that this condition be carried forward and approved as part of the subject application.

3. **The dimensions and location of the driveway and parking space proposed by the applicant must be as shown in Exhibit 6, or as shown in the detailed site plan finally approved by the Planning Board or District Council.**

9. The Transportation Planning Section, in a memorandum dated June 6, 2001, noted that it would be impossible to approve additional permanent structures on the property without Council action due to the presence of the master plan right-of-way. However, since the proposal makes use of an existing building, the additional structures are limited to parking, paving, and a trash enclosure. Although the proposed structures do not qualify as temporary structures, it is likely that staff would not object greatly to their placement in the master plan right-of-way, as their value is probably quite minor in comparison to the cost of acquiring the entire site at such time that the state would need to buy it. The site plan is acceptable from the standpoint of access and circulation. Due to the limited size of the subject property and the resulting limitation of the size of business, staff does not object to the granting of the departure in the size of the driveway.
10. The Department of Public Works and Transportation, in a memorandum dated July 27, 2001, provided the following comments:
- a. Restricted Site Distance—Kerby Hill Road has a 25-mile per hour (MPH) speed limit. There is a sharp curve on Kerby Hill Road in front of the subject property. At this location, an advisory speed limit of 15 MPH is posted. Vehicles travel along the site's frontage in excess of 20 MPH. The existing fence along the frontage of the site property limits the site distance at the entrance to 115 feet. The American Association of State Highway and Transportation Officials (AASHTO) recommend a minimum sight distance of 210 feet for 20 MPH speeds.

- b. Substandard Driveway Entrance—The existing driveway is a single residential driveway with a 10-foot width. According to the site plan submitted to this office, the applicant is revising the property for commercial use. According to DPW&T Standard 8, for commercial use, the width of the driveway entrance should not be less than 30 feet.

Urban Design comment: If DPW&T requires the fence to be removed, the detailed site plan should be amended to reflect this change prior to issuance of the certificate of occupancy for the site. The applicant has filed for a departure from design standards to allow the driveway to be narrower than the standard commercial driveway.

In a second memo dated January 17, 2002, the Department of Public Works and Transportation stated the following:

Staff from DPW&T visited the site and confirmed that a fire hydrant and utility pole would need to be relocated for the driveway to be widened to the standard width of 30 feet.

Therefore, based on the above, DPW&T hereby grants your request to have the subject driveway widened to only 20 feet. Please note, however, that due to the sharp curve on Kerby Hill Road at the location of the subject driveway, the existing plank fence along the property frontage is limiting the sight distance for left/right turn movements. Therefore, your client needs to remove or relocate the plank fence to correct the sight distance problem.

Comment: It appears that there was some confusion at the time this memo was issued because DPW&T's memo refers to the applicant's request to have the subject driveway widened to 20 feet, whereas the site plans and justification statement submitted show a proposed driveway width of only 10 feet at its narrowest length.

The applicant's representatives are currently in discussion with DPW&T regarding these issues. Therefore, the Urban Design section recommends that if the Department of Public Works sustains its prior objection to the placement of the fence along Kerby Hill Road, or indicates that a driveway width of 10 feet will not be allowed, then the site plan should be revised to satisfy DPW&T's objections.

- 11. The Community Planning Section, in a memorandum dated May 31, 2001, noted that the applicant had indicated that the driveway for the business would be used by relatively few people, primarily the owner and a few employees. The Community Planning Section requested that if this argument is accepted, the approval of the departure allowing a narrower driveway should be limited to the current use. If the business changes or is otherwise re-developed, the full two-way driveway width should be required, or at least re-evaluated. A condition to this effect has been added to the recommendation section.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and APPROVED the above-noted application, subject to the following condition:

If the Department of Public Works and Transportation objects to the proposed 10-foot wide driveway, then the plans shall be revised to satisfy the objection prior to the issuance of the certificate of occupancy for the site

BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the District Council for Prince George's County, Maryland within thirty (30) days of 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 Squire, seconded by Commissioner Cavitt, with Commissioners Squire, Cavitt and Parker voting in favor of the motion, and with Commissioners Clark and Vaughns absent at its regular meeting held on Thursday, June 21, 2007, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 12th day of July 2007.

R. Bruce Crawford
Executive Director

By Frances J. Guertin
Planning Board Administrator

RBC:FJG:CL:bjs