

STAFF REPORT ON VARIANCES REQUESTED FROM PLANNING COMMISSION

PLN-MAR-17-00041: WINCHESTER 836, LLC

REQUESTED VARIANCES

1. Reduce the number of required parking spaces from 55 to 52.
2. Reduce the required front yard from 20 feet to 10 feet.

ZONING ORDINANCE

Article 6-4(c) states that the Planning Commission may hear and act upon requested variances associated with a zone change. In such cases, they may assume all of the powers and responsibilities of the Board of Adjustment, as defined in Article 7-6(b) of the Zoning Ordinance.

Article 7-6(b)(1) states that before any variance is granted, it must be found that the granting of the variance will not adversely affect the public health, safety or welfare; will not alter the essential character of the general vicinity; will not cause a hazard or nuisance to the public; and will not allow an unreasonable circumvention of the requirements of the Zoning Ordinance.

Article 8-14(h) states that the minimum front yard in the R-5 zone shall be 20 feet.

Article 8-14(n) [per 8-12(n)] states that, for multiple family dwellings, other than for elderly housing, three (3) parking spaces are required for every two (2) dwelling units; or, in the alternative, 0.9 spaces per bedroom, whichever is greater.

Article 15-7(d) states that there should be special considerations for Infill & Redevelopment areas. "The intent of the Infill and Redevelopment regulations is to allow new construction that is compatible with existing development patterns in older, established neighborhoods. Unique circumstances may require appropriate Board of Adjustment action to allow some relief of yard requirements where strict application of the regulations would cause unusual hardship or a development incompatible with the existing pattern of the neighborhood."

Article 16-10 states that all parking reductions shall apply only under the following circumstances: Uses shall be limited to attached single family dwellings and multi-family dwellings in residential and/or mixed use zones." The section of the Zoning Ordinance continues to establish the regulations which allow for bicycle racks to be utilized to reduce the number of required parking spaces by 5 percent, and for transit stops or shelters to reduce the number of required parking spaces by 5 or 10 percent, respectively. A maximum of 15 percent of the required parking may be reduced utilizing the provisions of Article 16-10.

CASE REVIEW

The applicant wishes to rezone the properties at 1104, 1106, 1186 and 1190 N. Limestone from a Neighborhood Business (B-1) zone to a High Rise Apartment (R-5) zone, to allow site redevelopment for a multi-family residential structure and associated off-street parking. The proposed development will contain 36 dwelling units with a total of 72 bedrooms.

Based on Article 8-14(n) of the Zoning Ordinance, 65 off-street parking spaces are required for the new development (1.5/dwelling unit); however Article 16 of the Zoning Ordinance allows for a reduction for parking if certain criteria are met. The petitioner is utilizing the parking reduction permitted by the Ordinance to reduce parking by 5 percent for bicycle racks and by another 10 percent for a transit shelter within 300 feet of the site. These parking reductions allow the required parking to be reduced to a minimum of 55 spaces to serve

the 36, two-bedroom dwelling units on the site.

The Zoning Ordinance also requires that the proposed multi-family structure be located a minimum of 20 feet from the right-of-way of all three streets, since they are either front yards or side street side yards.

There are two variances requested to allow this redevelopment to occur, which are related to the proposed redevelopment itself, and not specifically related to a unique characteristic of the site. First, the applicant is requesting to reduce the number of required parking spaces for the proposed apartment building from 55 to 52, which is a small (6.5%) reduction. The applicant opines that the demand for parking will be reduced based on the desire to provide affordable housing, the proximity to multiple transit stops along N. Limestone (already factored into the required parking reduction listed above) and the fact that the site is located within a pedestrian-friendly portion of the Infill and Redevelopment Area. These factors work together to provide a partial justification for the variance. Theoretically, the need for residents to have personal vehicles will be reduced due to the developer's desire to provide affordable housing, following the thought that low income residents are less likely to own a vehicle, and are more likely to utilize transit. The requested minor reduction may be justified, contingent upon the site being utilized for affordable housing.

If the variance is not granted, the number of dwelling units must be reduced to meet the parking that can be provided on site (or somewhere within 300 feet of the properties with a signed parking agreement), which may not be desirable for the applicant.

The second requested variance is to reduce the required front yard from 20 feet to 10 feet, the purpose of which is to maximize the available parking area in the rear of the property. As noted, this site is within the Infill and Redevelopment Area, and there is a provision in Article 15 that addresses setbacks in the I/R Area. It states that the intent of the I/R regulations is to "allow new construction that is compatible with existing development patterns in older, established neighborhoods. Unique circumstances may require appropriate Board of Adjustment (in this case, Planning Commission acting as the Board) action to allow some relief of yard requirements where strict application of the regulations would cause unusual hardship or a development incompatible with the existing pattern of the neighborhood." In this case, strict application of the front yard requirement would actually result in a development that is more in keeping with the existing setbacks along N. Limestone; therefore, the staff cannot support a variance of the magnitude requested for this reason alone. The Zoning Ordinance would generally allow for averaging if the site were flanked on either side by existing residential units; but this site comprises the entire block face, so the setback averaging provision does not apply in this case. The applicant states that the current zoning permits a build-to range between 10 and 20 feet; thus a redevelopment of the site could result in a building being sited along a 10 foot setback. While that is a true statement, the applicant is not proposing redevelopment under the current zone, but rather a new R-5 zone that potentially allows a more intense height and floor area ratio than under the current B-1 zone. The applicant has indicated that the depth of the lot is a special circumstance that creates a hardship, because a parking lot is required to be a certain depth. The building itself, however, is not required to be any certain depth or width to accommodate the proposed dwelling units. The lot depth is 125 feet; because of this, according to the applicant's engineer, "any type of development other than single family lots" would be difficult to accomplish (i.e., building and parking on the same lot). The building is designed to have a row of dwelling units across the front of the building and a row of dwelling units across the rear of the building. The two unit depth of the multi-family building is a result of the applicant's own design, not an inherent requirement of the building type or fundamental modules of housing units. In addition, the 125-foot lot depth is common within the immediate area.

Other development along N. Limestone either respects the average 20-foot setback or may deviate an average of up to five feet into the required front yard. Even the proposed mixed-use project at N. Broadway Park is being constructed with a 15-foot setback. By reducing the setback, the site would lose some of the desirable open space and activity space along a minor arterial corridor. The staff cannot support creating a new structure that would alter the character of the general vicinity, and therefore, cannot support the ten-foot variance for the front yard along N. Limestone.

Lastly, the staff would note that the requested variances are contingent upon the proposed zoning and the specific density, lot coverage and floor area ratio (FAR) proposed on the associated development plan. Since the staff is recommending postponement of the requested zone change, it would also be appropriate to recommend postponement of the associated variances until the development can be modified to be compatible with the surrounding area.

The Staff Recommends: **Postponement**, for the following reasons:

- a. Granting the requested front yard variance may alter the character of the general vicinity, which generally respects a 20-foot setback along the N. Limestone corridor.
- b. Strict application of the requirements of the Zoning Ordinance would require a redesign of the associated preliminary development plan and a potential decrease in the number of dwelling units for this redevelopment project. A postponement will provide an opportunity to reconsider the design of the property to more closely reflect the character of the surrounding neighborhood.
- c. The staff is not supportive of the requested R-5 zone, which the variances are generally contingent upon. Modification of the requested zone and associated floor area ratio may eliminate the need for both variances on the site.

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