

Applicant Response Statement – Variance

1. Explain requested variance.

There are two variances requested for the subject property. The first variance is for encroachment into and/or a reduction in the 40' Parkway Overlay District buffer along the eastern border of the property adjacent to the existing Sonic fast food restaurant and the existing cell tower and for a minor encroachment into the 75' Parkway Overlay on the western side of the property for a stormwater outfall.

The buffer encroachments along the eastern property line include surface parking, a retaining wall, a lift station, and stormwater infrastructure. The buffer requirements will still be maintained along the northern and southern property lines and the minor encroachment into the western property buffer will be replanted following construction. On the western border, the minor encroachment into the 75' Parkway Overlay District buffer is for construction of a stormwater discharge and bypass storm line. There are no structural improvements within the 75' Parkway Overlay District buffer and no improvements at all within the 50' side landscape buffer required in the General Commercial District.

The second variance requested is for a deviation from the roof pitch requirement for the proposed building. This roof pitch requirement is again a result of the Parkway Overlay District architectural standards. The requirement states that buildings must have a minimum roof pitch of 4.5" vertical elevation per one foot of horizontal distance. Because this building is a prototypical building for the end user, the roof design cannot be changed without significant redesign of the prototypical building. The roof pitch of the proposed building varies as the roof is curvilinear in shape. In general, the roof pitch is between 1" to 3" of vertical elevation per one foot of horizontal distance.

2. There are exceptional and extraordinary conditions pertaining to the particular piece of property in question, due to its size, shape or topography.

The proposed project consists of two (2) long skinny commercial lots. Due to the geometry of the two (2) parcels, the buffer requirements imposed by the Parkway Overlay District on the site reduce the developable area of the site by 45 percent. In addition, there are site access constraints along Highway 92, a Georgia Department of Transportation (GDOT) maintained road, and there are topography challenges that make encroachment into the 40' Parkway Overlay District buffer along the eastern border necessary to make the site developable.

3. The application of these regulations to this particular piece of property would create a practical difficulty or unnecessary hardship.

See above response. Again, due to the geometry of the lots, the parking requirements, the site access location and the topography of the site, the property cannot be developed with the intended use without encroaching into the 40' Parkway Overlay District buffer along the eastern property boundary. In addition, the end user would not be able to construct their signature store with the architectural features proposed without a variance for the curvilinear roof pitch.

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4. Such conditions are peculiar to the particular piece of property involved.

The subject property is located along Highway 92 which is predominately commercial. This parcel is zoned General Commercial within the City of Woodstock, however, it happens to be located adjacent to a parcel that is currently zoned R-20 (Single Family Residential) within unincorporated Cherokee County. Thus, a 75' buffer setback is required along the western property line adjacent to property that will one day be commercial. This buffer, combined with a 40' buffer along the eastern property line makes this skinny parcel very challenging to develop under the GC zoning. The applicant has honored the 75' buffer along the western property; however, in order to develop the site for the intended use, the applicant will need to encroach into the 40' buffer adjacent to the existing Sonic and cell tower to provide the required parking.

5. A literal interpretation of this ordinance would deprive the applicants of any rights that others in the same district are allowed.

Currently, the adjacent Sonic to the east located in the same zoning district as the subject property does not meet the 40' buffer requirement and has significant site improvements within 8' to 10' of the shared boundary line. More specifically, the adjacent Sonic has surface parking and a freestanding parking lot canopy structure within 8' to 10' of the shared property line. See the attached aerial exhibit depicting the encroachment adjacent to the existing commercial uses. In addition, access to this parcel is through an existing curb cut along Highway 92, a road controlled by GDOT. Access to the site must be in this location. This access location limits how the building can be oriented / located and drives the site plan. Lastly, if the adjacent property were zoned commercial (as it will most likely be one day), the western buffer requirement would be 40', not 75'. This would afford the applicant an additional 35' along the entirety of the western property line with which to develop, thus allowing the applicant to develop the intended use without requiring the variance for an encroachment into and/or a reduction in the buffer requirement.

6. Relief, if granted, would not cause substantial detriment to the public good, or impair the purposes and intent of this ordinance.

The encroachments along the eastern property line will not negatively impact the use and enjoyment of the adjacent properties, which include a Sonic fast-food restaurant and a cell tower. The improvements proposed within the 40' buffer (parking, drive isle and stormwater) are compatible uses with the adjacent uses that abut the property (parking, parking canopy and dumpster of the adjacent Sonic).

The minor impacts for this encroachment into the 75' Parkway Overlay District buffer will be mitigated by replanting this area following construction. Thus, post construction, the buffer requirements will be met.

7. Special circumstances or conditions applying to the building or land or building and land in question are peculiar to such premises and do not apply generally to other land or buildings in the vicinity.

Again, due to the size and location of the property and the current uses of the adjacent properties, the subject parcel ~~cannot~~ be developed with the intended use due to the Overlay District Buffers. The Applicant has designed the site to accommodate as many of the

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requirements as possible with the exception of the 40' buffer along the eastern property line and the roof pitch requirement.

8. Granting of the application is necessary for the preservation and enjoyment of a property right and not merely to serve as a convenience to the applicant.

Any end user that wishes to develop this site will be constrained by the same challenges and would seek relief of the required buffers in order to develop the site under the GC zoning. Due to the many challenges of this site, the subject property has sat vacant while surrounded by significant development in a highly desirable corridor. It is due to the existing constraints and challenges of the site, including the Overlay District standards, that this site has not been previously developed.

9. The condition from which relief or a variance is sought did not result from willful action by the applicant.

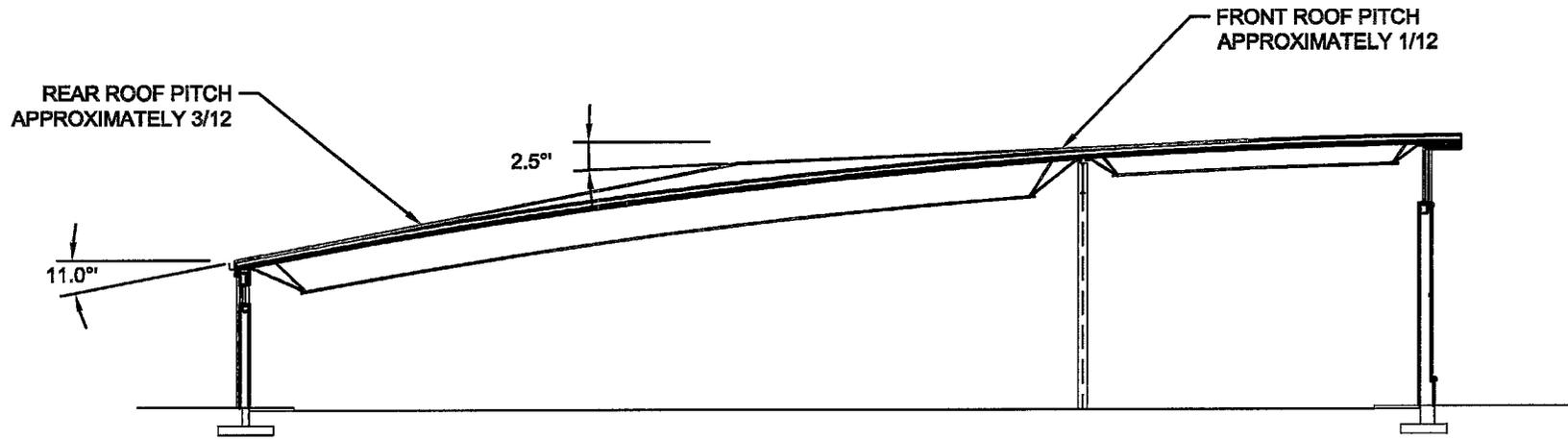
The Applicant has a signature store that is the same size and of the same Architecture as the other stores they are developing. Absent of the Overlay District buffers and the roof pitch requirement, the building and required parking would fit on this site without the need for a variance. The proposed use is compatible with the other uses in this area. The variances being requested are needed to allow the applicant to construct their store while meeting all other zoning and Overlay District requirements (parking, landscape, stormwater, etc.).

10. Authorizing the variance will not impair adequate supply of light and air to adjacent property or unreasonably increase the congestion of public streets, increase the danger of fire, imperil the public safety, unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the City.

The site is already zoned for the intended use. The buffer encroachments are needed to allow for the required parking and to preserve a 75' buffer adjacent to a residentially zoned property that will one day be commercial. The variances sought do not impede or impair the adequate supply of light and air to adjacent property or unreasonably increase the congestion of public streets, increase the danger of fire, imperil the public safety, unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the City. The variances are simply to allow a roof pitch that does not currently meet the Overlay District Standards (no different than the adjacent property) and to allow parking and stormwater within the 40' Overlay District Buffer (again, no different than the adjacent property).

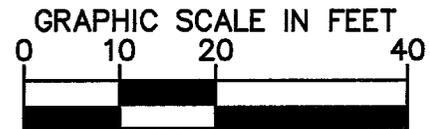
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