

Legal Theory for Variance Relief

The applicant is seeking variance relief under NJSA 40:55D-70(D)(1) because an undue hardship exists, limiting use of the property. Lot 11 is a split zone lot, with a majority of the lot in the Commercial Zone and a portion of the lot in the residential zone. The lots are too small to subdivide into conforming lots. An undue hardship exists when the property is not reasonably adapted to a conforming use. Because the residential portion of the lot is too small to be developed in conformance with the Code, it cannot be reasonably adapted to a conforming use. The proposed use of this property is to provide on-site parking, creating 8 parking spaces where none currently exist, providing a positive impact on the surrounding neighborhood.

The proposed variances will not be materially detrimental to the public welfare or injurious to the surrounding neighborhood.

The bulk variances for 205-59 C (2) - Min. Side Yard Setback Req'd - 3 ft. and 2.1 feet is pre-existing

The variance from 205-59 E (2) is for the provision of Off-street Parking Spaces - 1 space/6 seats ($144/6=24$ spaces) are required and 8 spaces are provided. However this application is creating six new parking spaces, so this pre-existing condition is being lessened.