

November 18, 2023

Commenting Division: Planner Review

Name of Reviewer: David DeBoskey

Date: 11/09/2023

Email: jorge@egsfa.com

Response 2 Resubmittal:

PLN1: The updated variance request is: to allow a for a 2 foot rear setback in the Commerical-5 District where a rear setback of 15 feet is required.

3-24-07-03-04 MINIMUM REAR SETBACK

The minimum rear setback for a structure in a Commercial-5 District shall be fifteen (15) feet.

R: Noted. We are requesting a variance for this requirement.

PLN2: CORE's comments mentioned 2 things: 1. Comments about setbacks of 15 and 20 feet on the now side setback facing the alley. 2. Comments about existing overhead line needing to be relocated and converted to underground. While the 1st comment regarding side setbacks may not be relevant due to the setback change, the 2nd comment is as it involves the proposed addition.

CORE's 2nd comment about relocating the overhead line needs a response as it deals with the rear of the building.

R: We need a variance on this requirement as well because a 20' set back will just be no feasible to add the addition.

PLN3: Parking Spaces.

To apply for another variance, you need to reach out to E-Permit Center at Epermitcenter@adcogov.org to add another variance to this request. They will create a new variance case name (ex. VSP2023-00045) and then both variances will be put under another case with the format of PRA2023-000XX. Adding additional variances to already open variance cases save you time and money compared to separate time windows and separate applications, i.e., applying for one now and then applying for one 2 months from now.

Applicant states that they need 14 spaces, which would mean that you have 42 seats in the restaurant. However, because you already have an active Change In Use permit on file, which has internal building designs, it appears that there are at least 45 seats. This would mean you need 15 at minimum. How many seats are there for customers in the restaurant? This needs to be consistent throughout land use applications/permits.

R: We have removed four 2 tops table and eating counter. Now we have four 4 tops and five four people booths for a total of 36 seats = 12 parking spots so we will need a variance for 4 spaces.

PLN4: Of the 8 proposed parking spots, there cannot be 2 in front of the trash enclosure. There must be access to the trash at all times.

R: Noted. We will request a variance for this requirement as well.

Per 4-24-3 Access: All required dumpster, recycling, and trash handling facilities shall be designed with appropriate means of access to a road or alley in a manner which will least interfere with traffic movement, and which will most facilitate the service of the facilities

Either these parking spots or the trash enclosure needs to be moved. If not this will result in the need of either an another variance for the trash enclosure access.

R: Noted. We will request a variance for this requirement as well.

PLN5: Moreover, the Trash Enclosure does not meet 20 foot setback. So, if the trash enclosure is not moved, there needs to be another variance needed for this:

4-09-02-19-01 GENERAL 2. ...No garbage storage area shall be located within twenty (20) feet of a public sidewalk.

Noted. We will request a variance for this requirement as well.

PLN6: The county is likely to recommend denial of the original request. Our reasoning is based here:

4-27-03-01 NO INCREASE IN NONCONFORMITY

...No person may engage in any activity causing an increase in the extent of nonconformity of a nonconforming situation. In particular, physical alteration of structures or the placement of new structures on open land is unlawful if such activity results in:

Greater dimensional nonconformity with respect to restrictions such as setback requirements, height limitations, density requirements

Despite our likely recommendation of denial, the applicant is encouraged to make their case to the Board of Adjustment regardless, as staff provides only a recommendation. Staff has not discussed the other potential variances yet, but will if they become official applications.

R: Noted.

PLN7: Summary:

The updated variance request is for the rear, north, setback - a request to have a setback of 2 feet instead of 15 feet.

R: Noted.

A 2nd variance is needed for the parking spaces.

R: Noted.

A 3rd variance is needed for the trash enclosure placement within the 20 foot setback. (Could be avoided if trash is moved.)

R: Noted.

A 4th variance is needed if the 2 parking spaces stay in front of the trash enclosure. (Could be avoided if either trash or parking spaces are moved.)

R: Noted.

Let me know if you have any questions.

Thank you for all your help.



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