

Side Yard Setback

1. Reasonable Return

The property in question cannot yield a reasonable return if to be permitted to be used only under the regulations of district in which it is located.

The subject property is 1.58 Acres, however when removing the square footage that is encumbered by required setbacks and utility easements the property is only .87 Acres which means 45% of the property is lost to setbacks (calculations below).

Location	Required Setback Square Footage	Required Setback Acreage
North Lot Line	12,900 sq ft	0.29 Acres
East Lot Line	8,700 sq ft	0.20 Acres
South Lot Line	6,000 sq ft	0.14 Acres
West Lot Line	3,360 sq ft	0.08 Acres
Total	30,960 Sq ft	0.71 Acres

It is our opinion that the loss of 45% of the property to setbacks will greatly inhibit the reasonable return of said property without a variance.

2. Unique Hardship or Practical Difficulty

The shape, topography or other conditions of the land is such that it is extremely difficult to comply with the regulations generally applicable to the property.

In an effort to comply with the setback requirements our proposal complies with the East, South, and West setbacks. For the northern setback we are able to provide 25.3' setback by the parking lot, complying with the 20' setback but encroaching on the 30' overlay setback 4.7' for a total area of 638 sq ft of encroachment. The building is 9.8' setback from the northern property line, which encroaches on the 20' setback by 10.2' and encroaches on the 30' setback 20.2' for a total encroachment area of 1,386 sq ft and 2,620 sq ft respectively. Adding 638 sq ft and 2,620 sq ft together (3,258 sq ft) results in a total encroachment of 0.074 acres. Meaning we are providing 72% of the required northern setbacks, bringing our overall compliance to 89%.

The building to the south of the subject property is near the property line. Additionally, we have been told no grading is permissible in the utility easement on the south portion of the property. In order to ensure that our property's FFE is not too high to cause flooding to the building to our

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south, but still high enough to allow stormwater to drain properly, we are forced to move our building as far north as possible. The angled property lines and extensive setback requirements make it difficult to comply with all required setbacks.

As the chart below shows, we are providing 0.63 Acres of the required 0.71 acres, which is 89% of required setbacks.

Location	Acreage of Required Setbacks (sq ft)	Setbacks Area Provided
North Lot Line	0.29 Acres (12,900)	0.21
East Lot Line	0.20 Acres (8,700)	0.20
South Lot Line	0.14 Acres (6,000)	0.14 Acres
West Lot Line	0.08 Acres (3,360)	0.08
Total	0.71 Acres (30,960)	0.63 Acres

3. Character of the Area

The applicant must show that the variation requested will not be materially detrimental to the public welfare or materially injurious to the enjoyment, use or development of property or improvements permitted in the vicinity; will not materially impair an adequate supply of light and air to properties and improvements in the vicinity; will not substantially increase congestion in the public streets due to traffic or parking or increase the danger of flood or fire; will not unduly tax public utilities and facilities in the area; or will not endanger the public health, safety or welfare. (Ord. 95-28, 5-1-1995)

The existing greenbelt north of the property line is extensive, and a pedestrian would interpret our building setback to be ~50-60 feet back from the right of way. The property boundary does not run parallel to Keslinger Road, as such the northeast corner of the property is approximately 63 ft from the edge of Keslinger Road and at the northwest corner it is approximately 34 ft. The intent of the overlay district is being met with the required landscaping and openness that was desired when the code was established.

4. Minimum Variation

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Any variation considered by the Planning and Zoning Commission shall be considered the minimum variation necessary for the reasonable use of the land. (Ord. 95-79, 12-18-1995)

The limitations on grading in the utility easement, and the existing topography of the stormwater drainage options, means we cannot move the building south any further. We have redesigned the infant play area to not be located on the south side of the building so that we can comply as much as possible.