

**Town of Mount Airy, Maryland
Board of Appeals
Staff Report**

October 3, 2023

Request for Variance of the LC Zoning Code Due to Hardship

**CASE MA-BOA-2303-04
(Second Version)
South Side Plaza**

Applicant: TABASSEM REALITY, LLC

Location: South Main Street

Zoning: LC – Limited Commercial

STAFF COMMENTS:

The Applicant requests a variance to the LC Zoning under Code section §112-37 as submitted. The four parcels are located along South Main Street, just South of the Md. Rt. 144 intersection and south of address 1502 S. Main Street (Papa John's). The four parcels combined look like the shape of a flag; see the attached map for the location.

The attached zoning map shows that parcels to the North are zoned LC – Limited Commercial and CC – Community Commercial. The parcels directly to the South are zoned LC, with parcels to the East on the other side of South Main Street are zoned CC. The Parcels to the West adjacent to this parcel are zoned R-3 Residential.

The two plans that are part of your packet show one with a three-building design that would be in compliance with the LC zone. The applicant is requesting that the Board of Appeals consider the second plan, which shows two new buildings; the one building, located toward the Northwest, is 2 stories with a footprint of 2,304 sq. ft, which is in compliance with the LC Zone less than the total sq. ft. of 5,000.

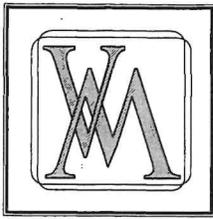
The second building is located toward the front of the properties closest to South Main Street. This 2-story building would exceed the total sq. ft. of 5,000 sq. ft. allowed within the LC Zone, with a footprint of 4,032 sq. ft and a total sq. ft. of 8,064.

The applicant requests approval to allow one of the buildings to exceed the allowable total square foot of 5,000 sq. ft. per the code in meeting his needs for a PT rehab business within a building on the same floor at a minimum of 4,000 sq. ft. per floor.

The applicant's requests have some perspectives that might be worth consideration. The location of two buildings toward the Northwest and the Northeast of the property does create an increased buffer area away from the residential properties to the West.

Staff Recommendation:

Staff suggests the Board of Appeals consider a favorable recommendation to grant a variance to allow for one larger building with a total of 8,064 sq. ft. and a second building of 4,608 sq. ft. to be constructed toward the North side of the property due to the residential development to the West.



**VANMAR
ASSOCIATES, INC.**

Engineers • Surveyors • Planners

310 South Main Street, P.O. Box 328, Mount Airy, Maryland 21771

(301) 829-2890
(301) 695-0600

(301) 831-5015

(410) 549-2751
Fax (301) 831-5603

August 7, 2023

Mr. John Breeding
Director of Planning and Zoning
Town of Mount Airy
110 South Main Street, P.O. Box 50
Mount Airy, MD 21771

RE: S-22-0037 Southside Plaza Site Plan

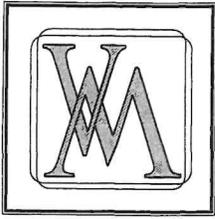
Dear Mr. Breeding

The proposed Southside Plaza Site is located along South Main Street in Mount Airy. This site will be near the proposed South Main Street Roundabout and is just adjacent to the south side of the 1502 S Main Neighborhood Shopping Plaza. The site consists of four parcels and is also adjacent to residential houses in Ridgeville Heights and a property zoned LC but used as a residential residence. The use of the site will be medical practice offices. To comply with the requirements for the LC Zone District, the Concept Site Plan was proposing three buildings as follows.

- Building A – Two story building with a total of 4,900 SF
- Building B – Two story building with a total of 4,900 SF
- Building C – Two story building with a total of 4,400 SF
- Total Building square footage = 14,200 SF

Town Code § 112-37 LC Limited Commercial District lists the following for the purpose of the LC Zoning District.

- (1) The LC District is intended to serve as a transitional zone to provide areas for a limited number of retail and service establishments in close proximity to the residents they serve while protecting the residential uses adjoining the district.
- (2) The LC District is intended to provide a less intensive commercial zone than the CC District and must only be assigned where adjacent to a more intensive commercial zone such as the CC or any other more intense commercial zone.



VANMAR
ASSOCIATES, INC.

Engineers • Surveyors • Planners

310 South Main Street, P.O. Box 328, Mount Airy, Maryland 21771

(301) 829-2890

(301) 831-5015

(410) 549-2751

(301) 695-0600

Fax (301) 831-5603

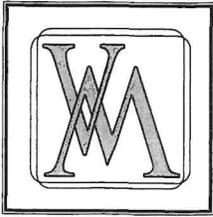
Instead of the three two-story buildings, each with less than 5,000 SF, that are shown in Exhibit A, we are proposing two two-story buildings for a total building square footage of 12,672 SF as shown in Exhibit B. This building program is far less than the allowable building program of 15,000 SF. Building A at 8,067 square feet exceeds the allowable 5,000 SF per lot. It would require the modification of Building A size (from 5,000 SF to 8,067 SF) and rear setback (from 25' to 9.5'). The rear setback reduction is internal to the site and towards Building B. It will not reduce the setbacks to the adjacent residential property.

We believe this revised site plan proposal is more compatible with the surrounding residential areas since it,

- a) Concentrates almost 64% of the building program next to South Main Street and away from the residential houses compared to the three buildings shown in Exhibit A.
- b) Provides a building design that can accommodate Dr. Rafiq's medical practice and associated rehabilitation clinic which requires a minimum of 4,000 sf for each use.
- c) Situates the medical services building to be adjacent to the adjacent commercial plaza.
- d) Allows the site plan to preserve existing woods along the property line adjunct to the Ridgeville Heights residential houses.
- e) Eliminates the need to address yard encroachments into the property from the Ridgeville Heights residential houses.

All development plans in the (LC) Limited Commercial District are subject to site plan approval and the development requirements include:

- (1) Height restriction. No building or structure shall exceed 20 feet in height, not including the roof structure, or contain more than two stories, not including the attic. Accessory structures shall not exceed 15 feet in height.
PROPOSED: Both Buildings A & B comply with the building requirement of two stories each.
- (2) Size limitation. Principal structures shall not be permitted with area in excess of 5,000 square feet.
PROPOSED: A variance to allow Building A in the LC Zone District to exceed the single building area of 5,000 square feet. The proposed two-story building would be 8,064 square feet. This requires a reduction in the rear setback from 25' to 9.5 feet.



VANMAR
ASSOCIATES, INC.

Engineers • Surveyors • Planners

310 South Main Street, P.O. Box 328, Mount Airy, Maryland 21771

(301) 829-2890

(301) 831-5015

(410) 549-2751

(301) 695-0600

Fax (301) 831-5603

- (3) Lighting. Lighting shall not reflect or spill over upon adjoining or nearby residential property or on roadways; all lighting shall be equipped with full cutoff, fully shielded fixtures, and pole heights shall not exceed 15 feet at the perimeters. High-density sodium lighting shall be used for all outdoor lighting.

The site plan with the two buildings will continue to comply with this requirement.

- (4) Buffers. Buffers protecting nearby residential areas shall be required and maintained and shall consist of fencing and/or natural barriers such as vegetation and trees of at least four feet in height.

The site plan with two buildings will continue to comply with this requirement. This proposal increases the natural buffer of vegetation and trees compared to the three buildings that could be constructed on the site.

- (5) All other requirements for commercial development shall apply.

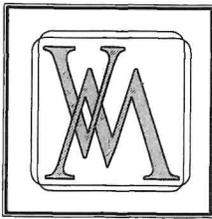
The site plan with the two buildings will continue to comply with this requirement.

The provisions of § 112-37 LC Limited Commercial District inflict an unnecessary hardship upon the Owner of the property and adjacent property owners. Where there is unnecessary hardship or practical difficulty, the Board of Appeals may grant a variance in the application of the provisions of this chapter provided that the following findings are made where relevant:

- (1) *That there are unique physical conditions including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship or practical difficulty is due to such conditions.*

Although three two-story buildings can be constructed on the site, the construction of the two two-story buildings greatly separates the buildings from the adjacent Ridgeville Heights residential houses. This proposal allows for the preservation of portions of the woods separating the Ridgeville Heights residential houses from the commercial development.

- (2) *That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.*



VANMAR
ASSOCIATES, INC.

Engineers • Surveyors • Planners

310 South Main Street, P.O. Box 328, Mount Airy, Maryland 21771

(301) 829-2890
(301) 695-0600

(301) 831-5015

(410) 549-2751
Fax (301) 831-5603

Although the property could be developed in strict conformity with the provisions of the LC Zone District, the current configuration of the four parcels creates a T-shaped parcel, which has challenging effects on layout and construction for the three separate buildings. The granting of a variance for Building A to be 8,064 square feet is much more compatible with preserving a portion of the woods on the property and increases the distance of the commercial buildings from the Ridgeville Heights residential houses.

(3) *That such unnecessary hardship or practical difficulty has not been created by the applicant or the applicant's predecessor in title.*

The unnecessary hardship or practical difficulty is not being created by the Applicant but is an attempt to further mitigate visual impacts to the Ridgeville Heights residential houses and to accommodate the proposed medical practices.

(4) *That the variance, if authorized, will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.*

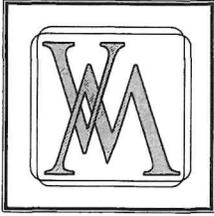
This variance will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare. The proposed development of an 8,064 square foot two-story building does not impair the development of the adjacent commercial property and property to the south that is zoned LC Zone District.

(5) *That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.*

The variance to allow the construction of an 8,064 square foot two-story building represents the minimum variance that will afford increased relief to the adjacent Ridgeville Heights residential houses and environment of the lot.

(6) *No grant of a variance shall be authorized unless the Board specifically finds that the condition for which the variance is sought is not so general or recurrent a nature to make reasonably practicable the formulation of a general regulation for such conditions.*

The granting of a variance to allow an 8,064 square foot two-story building on one lot is specific to this property and would not be considered so general or recurrent a



VANMAR
ASSOCIATES, INC.

Engineers • Surveyors • Planners

310 South Main Street, P.O. Box 328, Mount Airy, Maryland 21771

(301) 829-2890
(301) 695-0600

(301) 831-5015

(410) 549-2751
Fax (301) 831-5603

nature to make reasonably practicable the formulation of a general regulation for such conditions.

Enclosed with this variance application are Exhibits that show the three two-story buildings and the proposed two two-story buildings.

We request the approval of the variance to allow the construction of an 8,064 square foot two-story building on Lot 46B and to reduce the Lot 46B rear setback to 9.5 feet as shown in the exhibits.

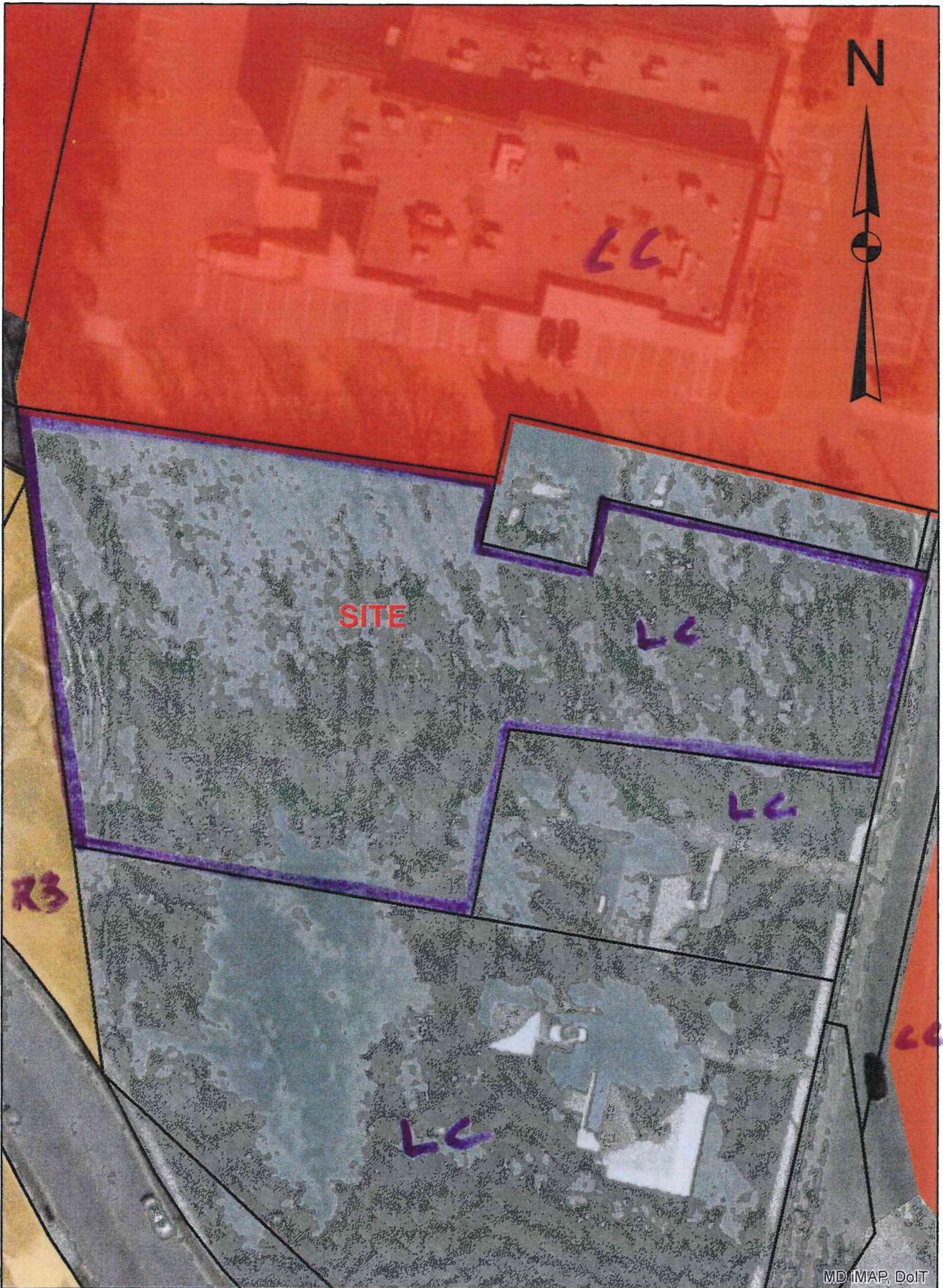
Please contact me with any questions or comments you may have.

Thank you,
VANMAR ASSOCIATES

Ronald E. Thompson, P.E.

Enclosures:

- Exhibit



South Main Street

80 40 0 80 Feet