

## **Variance Review Criteria**

The following criteria shall be applied in evaluating and deciding any application for a Variance. No application for a Variance shall be granted by the Zoning Board of Appeals unless satisfactory provisions and arrangements have been made concerning each of the following criteria, all of which are applicable to each application.

<b>(1) The need for the variance arises from a condition that is unique and peculiar to the land, structures, and buildings involved.</b>	
<b>Applicant:</b>	As discussed above, the need for these variances arises due to the proposed expansion of Hogan's Pharmacy, which is necessary for the pharmacy to comply with federal law regarding compounding laboratory requirements. This is a condition that is unique and peculiar to the Hogan's Pharmacy building and the business conducted therein. The applicant's SBA financing and the terms of this acquisition of the business from Mr. Hogan make it essential that the applicant continue to operate at this location. Thus, this building must be modified to meet the new federal laboratory requirements.
<b>Staff:</b>	There is nothing unusual about the parcel to merit granting the variance.
<b>(2) The variance is necessary because the particular physical surroundings, the size, shape or topographical conditions of the specific property involved would result in unnecessary hardship for the owner, lessee or occupants; as distinguished for a mere inconvenience, if the provisions of the LDR are literally enforced.</b>	
<b>Applicant:</b>	<p>The enforcement of the provisions of Title 2 of the LDR would result in extreme hardship for the applicant, Adam Moore, and his pharmacy, Hogan's Pharmacy. The applicant acquired the property and the pharmacy business from Mr. Hogan a few years ago. Both the pharmacy business and the real estate secure the applicant's SBA loan, as well as Mr. Hogan's second position mortgage. Both of these loans were made in connection with the purchase of the property and business. So the applicant is very much "wedded" to this location from a debt standpoint. Also, the applicant purchased the pharmacy business directly from Mr. Hogan, and the pharmacy has been operating in the same location since at least the early 1980's. The business has built up a significant amount of goodwill in that time and the business is tied to the location in that respect as well.</p> <p>If the provisions of the LDR are enforced, Hogan's Pharmacy will no longer be able to engage in compounding, which comprises a significant portion of its business, without violating federal law. Furthermore, the applicant could not simply relocate his business, due to the debt structure of the acquisition described above, as well as the negative impact of the pharmacy leaving the location it has operated in for over 30 years. The hardship imposed on the applicant and his business would be much more than a mere inconvenience, as it would result in the loss of business from the inability to use compounding with no way to remedy the issue as the applicant</p>
<b>Staff:</b>	No. There is no hardship.
<b>(3) The condition requiring the requested relief is not ordinarily found in properties of the same zoning district as the subject property.</b>	
<b>Applicant:</b>	The majority of properties in the same zoning district are not pharmacies and therefore are not subject to the federal regulations necessitating the expansion and requested variances. Therefore, the condition requiring the requested relief is not ordinarily found in properties other than Hogan's Pharmacy in the R-P zoning district. However, it is worth noting that the subject building and the majority of all properties in the Oak Center development are nonconforming and the changes being sought are minor modifications that do not change the character or aesthetics of the property.
<b>Staff:</b>	No. There is nothing unusual about this property.
<b>(4) The condition is created by the regulations of Title 2 of the LDR and not by an action or actions of the property owner or the applicant.</b>	
<b>Applicant:</b>	As discussed above, the applicant and owner Adam Moore (Hogan's Pharmacy) acquired the property and the pharmacy business from Mr. Hogan a few years ago. At that time, the property was already non-conforming as to the setback and impervious surface requirements but had been grandfathered in due to