

STAFF REPORT OF THE CITY'S ZONING ADMINISTRATOR
APPLICATION FOR VARIANCE
BZA 25-02-001
Hearing Date: February 20, 2025

LOCATION: **1010 Wertland Street**

TAX MAP & PARCEL: **100037000, 100038000 & 100039000**
APPLICANT: **James Engelhardt, Grimm & Parker Architects**
Erin Stushek, AICP

ZONING AND USE: **CX-8, (Commercial Mixed-Use, up to 8 Stories)**

VARIANCE

REQUESTED: Owner requests relief from 34-2.4.4.B.5.K of the Development Code:
Grimm & Parker Architects has applied on a variance on behalf of the University of Virginia for the property located at 1010 Wertland Street. Side Street facing entrances into a building are required to be no more than 60 feet apart. The Applicant is seeking a 64'-1" variance. If the variance is approved, two entrances on the Wertland Street side of the property will be spaced 124'-1". The Applicant has cited topographic challenges with the property as it falls almost 20 feet along the length of the structure.

Step 1: Is this an actionable request for a Variance?

In considering this request for a variance, the BZA must follow a specific statutory procedure referenced within Virginia Code Sec. 15.2-2309 and City Code 34-5-2-12. The BZA may authorize a variance only from certain types of provisions of the City's zoning ordinance (see definition of "variance", Va. Code §15.2-2201¹). The only zoning ordinance provisions that can be varied are the following:

- A. Shape, size or area of a lot, or
- B. The size, height, area, bulk or location (e.g., setbacks) of a building or structure

Staff note: The variance requested meets the criteria in subsection A.

A. Step 2: If the application presents a matter that is within the definition of "variance", does evidence support the statutory findings the BZA must make prior to granting a variance?

A. Background

The applicant asks the BZA for a variance of the requirements of **34-2.4.4.B.5.K** of the Zoning Ordinance (copy attached). The effective date of this zoning ordinance section is **December 18, 2023** ("Ordinance Effective Date").

¹ Va. Code Sec. 15.2-2201 states that: "Variance" means, in the application of a zoning ordinance, a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure when the strict application of the ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning."



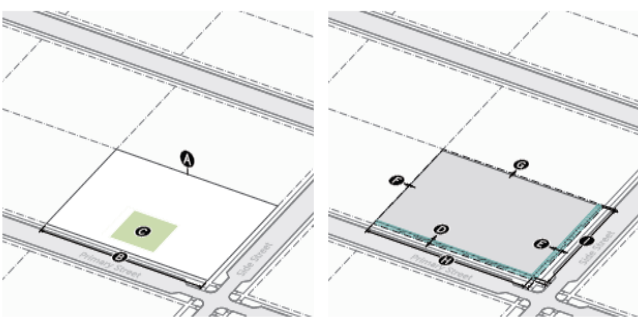
Analysis:

The Property consists of 3 sperate parcels at the corner of Wertland and 10th Street NW that will be combined to create the building site. The proposed use of the site will be 180 affordable mult-family apartment units and an early childhood education center. The Property is zoned CX-8 and must therefore follow all of the regulations set forth in section 34-2.4.4 of the Development Code.

2.4.4. **CX-8** CORRIDOR MIXED USE 8

CX-8

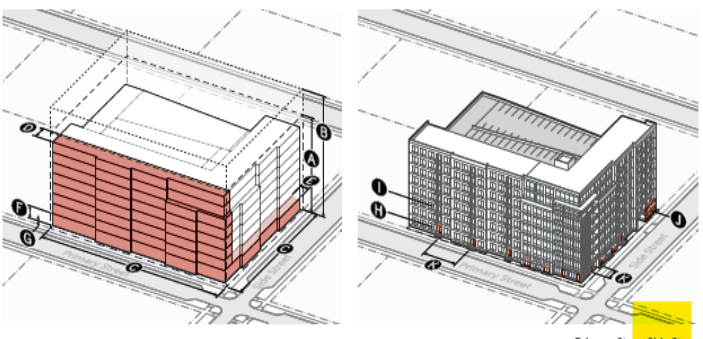
A LOT



1. LOT SIZE	Sec. 2.10.2.
A Area (min)	None
B Width (min)	
Front access	40'
Side / rear access	15'
2. DENSITY	Sec. 2.10.3.
Dwellings per lot (max)	Unlimited
3. COVERAGE	Sec. 2.10.4.
Building coverage (max)	None
C Outdoor amenity space	10%

4. BUILDING SETBACKS	Sec. 2.10.5.
D Primary street lot line (min/max)	0' / 10'
E Side street lot line (min/max)	0' / 10'
F Side lot line (min)	0'
G Rear lot line (min)	0'
H Alley lot line (min)	5'
5. BUILD-TO	Sec. 2.10.6.
I Build-to width (min)	
J Primary street	75%
K Side street	45%
6. TRANSITION	Sec. 2.10.7.
Transition type	Type B, D
7. PARKING LOCATION	Sec. 2.10.8.
Front yard	Not allowed
Side street yard	Not allowed
Side yard	Allowed
Rear yard	Allowed

B. BUILDING



1. HEIGHT	Sec. 2.10.9.
Building height (max stories/feet)	
A Base	8 / 114'
B With bonus	11 / 156'
2. MASSING	Sec. 2.10.10.
C Building width (max)	275'
Active depth (min)	
D Primary street	15'
E Side street	9'
3. GROUND STORY	Sec. 2.10.11.
F Ground story height (min)	
Residential	10'
Nonresidential	14'
G Finished floor elevation (min/max)	
Residential	0' / 6'
Nonresidential	-2' / 6'

4. TRANSPARENCY	Sec. 2.10.12.	
H Ground story (min)		
Residential	35%	30%
Nonresidential	50%	30%
I Upper story (min)	20%	20%
J Blank wall width (max)	15'	25'
5. ENTRANCES	Sec. 2.10.13.	
K Street-facing entry spacing (max)	40'	60'
Entry feature	Yes	Yes
6. FENCES AND WALLS	Sec. 2.10.14.	
Front yard height (max)	4'	
Side street yard height (max)	6'	

Due to the elevation change of the property, the structure will have 2 separate stories facing Wertland Street: 5 stories on the Northwest side of the building and 6 stories on the Northeast side of the building. This drop in elevation makes it difficult to comply with the entrance requirement, which requires a maximum of 60 feet between entrances into the building. On the NE side of the structure, there will be 2 entrances into the structure with 43 feet of spacing in between the doors. And on the NW of the structure there will be 2 entrances with 55 feet of spacing in between the doors. The issue lies between door 2 and 3 as the structure transitions from 6 stories to 5 stories in height as it goes up Wertland Street, from 10th St NW. If an entrance was included between these two doors (highlighted in blue) there would need to be a substantial number of stairs traversing down to the parking garage below, which also take up parking spaces. Similarly, stairs would have to traverse up and the entrance would lead into a single apartment unit, when all the other units within the building will be accessed from a common hallway.

The intent of requiring street-facing entry spacing is to facilitate the creation of a convenient, attractive, and harmonious community by providing visual interest along the public realm, orient buildings to the public realm, and promote greater use and activation of the public sidewalk by limiting distance without physical connections. Each entrance is also required to have an entry feature, which is a roof, canopy or similar feature providing coverage to provide adequate protection from inclement weather for pedestrians using the entry.

Wertland Street is the the side street for this project and 10th St NW is the primary street. The entry feature spacing requirement is more stringent on the primary street, requiring entrances at least every 40 feet; standards which this proposed plan will comply with.

In the 1st submittal, the Applicant requested to have only 2 entrances into the structure on the along Wertland Street, with a distance of 229 feet between them. After reviewing the request with Staff, the Applicant changed the design to add 2 additional entrances. The first will be a utility door room used by maintenance and the second door will provide access to the leasing office by way of a stair case. Both will be required to have an entry feature, which will help to integrate the building into the public realm. By adding these other entrances, the Applicant has reduced the needed variance from 169 feet to 64 feet, 1 inch.

(The 1st image is the original request; the 2nd image is the current proposal)



original proposal



current proposal

Statutory Requirements:

With respect to variance requests, the burden of proof is on the applicant to prove that his request meets the standard for a “variance”, as defined in Va. Code §15.2-2201, and the criteria set forth in Va. Code §15.2-2309(2), see Va. Code 15.2-2309(2).

(1) Va. Code §15.2-2201 (definition of "Variance").

“A variance shall be granted if the evidence shows that... the strict application of the ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance....It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.”²

(2) Va. Code §15.2-2309(2) (the applicant must prove, by a preponderance of evidence, that his application meets the following standards):

a. The strict application of the terms of the ordinance would unreasonably restrict the utilization of the Property;

and [in order to grant a variance, the BZA must determine that all factors (i)-(v) apply]:

(i) the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;

Staff note: Three parcels are being combined to create this project site, two of which front on Wertland Street. Both parcels have a cross slope that has doubled by combining them.

(ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area; Staff note: Adjacent properties on Wertland and 10th St NW suffer similar topographical challenges.

² Va. Code §15.2-2201; see also City Code §34-7.2

- (iii) the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;

Staff note: NO

- (iv) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property;

Staff note: No

and

- (v) at the time of the filing of the variance application, the relief or remedy sought by the variance application is not otherwise available through a special use permit process or a zoning ordinance amendment.

Staff note: The Applicant has the ability to apply for a Special Exemption Permit through City Council. It would take up to 4 months for the Council to hear this request. The Applicant has chosen to seek a variance because it is a more streamlined process.

a) Per Va. Code §15.2-2309(2)(conditions to mitigate impact of variance):

Should the BZA determine that the applicant has met his burden of proof to establish the need for a variance, then, as part of granting the variance, the BZA may impose such conditions regarding the **location, character, and other features** of the proposed structure or use as it may deem necessary in the public interest and the BZA may require a **guarantee or bond** to ensure that the conditions imposed are being and will continue to be complied with.

B. Suggested Motion(s)

1. If you previously determined that the application presented a proper request for a matter within the definition of a variance, then possible motions include:

- a. Denial: *“I move to deny Application BZA 25-02-001, because I find that the standards and criteria set forth within Va. Code 15.2-2309(2) are not satisfied.*

- b. Approval: *“I move to grant a variance as requested in Application BZA 25-02-001, based on a finding that the applicant has established that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and meet the hardship factor (i)-(v) detailed in this staff report.*

- i. If you wish to add conditions to an approval motion, you would also add, at the end of the above-suggested motion: *“And I further move to grant this motion subject to the following conditions: _____ [insert list of conditions].*