

STANDARDS FOR GRANTING A ZONING VARIANCE
CENTRAL PARK PLACE – 110 S. WASHINGTON STREET

FACTS:

The property is zoned B4 Downtown Core District. Section 6-7D-7 provides:

“For new construction or modifications to any exterior wall made after January 1, 2012, the setback shall be no greater than six (6) feet from any property line. If permanent outdoor seating is proposed after January 1, 2012, the setback shall be measured from the limit of the defined outdoor dining area”

The existing plans show the seat walls within 6 feet of the front lot line which satisfies the above requirement. Petitioner now desires to remove the planned seat walls. This results in a portion of the new building being in excess of the required 6-foot setback (18.5 feet).

1. The variance is in harmony with the general purpose and intent of this Title and the adopted comprehensive master plan.

The 2030 Downtown 2030 Plan designates the Property as “Downtown Core”. Both the Plan and the B4 zoning intend that the property be developed for intense retail business activity. The setback for the existing old Nichols Library building is approximately 40.98 feet. The new building adjacent to the old building is set back approximately 18.5 feet to allow a better view of the old building from Washington Street. Further to the south the new building has a setback of approximately 2.5 feet which complies with the setback requirement. Thus, since there was a specific reason for the north part of the new building to be set back more than the required 6 feet, the overall development is in harmony with the general purpose and intent of this Title and the comprehensive master plan.

2. Strict enforcement of this Title would result in practical difficulties or impose exceptional hardships due to special and unusual conditions which are not generally found on other properties in the same zoning district.

The construction of the project is almost complete with the setbacks described above. Most prospective tenants who intend to use the property for retail rather than as a restaurant are opposed to the seat walls. Their position is that the seat walls interfere with the natural flow of pedestrian traffic and can somewhat block pedestrian view of the retail units. The Petitioner is presently negotiating with a retail client who is against having the seat walls. The building is constructed, so the

only issue is actually the seat walls. Thus, it would impose an exceptional hardship to require the construction of the seat walls.

3. The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property.

The new building is already constructed. Whether or not the seat walls are constructed will not alter the essential character of the neighborhood. The new building is approximately 44 feet from the existing US Bank building to the south. Thus, the granting of the variance would not be a substantial detriment to adjacent properties.