

MEMORANDUM

TO: Board of Adjustment Members

FROM: Community Development Department

DATE: August 4th, 2026

RE: Variance Application –Sheetz Upward Road

SUMMARY: The Community Development Department has received an application from Jesse Hanlin for a variance from *Section 5-27-5.2.1 – Transportation* to reduce the required 100 ft corner clearance to 71.7 ft. The subject property is currently zoned CHMU – Commercial Highway Mixed Use.

VARIANCE REQUEST: The Applicant is requesting a variance from the requirement that corner clearance along a side street be 100 ft. The applicant is requesting to decrease this corner clearance to 71.7 ft.

The subject property is 2.65 acres and is zoned CHMU - Commercial Highway Mixed Use. The property is currently vacant, however, a gas station is proposed for the site. The site plan has gone through the preliminary site plan review process and was approved by the planning board with the condition that either the corner clearance requirement is met or a variance is granted from the Board of Adjustment.

PROPOSED FINDINGS OF FACT:

- Based on Henderson County records the subject property possesses a PIN of 9588-40-7325 and is zoned CHMU – Commercial Highway Mixed Use.
- Based on Henderson County records, the lot size is approximately 2.38 acres.
- Based on Henderson County records, the subject property is currently vacant.
- Based on the City of Hendersonville records, Upward Road is an NCDOT maintained road.
- Based on Henderson County records a North Carolina Quit Claim Deed was acquired by Quattlebaum Properties F, LLC on the 17th of February, 2004.
- **5-27-5.2.1 Driveways.** Where permitted, driveways shall comply with the requirements of this section and, if applicable, the regulations of the North Carolina Department of Transportation.
- **5-27-5.2.1.b** All driveway approaches for both mid-block and corner lots along major thoroughfares shall have both minimum corner and side clearances as below:

Clearance Type	Along Major Thoroughfare	Along Side Street
Corner clearance ²	250 feet	100 feet
Side clearance ³	30 feet	10 feet

- Based on the Variance Application (*Exhibit A*), the Applicant a driveway on a side street that has a clearance of 71.7 ft.

CODE REFERENCES.

5-27-5.2.1 Driveways. Where permitted, driveways shall comply with the requirements of this section and, if applicable, the regulations of the North Carolina Department of Transportation.

- a) The number of driveways permitted for new development shall relate to the amount of linear frontage for the proposed development as depicted below:

Linear Frontage	Number of Permitted
Less than 350 feet	1
Greater than 350 feet	2
Greater than 1,000 feet	3 ¹

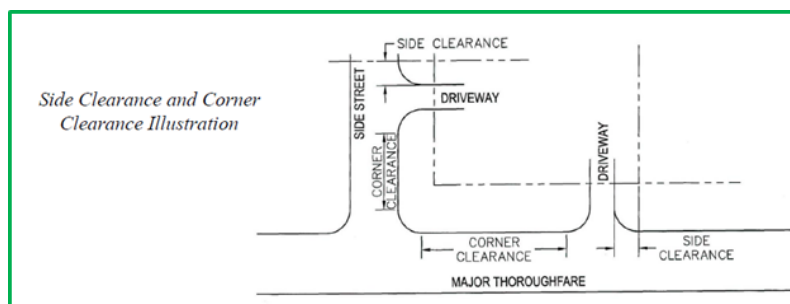
¹With approval of the city after demonstration of need in the required TIA.

- b) All driveway approaches for both mid-block and corner lots along major thoroughfares shall have both minimum corner and side clearances as below:

Clearance Type	Along Major Thoroughfare	Along Side Street
Corner clearance ²	250 feet	100 feet
Side clearance ³	30 feet	10 feet

²Corner clearance shall be measured from the point of tangency of the radius curvature of the intersection streets.

³Side clearance shall represent the distance from the driveway to the side property line.



- c) No driveways shall be allowed along a major thoroughfare within 250 feet of any intersection, as measured from the intersection of the projected right-of-way lines, except for properties which cannot meet this restriction due to limited frontage within the desired corner clearance.
- d) One-way driveways are not considered full-movement driveways therefore, two, one-way driveways may be considered as a single driveway provided that:
- The minimum spacing between the two driveway segments is 60 feet.

- 2) The driveway segments are clearly signed and marked as one-way driveways, using pavement arrows and directional signs.
- 3) The maximum combined pavement width of both driveway segments at the right-of-way line is 40 feet and the minimum width of a single segment is 14 feet.

Section 10-9 Variance.

A Variance is a means whereby the City may grant relief from the effect of the Zoning Ordinance in cases of hardship. A Variance constitutes permission to depart from the literal requirements of the ordinance. When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of the following:

- 1) Unnecessary hardship would result from the strict application of the ordinance. It is not necessary to demonstrate that, in the absence of the Variance, no reasonable use can be made of the property.
- 2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a Variance. A Variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
- 3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a Variance is not a self-created hardship.
- 4) The requested Variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

The Board of Adjustment shall not have authority to grant a Variance when to do so would:

- 1) result in the extension of a nonconformity regulated pursuant to Section 6-2, above, or
- 2) permit a use of land, building or structure which is not permitted within the applicable zoning district classification. Per NCGS 160D-705 (d), appropriate conditions may be imposed on any Variance, provided that the conditions are reasonably related to the Variance.