



PLANNING AND CODES

TOWN OF DENTON

Board of Zoning Appeals Application

For Official Use Only

FEE DUE

Number: BOA-25-001
Date Filed: 11/13/2024
Hearing Date: 1/13/2025
Applicants Notified: _____
Property Posted: _____
Notice Posted: _____
Decision of Board: _____
Applicant Notified of Decision: _____

*Application Fee & \$10 sign fee
PLUS cost of public hearing advertisement, due before
first meeting*

**Variance Applications & Appeals Applications require
complete application and 8 copies of all attachments.
Special Exception Applications require complete
application and 16 copies of all attachments.**

A. Applicant Information

JPA Venture LLC

APPLICANT NAME – PLEASE PRINT CLEARLY

1563 Rainbow Plaza, Suite 2B, PO Box 142	Chester	MD	21619
ADDRESS	CITY	STATE	ZIP CODE
(410) 643-4131	jim@mallardconstruction.com		
PHONE NUMBER	CELL PHONE	E-MAIL ADDRESS	

APPLICANT SIGNATURE – by signing this document applicant agrees to be responsible for all fees and advertising expenses incurred by this application.

B. Property Owner Information

JPA Venture LLC

PROPERTY OWNER NAME – PLEASE PRINT CLEARLY

1563 Rainbow Plaza, Suite 2B, PO Box 142	Chester	MD	21619
ADDRESS	CITY	STATE	ZIP CODE
(410) 643-4131	(410) 829-0707	jim@mallardconstruction.com	
PHONE NUMBER	CELL PHONE	E-MAIL ADDRESS	

PROPERTY OWNER SIGNATURE

C. Property Information

Legion Road

PROPERTY ADDRESS

0106	2474	Regional Highway Commercial (RHC)	N/A
MAP	PARCEL	PRESENT ZONING OF PROPERTY	CRITICAL AREA DESIGNATION

JPA Venture LLC
116 S. Piney Rd., Ste., 208
Chester, MD 21619

December 4, 2024

Denton Board of Appeals
4 N. Second Street
Denton, Maryland 21629

Re: JPA Venture, LLC Variance Application Authorization

To Whom it Concerns:

I, James DiDonato, owner and manager of JPA Venture, LLC, which is the owner of the property along Legion Road and identified as Parcel 2474 of Tax Map 106, have reviewed the attached Board of Appeals Application seeking a variance to the minimum lot dimension and certify, under the penalty of perjury, that the matters and facts set forth in the foregoing Application are true to the best of our knowledge and belief. I further authorize our attorney, Brendan S. Mullaney and McAllister, DeTar, Showalter & Walker LLC, to act as our Agent to authorize and sign the attached Application. Our Agent is further authorized to act on our behalf and appear in our stead in all matters related to the Property and this application.

JPA VENTURE, LLC



By: James DiDonato
Its: Manager

D. Request

Request is hereby made for: (check one)

(X) Variance from strict application of said ordinance; section of Ordinance from which relief is sought:

- (X) Yard, area or bulk requirements.
- () Bulk, area or height of structures.
- () Height or size of signs.
- () Placement of earth satellite antennae.

(If applying for variance please see page 4 of the application and include responses for each)

() Appeal from:

- () Director of Planning and Codes, or other administrative officer in the enforcement of this Chapter 128, Zoning
- () Planning Commission Decision
- () Building Code Official Decision

() Special Exception - § 128-163 J

E. Sketch

Please attach 6 copies of sketch drawn to scale with all dimensions of lot and building thereon, distances between building and property lines, bounding street or road names, North point and scale.

F. Purpose

- If a Special Exception is being requested please attach a description of the kind of exception desired and the reasons therefore. (see page 7)
- If applying for a Variance please see page 4 (see page 5 for Critical Area).
- If appealing a decision please attach an explanation of appeal.

G. History

Has property ever been subject of previous application? Yes

No

In the event that this property has been the subject of a previous application, please provide the following information (Note: this information is on file in the Town Office):

PREVIOUS APPLICATION NUMBER

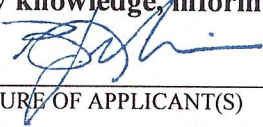
PREVIOUS APPLICATION DATE

PREVIOUS APPLICANT NAME

ACTION TAKEN ON PREVIOUS APPLICATION

H. Authority

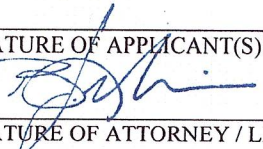
- a. In the event that the Applicant is a person other than the Owner of the subject property, give an explanation of the Applicant's interest in said property and attach hereto a statement by the Owner stating whether or not said Owner supports this application.
- b. List the name, address and telephone number of any agent or attorney who will be representing the Applicant. If the Applicant is represented by an agent attach documentary evidence that the Applicant is so represented.
- c. Attach hereto six copies of the recorded Deed conveying present ownership of the property which has been duly recorded among the Land Records of Caroline County, Maryland (a copy may be obtained from the office of the Clerk of Court if not otherwise available). If there are any restrictions attached to the deed of the property subject to this application, please advise the Board.
- d. **I do hereby solemnly declare and affirm under the penalties of perjury that the information provided and the sketch shown in this application, as well as the documents attached to this application, are true, correct and genuine to the best of my knowledge, information and belief.**



SIGNATURE OF APPLICANT(S)

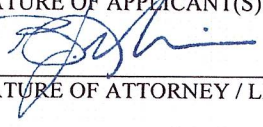
11/13/2024

DATE



SIGNATURE OF APPLICANT(S)

DATE



SIGNATURE OF ATTORNEY / LEGAL REPRESENTATIVE

11/13/2024

DATE

ATTORNEY INFORMATION:

Brendan S. Mullaney, Esq.
McAllister, DeTar, Showalter & Walker LLC
100 N. West Street
Easton, Maryland 21601
Email: bmullaney@mdswlaw.com
Phone: (410) 820-0250

Request for Variance

(Please provide an explanation of each variance requested)

§ 128-163 K.

(2) Standards for granting a variance.

- (a) Strict enforcement of this Chapter 128, Zoning would produce unnecessary and undue hardship as distinguished from variations sought by applicants for purposes or reasons of convenience, profit or caprice.
- (b) Such hardship is the result of special conditions and/or circumstances not generally shared by other properties in the same zoning district or vicinity, and which are peculiar to the land, structure or building involved. Such conditions and/or circumstances may include but are not limited to the following: exceptional narrowness or shallowness or both, or irregular shape or topography of the property; unusual and limiting features of the building; or the effective frustration or prevention of reception of satellite programming due to the presence of a physical object or objects which obscure the "line of sight" when such object or objects cannot be easily removed.
- (c) Such special conditions or circumstances must not be the result of any action or actions of the applicant.
- (d) Granting of the variance must be in harmony with the general purpose and intent of this Chapter 128, Zoning and must not be injurious to adjacent property, the character of the neighborhood or the public welfare.
- (e) Granting the variance shall not allow a use expressly or by implication prohibited in the zoning district involved.
- (f) The condition, situation or intended use of the property concerned is not of so general or recurring a nature as to make practicable a general amendment to the ordinance.
- (g) The variance granted must be the minimum necessary to afford relief.
- (h) In granting a variance, the Board of Appeals may prescribe appropriate conditions in conformity with this Ordinance. Violation of such conditions, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance.
- (i) The applicant for a variance shall have the burden of proof on all points material to the application which shall include the burden of presenting credible evidence as to each material issue and the burden of persuasion on each material issue. The Board of Appeals may disregard evidence, even if uncontroverted by an opposing party, if the Board finds such evidence not to be credible.

Critical Area Variance

§ 128-163 K.

(3) Standards for granting a variance within the Critical Area District.

- (a) In addition to the findings in Subsection K(2) above, a variance may be granted by the Board in the Critical Area District, provided that:
 - [1] Special conditions or circumstances exist that are peculiar to the land or structure within the Denton's Critical Area Program, which would result in an unwarranted hardship. For purposes of this section, "unwarranted hardship" means that without a variance, the applicant will be denied reasonable and significant use of the entire parcel or lot for which the variance is requested;
 - [2] A literal interpretation of this subtitle (to Article 66B of the Annotated Code of Maryland or the Denton Critical Area Program and this Chapter, 128, Zoning) will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area;
 - [3] The granting of a variance will not confer upon an applicant any special privilege that would be denied by this subtitle or the Denton Critical Area Program to other lands or structures within the Critical Area;
 - [4] The variance request is not based upon conditions or circumstances which are the result of actions by the applicant, including the commencement of development activity before an application for a variance has been filed, nor does the request arise from any condition conforming, on any neighboring property;
 - [5] The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area Law, and the Denton Critical Area Program;
 - [6] The application for variance has been provided to the Critical Area Commission at least two weeks prior to the variance hearing.
 - [7] Decision has been provided to the Critical Area Commission in writing immediately after the variance approval or denial.
- (b) In considering an application for a variance, the Town shall presume that the specific development activity in the Critical Area that is subject to the application and for which a variance is required does not conform with the general purpose and intent of Natural Resources Article, Title 8, Subtitle 18, COMAR Title 27, and the requirements of the Town's Critical Area Program. The applicant has the burden of proof and the burden of persuasion to overcome the presumption of nonconformance set forth herein.

- (c) The Board shall make written findings reflecting analysis of each standard, including whether the applicant has overcome the presumption set forth in Subsection K(3)(b). The Board's decision and written findings may be based upon any competent evidence or testimony introduced or presented by the applicant, the Town or other governmental agency, or other person or entity as deemed appropriate by the Board.
- (d) No permit may be issued for the activity that was the subject of the variance within the Critical Area District until the applicable thirty-day appeal period has elapsed.

Request for Special Exception

(Please provide an explanation of each special exception requested)

§ 128-163 J.

- (2) In granting a special exception, the Board shall make findings of fact consistent with the provisions of this Chapter 128, Zoning. The Board shall grant a special exception only if it finds adequate evidence that any proposed use submitted for a special exception will meet all of the standards listed for the proposed uses. The Board shall, among other things, require that any proposed use and location be:
 - (a) In accord with the Town's Comprehensive Plan and consistent with the spirit, purposes, and intent of this Chapter 128, Zoning.
 - (b) Suitable for the property in question and designed to be in harmony with and appropriate in appearance with the existing or intended character of the general vicinity.
 - (c) Suitable in terms of effects on street traffic and safety with adequate access arrangements to protect streets from undue congestion and hazard.
 - (d) Not detrimental to the property values of adjacent development, does not adversely affect the health, safety, and general welfare of residents of the area, and will not adversely affect the area and surrounding property with adverse environmental effects such as undue smoke, odor, noise, improper drainage, or inadequate access.
- (3) The Board may impose whatever conditions regarding layout, circulation, and performance it deems necessary to insure that any proposed development will secure substantially the objectives of this Chapter 128, Zoning. Violation of such conditions and safeguards when made a part of the terms under which the special exception is granted, shall be deemed a violation of this Ordinance. The Board shall consider recommendations of the Planning Commission prior to rendering a decision. The Planning Commission shall review and comment on all applications for special exceptions prior to review and decision by the Board. The applicant for a special exception shall have the burden of proof on all points material to the application which shall include the burden of presenting credible evidence as to each material issue and the burden of persuasion on each material issue. The Board of Appeals may disregard evidence, even if uncontroverted by an opposing party, if the Board finds such evidence not to be credible.

Property Notification Requirements

Per § 128-179. "Public notice", of the Town Code, whenever the application of Chapter 128, Zoning requires the holding of a public hearing, the petitioner requesting the public hearing shall give at least 14 days notice of the time and place of such hearing by certified U.S. mail, first class postage prepaid by petitioner, to the owners of property within 200 feet of the property with which the hearing is concerned. Proof of certified mailing shall be submitted to the Department of Planning prior to the date on which the proceeding is scheduled. Failure to provide proof of certified mailing to all property owners within 200 feet of the property on which the proceeding is scheduled shall delay the proceeding. Said mailed notice shall be directed to the address to which the real estate tax bill on the property is sent.

The Department of Planning shall provide a complete, accurate and up-to-date list of all such property owners that require notice. Failure of a person to receive the notice or accept service prescribed in this section shall not impair the validity of the hearing. For any Planning Commission or Board of Appeals review that requires notification to contiguous property owners, the petitioner shall also post the subject property at least 14 days prior to the meeting.

Said notice shall contain the same information as the published notice required by § 128-178 of the Town Code;

- A. The date, time and place of such hearing.
- B. A summary of the purpose of the proceeding in sufficient detail to inform the public of the nature of the proceeding and the relief sought by the initiator of the proceeding.
- C. The location of the property involved, its area, name of owner, and file or case number of the proceeding, and the name of the governmental body before which such proceeding is to be conducted.
- D. Any other information deemed necessary by the Director of Planning to adequately inform the public of the proceeding.

TAX ID	911 ADDRESS	PROPERTY OWNER		MAILING ADDRESS					LOT	MAP	PARCEL
0603021327	FOY RD	KNIPPLE DARLENE M		P.O. BOX 142	DENTON	MD	21629			0106	0010
0603036324	9698 FOY ROAD	KNIPPLE JAMES EDWARD		9698 FOY RD	DENTON	MD	21629	3425	2	0106	0356
0603031411	9640 LEGION ROAD	HERSHEY CREAMERY COMPANY		301 S CAMERON ST	HARRISBURG	PA	17101	2815	10A 1	0106	2359
0603009939	610 LEGION ROAD	WALMART REAL ESTATE BUSINESS TRUST	ATTN PROPER TAX DEPT	PO BOX 8050 MS 0555	BENTONVILLE	AR	72716			0105	2365
0603025144	650 LEGION ROAD	COMMISSIONERS OF DENTON		4 N SECOND ST	DENTON	MD	21629			0105	2367
0603017869	9643 LEGION ROAD	WHRB ENTERPRISES LLC		1110 CHUKKER LANE	CROWNSVILLE	MD	21032	1926		0106	2442
0603008924	9675 FOY ROAD	LOWETH VANESSA		9675 FOY ROAD	DENTON	MD	21629		1	0106	2443
0603027791	9685 FOY ROAD	JONES LINDA L	LOWETH MARTIN L	9685 FOY ROAD	DENTON	MD	21629		2	0106	2444
0603027783	9691 FOY ROAD	WHITE CHARLES H JR		9691 FOY ROAD	DENTON	MD	21629	3426	3	0106	2445
0603016765	9699 FOY ROAD	WOTHERS JESSICA N		9699 FOY ROAD	DENTON	MD	21629			0106	2446
0603022668	9696 FOY ROAD	4AC DEN LLC		PO BOX 142	CHESTER	MD	21619	0142		0106	2473
0603019551	FOY RD	JPA VENTURE LLC		PO BOX 142	CHESTER	MD	21619	0142		0106	2475
0603010325	625 LEGION ROAD	DHRUVIL LLC		8744 CONCORD RD	SEAFORD	DE	19973			0105	2476
0603015122	LEGION RD	DENTON SITE SW LLC		36932 SILICATO DR STE 10	MILLSBORO	DE	19966			0105	2479
0603033465	LEGION RD	PSM PROPERTY LLC		8774 CONCORD RD	SEAFORD	DE	19973		1	0106	2479
0603033570	CHESAPEAKE DR	JPA VENTURE LLC		PO BOX 142	CHESTER	MD	21619	2165		0106	2480
	ROUTE 404	STATE HIGHWAY ADMINISTRATION		615 MORGNEC RD	CHESTERTOWN	MD	21620				

Supplemental Variance Narrative JPA Venture LLC

Introduction

Applicant JPA Venture LLC (“**Applicant**”) hereby request, pursuant to Town of Denton Code §128-163(K), a variance from the lot dimension provisions of the Zoning Chapter of the Town of Denton Code (the “**Code**”). Specifically, a unique hardship arises related to installation of Commerce Drive upon Applicant’s property which mandates that a variance be sought from the Town to remedy. Applicant is the owner of the forty six (46) acre property located along Legion Road and just south of Maryland Route 404 in the Town of Denton (the “**Property**”). The portion of the Property subject to this application is located in the Regional Highway Commercial (RHC) District. Applicant seeks to construct, or allow to be constructed, an access road (“**Commerce Drive**”) across the Property that will connect Maryland Route 404 and Legion Road. Proper engineering and design of Commerce Drive requires the road to be installed as depicted by the “EXHIBIT FOR CRESCENT LOT” prepared by Davis, Moore, Shearon & Associates, LLC and attached hereto as Exhibit A (the “**Site Plan**”). Commerce Drive will create a crescent-shaped portion of the Property to the west of the proposed road as depicted by the Site Plan (the “**Crescent Lot**”). Following construction, Commerce Drive will be conveyed to the Town of Denton as a Town roadway, which creates a de facto subdivision of the Crescent Lot. Therefore, a variance is required so that the Crescent Lot can exist as depicted by the Site Plan. Applicant seeks a variance to reduce the lot depth for the Crescent Lot to from 125’ to 104.1’ (a variance of 20.9’).¹

The Crescent Lot is compliant with the Code in that it has (i) a lot area greater than 20,000 square feet, (ii) a front setback greater than 50’, (iii) a rear setback greater than 20 feet, (iv) side setback greater than 20’ and greater than 50’ in the aggregate, and (v) a lot width greater than 100’.

Discussion

Applicant hereby requests a variance to reduce the lot depth on the Crescent Lot from 125’ to 104.1’ to allow the Crescent Lot to exist as required for construction of Commerce Drive. Applicant addresses the applicable criteria as follows:

- a) *Strict application of the zoning chapter would produce unnecessary and undue hardship.*

The strict application of the lot depth requirement would result in unnecessary and undue hardship to the Applicant. Commerce Drive’s alignment is dictated by the configuration and alignment of two existing road connection points that are already established on Legion Road and Maryland Route 404. The Crescent Lot complies with every setback requirement of the Code except for the lot depth. Strict application of the

¹ Table of Density and Dimensional Regulations, Appendix VIII of the Code.

lot depth standards would mean that Commerce Drive could not be constructed in a safe manner and as engineering design guidelines mandate. Intersections at Legion Road and Maryland Route 404 need to be ninety (90) degrees to ensure safe maneuvering and sight lines.

- b) *The above hardships are the result of special conditions and circumstances not generally shared by other properties in the same zoning district or vicinity and which are peculiar to the land, structure or building involved.*

Commerce Drive's alignment is dictated upon two existing road connection points that are already established on Legion Road and Maryland Route 404. Commerce Drive's configuration is also a result of safety considerations such as providing proper visibility at intersections and maneuverability of turns to and from Commerce Drive. The required configuration of Commerce Drive due to pre-existing connection points and safety concerns creates a special circumstance specific to the Property, the Crescent Lot, and Commerce Drive. These hardships are the result of special conditions and circumstances not generally shared by other properties in the same zoning district. Commerce Drive is a regional improvement that will become a public roadway and will be owned by the Town of Denton following construction. The variance is necessarily to allow the project to proceed in the approval and construction process.

- c) *The above special conditions or circumstances are not the result of the applicant's actions.*

Engineering and design requirements mandate that Commerce Drive be designed as it is proposed. The Maryland State Highway Association ("SHA") has specific requirements for intersection design, which the proposed road satisfies as it has been designed. These special conditions have not been created by Applicant but are created by the Town and SHA design requirements for roadways. The special conditions or circumstances discussed herein are not the result of Applicant's actions.

- d) *The variance will be in harmony with the general intent of the zoning chapter and will not be injurious to adjacent property, the character of the neighborhood or the public welfare.*

The zoning chapter was adopted for the purpose of "controlling congestion in the streets; securing the public safety; promoting health and the general welfare; providing adequate light and air; promoting the conservation of natural resources; preventing environmental pollution; avoiding undue concentration of population; facilitating the adequate provision of transportation, water, sewerage, schools, recreation, parks and other public requirements."² Approval of the variance will allow Commerce Drive to

² The Town of Denton Code § 128-4.

be constructed and will create less congestion in the surrounding area (particularly at the Legion Road and Maryland Route 404 intersection) and facilitate transportation for the Town of Denton's citizens and visitors.

Approval of this variance will not be injurious to adjacent property owners. The adjacent properties are identified for primarily commercial development and an additional roadway can only enhance maneuverability and access. No impacts will result to nearby or adjacent properties as a result of granting of the variance sought. The character of the neighborhood will not change and the public welfare will be improved by providing a safe, alternate route to and from Legion Road and Maryland Route 404. The variance is in harmony with the general intent of the zoning chapter and will not be injurious to adjacent property, the character of the neighborhood or the public welfare

- e) *The variance will not allow a use expressly or by implication prohibited in the zoning district involved.*

The variance is for the establishment of the Crescent Lot, not a use on the Property. The variance will not allow a use expressly or by implication prohibited in the RHC district.

- f) *The condition, situation, or intended use of the property concerned is not of so general or recurring nature as to make practicable a general amendment to the zoning chapter.*

The Crescent Lot will be created due to the construction of Commerce Road. The Crescent Lot meets all setback requirements other than lot depth. The situation of the Crescent Lot is not of so general nature as to make practicable a general amendment to the zoning chapter. The unique configuration of Legion Road and Maryland Route 404 in relation to the subject property create a unique circumstance that will not apply to other properties in the Town.

- g) *The variance will be the minimum necessary to afford relief.*

The variance will be the minimum necessary to afford relief. The request to reduce the applicable lot depth from 125' to 104.1' on the Crescent Lot is the minimum necessary to permit the Garage to remain as constructed. The variance will apply only to the Crescent Lot and will establish the Crescent Lot so that Commerce Drive can be constructed as required.

For the foregoing reasons, the Board of Appeals should approve the setback variance sought by Applicant.

EXHIBIT A

Site Plan

[See Attached]



P. 2474
LANDS N/F OF
JPA VENTURES, LLC
473/242
USE - AGRICULTURAL
ZONED - RHC (REGIONAL HIGHWAY COMMERCIAL)

P. 2476
LANDS N/F OF
DHRUVIL, LLC
1595/250
USE - COMMERCIAL
ZONED - RHC (REGIONAL HIGHWAY COMMERCIAL)

SITE STATISTICS

CURRENT USE - VACANT
PROPOSED USE - COMMERCIAL

GROSS SITE AREA	=	0.995 ac.± (43,338 sq. ft.±)
CRITICAL AREA	=	0.000 ac.±
BASE SITE AREA	=	0.995 ac.± (43,338 sq. ft.±)
AREA IN PROTECTED RESOURCES	=	0.00 ac.±
AREA WITHIN FLOODPLAIN	=	0.00 ac.±

FLOOR AREA (EXISTING) (0.0%)	=	0.000 ac.± (0,000 sq. ft.±)
FLOOR AREA (PROPOSED)	=	0.000 ac.± (0,000 sq. ft.±)
FLOOR AREA (TOTAL) (0.0%)	=	0.000 ac.± (0,000 sq. ft.±)

IMPERVIOUS AREA (EXISTING) (0.0%)	=	0.000 ac.±
IMPERVIOUS AREA (PROPOSED)	=	0.024 ac.±
IMPERVIOUS AREA (TOTAL) (2.4%)	=	0.024 ac.±

LANDSCAPE AREA (EXISTING) (100%)	=	0.995 ac.±
LANDSCAPE AREA (PROVIDED) (97.6%)	=	0.971 ac.±

(PER TABLE OF DENSITY AND DIMENSIONAL REGULATIONS, APPENDIX VIII):

MINIMUM LOT AREA = 20,000 sq. ft.
FRONT = 50'
REAR = 20'
SIDE = 20' (50' AGGREGATE)
MINIMUM LOT WIDTH = 100'
MINIMUM LOT DEPTH = 125'

DATE	SCALE	EXHIBIT	DATE	REVISION	SEAL
OCTOBER '24	1"= 60'	FOR			
JOB No.	DRAWN BY	CRESCENT LOT			
2022184	WJM	IN THE TOWN OF DENTON			
FOLDER Ref.	DESIGNED BY	TAX MAP - 106, PARCEL - 2274			
106-2022184	KJS	THIRD ELECTION DISTRICT, CAROLINE COUNTY, MARYLAND			
SHEET No. - 2 OF 2		PREPARED FOR : JPA VENTURES, LLC			
CADD FILE - 22184CRESCENT					