



City of Nashua
Planning Department
 229 Main Street
 Nashua, New Hampshire 03061-2019

Planning & Zoning 589-3090
 WEB www.nashuanh.gov

VARIANCE APPLICATION (ZBA)

PLEASE NOTE: INCOMPLETE OR ILLEGIBLE APPLICATIONS WILL NOT BE ACCEPTED

I. VARIANCE INFORMATION

1. ADDRESS OF REQUEST 1 Clement Street

Zoning District RA Sheet 112 Lot 16

2. VARIANCE(S) REQUESTED:

To allow a driveway within 35' feet of an intersection where 50' is required by Section 190-17E(2)

II. GENERAL INFORMATION

1. **APPLICANT / OPTIONEE** (List both individual name and corporate name if applicable)

(Print Name): Rivier University

Applicant's signature [Signature] Date 2/23/2022

Applicant's address 420 South Main Street, Nashua, NH

Telephone number H: 603-318-0455 C: 603-459-4546 E-mail: mholliis@nh-lawyers.com

2. **PROPERTY OWNER (Print Name):** Rivier University

*Owner's signature [Signature] Date 2/23/2022

Owner's address 420 South Main Street, Nashua, NH

Telephone number H: 603 318-0455 C: 603 459-4546 E-mail: mholliis@nh-lawyers.com

*Agents and/or option holders must supply written authorization to submit on behalf of owner(s).

OFFICE USE ONLY Date Received 2/22/22 Date of hearing 3/22/22 Application checked for completeness: CF

A# 22-0031 Board Action _____

\$ _____ application fee Date Paid _____ Receipt # _____

\$ _____ signage fee Date Paid _____ Receipt # _____

\$ _____ certified mailing fee Date Paid _____ Receipt # _____

Land Use Code Section(s) Requesting Variances From: 190-17(E)(2)

III. PURPOSE OF REQUEST

Answer all questions below. Provide as much information as available to give the ZBA the necessary facts to review your case. Attach additional sheets if necessary. See "Procedures for Filing a Variance" for further information.

1. **Granting of the requested variance will not be contrary to the public interest**, because: (The proposed use must not conflict with the explicit or implicit purpose of the ordinance, and it must not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure "public rights.")

See attached sheet

2. **The proposed use will observe the spirit of the ordinance**, because: (The proposed use must not conflict with the explicit or implicit purpose of the ordinance and must not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure "public rights.")

The construction of a driveway within 35 feet of an intersection where 50' is required, will not alter the character of the neighborhood. The project is to redevelop the majority of the neighborhood less two houses. There will be adequate spacing between the proposed driveway and the intersection and given the limited driveways and location of proposed buildings there will be no threat to public health safety or welfare as the design is to allow reasonable traffic control on site.

3. **Substantial justice would be done to the property-owner by granting the variance**, because: (The benefits to the applicant must not be outweighed by harm to the general public or to other individuals.)

The driveway will be 35 feet from the intersection with good site visibility. Dormitories are a permitted use by conditional use permit, and driveways and parking will be necessary for the residents. Allowing a driveway on a low traffic campus street where most of the traffic will come from the driveway itself exiting away from the intersection will not harm the public as the lot will have sufficient sight distance.

4. **The proposed use will not diminish the values of surrounding properties**, because: (The Board will consider expert testimony but also may consider other evidence of the effect on property values, including personal knowledge of the members themselves.)

Granting the variance will not cause any real change to the neighborhood, a driveway 15' closer to the intersection will not affect values of surrounding properties. The University owns the majority of the surrounding properties

- 5. **Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship,** because: (The applicant must establish that because of the special conditions of the property in question, the restriction applied to the property by the ordinance does not serve the purpose of the restriction in a "fair and reasonable" way. Also, you must establish that the special conditions of the property cause the proposed use to be reasonable. The use must not alter the essential character of the neighborhood. Alternatively, you can establish that, because of the special conditions of the property, there is no reasonable use that can be made of the property that would be permitted under the ordinance. If there is any reasonable use (including an existing use) that is permitted under the ordinance, this alternative is not available.

This property is unique in that it is part of the residential zone but the entire block less two houses are owned by the University. The proposed driveway will be 15' feet closer to the intersection than permitted but will be the only driveway on the block. The purpose of the ordinance is to ensure there is sufficient length of road for ingress and egress from the driveway considering the stacking which may occur at the intersection and insure safe sight distances. Enforcement of this provision against this property bears no fair and substantial relationship to the purpose of the particular provision in this instance because of the unique setting of the property given the campus setting. The proposed location is reasonable as most traffic will exist away from the intersection.

IV. USE VARIANCE ADDITIONAL INFORMATION

Please answer all questions below that are applicable. Your answers to these questions will allow staff to better understand your request.

- a. Total number of employees Number of employees per shift
- b. Hours and days of operation
- c. Number of daily and weekly visits to the premises by customers, clients, vendors and solicitors
- d. Number of daily and weekly commercial deliveries to the premises
- e. Number of parking spaces available
- f. Describe your general business operations:

- g. Describe any proposed site renovations, including, but not limited to – landscaping, lighting, pavement, structural changes, signage, access and circulation:

I hereby acknowledge that I have read this application and state that the above is correct and agree to comply with all the city ordinances and state laws regulating construction. I understand that only those points specifically mentioned are affected by action taken on this appeal.

Morgan A. Hollis, Atty for Rivier University
Signature of Applicant

2/23/2022
Date

Morgan A. Hollis
Print Name

2/23/2022
Date

The staff report for a Use Variance request will be available no later than Friday of the week before the ZBA meeting. If you would like a copy, please indicate below:

I will pick it up at City Hall

Please email it to me at

Please mail it to me at

1. **Granting of the requested variance will not be contrary to the public interest.**

This property is going to be redeveloped from existing separate single family lots into part of the University's campus with parking and up to six dormitories for the University's students. Permitting the driveway to be located at the end of the lot near to the intersection allows the University the maximum amount of parking and safest design for parking and dormitory access. Permitting the driveway to be 35' feet from the intersection where 50' feet is required will not materially alter the character of the neighborhood as this neighborhood will be transformed into part of the University's campus with single driveways at either end of the parking area with the driveways spread out from each other, not close to other driveways and yet providing sufficient sight distance visibility to the intersection. The proposed construction will not threaten the public health, safety or welfare of the public as the design of the site will ensure public safety and health and the proposed driveway is accessing a street with light traffic.

