



**Board of Adjustment
Zoning Variance
Staff Report & Findings**

TO: City of Asheville Board of Adjustment

DATE: April 13, 2016

FROM: Shannon Tuch, RLA
Zoning Administrator

PREPARED BY: Mike Wheeler
Planner

SITE INFO: Tax Description (PIN#): 9740-42-5392-00000
Street Address: 873 Merrimon Avenue
Zoning: CBII (Community Business II)
Property Owner: New Mountain LLC

Summary Statement:

The petitioner, Thom Morgan, Manager for New Mountain LLC, owner, is requesting a variance to §7-8-13(f)(9) of the Unified Development Ordinance (UDO) to allow off-street parking to occur in front of the principle building.

Variance Request:

Zoning and Use	UDO Max. Allowance	Applicant Request	Variance
CBII, Eating/Drinking Establishment	No parking shall be located closer to the street than the edge of the structure.	To provide parking closer to the street than the edge of the structure	100% of requirement

Background:

The subject parcel will be the new location for MOD Pizza. The lot is .549 acres or 21,538 square feet per the proposed site plan. The applicant proposes to utilize the existing 2,369 square foot structure, which was built in 1985 as a gasoline/automobile service station. The applicant proposes to remove the existing canopy and remove one of four existing access point along Merrimon Avenue in order to create some additional off-street parking for the proposed new use.

Review, Analysis & Considerations:

- The subject property is zoned CBII (Community Business II). The parcel is bordered by RS-8 (Residential Single-Family) to the north and a portion to the east, RM-8 (Residential Multi-Family) to the remaining portion to the east, HB (Highway Business) across Merrimon Avenue to the west and CBII to the south.
- The subject property is located at the intersection of Merrimon Avenue and Ottari Road and is surrounded with commercial, institutional and residential uses. (Ottari Rd. splits into Ottari and Johnson Dr. on the north side of the property).
- The property is a corner lot with road right-of-way on two sides.
- The right-of-way for Merrimon Ave. at this location is approximately 60-feet wide and the western property line is set back approximately 10' from the edge of pavement.
- The right-of-way for Ottari Rd./Johnson Dr. is approximately 30-35-feet wide where the edge of

pavement is very close to the northern property line.

- The applicant proposes to adaptively reuse the existing structure which is located towards the rear of the lot.
- The applicant proposes to retain the off-street parking already occurring in front of the structure and add some additional spaces in front of the structure by closing the north/west access point along Merrimon Avenue and removing the existing canopy that serviced the previous gas station in order to create a total of 31 off-street parking spaces for the site.
- Based on the proposed seating capacity (indoor and outdoor) and employees on greatest shift, 31 off-street parking spaces is the minimum amount of parking required for the proposed use. This minimum requirement also takes into consideration a 20% reduction in parking for properties zoned CBII, as this district was established to service pedestrian traffic from area residential neighborhoods.
- The overall parking requirement may be reduced by reducing the number of seats in the restaurant.
- Additional parking spaces may be added, or the parking layout reconfigured, by closing an additional driveway opening.
- Subject property is comparatively small to the majority of other commercial properties in the area.

Driving Directions:

From downtown, travel north on Merrimon Avenue to the intersection of Merrimon Avenue and Ottari Road. The subject property is located at the south/west corner of this intersection.

FINDINGS:

In order for the Board of Adjustment to grant this variance request, the following findings of fact must be made:

- 1) Unnecessary hardship would result from the strict application of the ordinance.
- 2) The hardship results from the conditions that are peculiar to the property, such as location, size, or topography.
- 3) The hardship did not result from actions taken by the applicant or the property owner.
- 4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

Attachments:

Exhibit A – Aerial Map

Exhibit B – West Elevation Photo

Date Petition Filed: March 23, 2016

Date Reviewed by Board of Adjustment: April 25, 2016