



## ARLINGTON COUNTY, VIRGINIA

### County Board Agenda Item Meeting of December 9, 2006

**DATE:** November 30, 2006

**SUBJECT:** Amendment to Section 36. Administration and Procedures of the Arlington County Zoning Ordinance to authorize the Board of Zoning Appeals to grant special exception use permits that modify requirements contained in the Zoning Ordinance with respect to physical requirements of improvements on a lot or parcel of land, including setback and other placement requirements, coverage, and height.

#### **C. M. RECOMMENDATION:**

Adopt the attached ordinance to amend Section 36. of the Arlington County Zoning Ordinance to authorize the Board of Zoning Appeals to grant special exception use permits that modify requirements contained in the Zoning Ordinance with respect to physical requirements of improvements on a lot or parcel of land, including setback and other placement requirements, but not including coverage and height; to facilitate the creation of a convenient, attractive and harmonious community; and for other reasons required by the public necessity, convenience and general welfare and good zoning practice.

**ISSUES:** None.

**SUMMARY:** The Code of Virginia restricts the ability of the Board of Zoning Appeals (BZA) to approve variances from strict application of the Zoning Ordinance. The Code gives the County Board the authority to authorize the BZA to grant special exceptions. This Zoning Ordinance Amendment would give the BZA the authority to approve use permits that modify placement requirements for by-right development. The use permit process could be used as an alternative to the variance process that has been used by Arlington homeowners to deal with the constraints of their lots and/or existing dwellings when designing improvements.

**BACKGROUND:** The Arlington Board of Zoning Appeals (BZA) is made up of five members who are appointed by the Circuit Court. They serve for staggered terms of four (4) years.

County Manager: \_\_\_\_\_

County Attorney: \_\_\_\_\_

Staff: Terry Russell, Zoning Administrator

Tony Burnette, Deputy Zoning Administrator, Executive Secretary of the BZA

PLA-4563

The powers of the BZA are defined by State and County Code. The State Code states in part that:

“Boards of zoning appeals shall have the following powers and duties:

1. To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this article or of any ordinance adopted pursuant thereto. The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. The board shall consider the purpose and intent of any applicable ordinances, laws and regulations in making its decision.
2. To authorize upon appeal or original application in specific cases such variance as defined in § 15.2-2201 from the terms of the ordinance as will not be contrary to the public interest, when, owing to special conditions a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of the ordinance shall be observed and substantial justice done, as follows:

When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of the piece of property, or of the condition, situation, or development of property immediately adjacent thereto, the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the utilization of the property or where the board is satisfied, upon the evidence heard by it, that the granting of the variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the ordinance.

No such variance shall be authorized by the board unless it finds:

- a. That the strict application of the ordinance would produce undue hardship;
- b. That the hardship is not shared generally by other properties in the same zoning district and the same vicinity; and
- c. That the authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.”

**Cochran, et al v. Board of Zoning Appeals:** In April 2004 the Supreme Court of Virginia issued a ruling based on the appeal of three variance cases in three jurisdictions. This ruling clarified the meaning of the above provisions, that “...a BZA has no authority to grant a variance unless the effect of the zoning ordinance, as applied to a piece of property under consideration, would, in the absence of a variance, interfere with all reasonable beneficial uses of the property, taken as a whole...” Staff believes that this ruling reinforces the existing state law that limits the authority of the BZA to grant variances. As a result of this ruling, as of July 2004, Zoning Staff has recommended that the BZA deny the variances that have been requested since none have met the standard as interpreted by the Court. The BZA has continued to grant variances, however. The Virginia Code, the County Code and case law guide decisions of the BZA. After the

findings in Cochran, et al v. Board of Zoning Appeals the work of the BZA has been more challenging. Many homes in Arlington are older and built out of compliance with current code. Homeowners who want to upgrade or make improvements to their homes often must apply for a variance. The BZA strives to use good judgment when addressing these requests.

**Variations Considered in 2006:** Through November 13, 2006, there were 100 Variance cases processed and heard at 10 public hearings held by BZA. These cases contained 127 requests to authorize variances to specific provisions of the Arlington County Zoning Ordinance. Table 2 lists the average number of variance cases per month for the years 1990 through November 2006. Table 3 shows the BZA actions on requests for variances from 1995 through November 2006. Table 4 shows the number of Variance requests by Zoning Section. Thus far in 2006, the BZA has granted 79 variance cases, most of them with conditions. The BZA denied 15 variance cases and 6 were withdrawn. The BZA granted approximately 79 percent of the variance cases that were heard so far in 2006 which is approximately the same percentage as 2005, but is significantly lower than in past years.

Table 1 lists by month and year the number of variance cases since 1990. The average yearly number of Variance cases heard by the BZA since 1990 is approximately 206. As stated above, 120 Variance cases were heard in 2005 or 86 fewer cases than the yearly average since 1990. The decrease in the number of cases may be a result of the Virginia Supreme Court ruling Cochran, et al v. Board of Zoning Appeals.

**Table 1**  
**Variance Cases: Month & Year**  
**1990 through 2006**

<b>YEAR</b>	<b>FEB</b>	<b>MAR</b>	<b>APR</b>	<b>MAY</b>	<b>JUN</b>	<b>JUL</b>	<b>AUG</b>	<b>SEPT</b>	<b>OCT</b>	<b>NOV</b>	<b>DEC</b>	<b>TOTAL</b>
1990	22	9	18	16	27	16	21	18	27	19	22	<b>215</b>
1991	26	13	11	21	25	29	24	27	16	18	9	<b>219</b>
1992	23	15	19	25	16	23	22	17	22	14	23	<b>219</b>
1993	16	9	13	18	20	20	18	17	19	17	20	<b>187</b>
1994	16	14	16	26	31	19	26	20	19	16	19	<b>222</b>
1995	19	12	24	23	35	21	18	20	15	16	15	<b>218</b>
1996	17	11	10	22	14	18	27	18	16	27	22	<b>202</b>
1997	30	13	17	26	16	16	27	15	15	24	18	<b>217</b>
1998	21	12	19	29	24	18	24	21	21	16	21	<b>226</b>
1999	22	13	27	28	13	37	21	18	23	24	19	<b>245</b>
2000	30	13	17	22	31	15	10	21	14	21	20	<b>214</b>
2001	25	4	15	16	23	16	8	18	12	11	18	<b>166</b>
2002	36	15	18	15	19	18	15	19	15	21	24	<b>240</b>
2003	30	14	10	20	13	17	19	17	12	20	23	<b>195</b>
2004	34	14	20	15	22	21	11	12	12	9	14	<b>185</b>
2005	19	16	13	14	11	12	9	7	9	5	5	<b>120</b>
2006	12	7	13	10	10	10	9	10	13	6	---	<b>100</b>
<b>Total</b>	<b>398</b>	<b>204</b>	<b>280</b>	<b>346</b>	<b>350</b>	<b>326</b>	<b>309</b>	<b>295</b>	<b>280</b>	<b>284</b>	<b>292</b>	<b>3390</b>

**Table 2**  
**Variance Cases: Average/Month**

**1990 through 2006**

1990	19.5
1991	19.9
1992	19.9
1993	17.0
1994	20.2
1995	19.8
1996	18.4
1997	19.7
1998	18.4
1999	19.7
2000	20.5
2001	22.3
2002	19.5
2003	15.4
2004	16.8
2005	10.9
*2006	10
Average (16 years)	18.1

\*The 2006 data does not include the December meeting.

**Table 3  
Board of Zoning Appeals Actions on Requests for Variances  
1995 through 2006**

	<u>Number of Application</u>	<u>Variance Request [1]</u>	<u>Approved as Req [2]</u>	<u>App. w/ Conditions</u>	<u>Withdrawn[3]</u>	<u>Denied</u>
1995	218	254	56	194	0	4
1996	202	229	37	186	2	4
1997	217	244	25	214	2	3
1998	226	257	43	204	5	5
1999	245	295	45	240	5	5
2000	214	301	30	262	6	3
2001	166	207	24	183	10	5
2002	240	265	5	244	10	6
2003	195	223	10	170	5	10
2004	185	240	2	168	6	9
2005	120	152	2	119	6	25
*2006	100	127	4	79	6	15
<b><u>Totals</u></b>	<b>2,328</b>	<b>2794</b>	<b>283</b>	<b>2,263</b>	<b>63</b>	<b>94</b>

[1] By Sections and subsections of the Zoning Ordinance, some applications include two or more variance requests.

[2] As requested by the applicant.

[3] Applicant's request for withdrawal granted by the BZA.

\*The 2006 does not include the December meeting.

**Table 4**  
**Board of Zoning Appeals Requests by Zoning Ordinance Sections**  
**and Subsections**  
**2000 through 2005**

	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>Number</u>	<u>Percent</u>
<b>Street Setbacks (32, D-1d)</b>	99	56	78	66	77	46	38	460	29.04%
<b>Side Yards (32, D-2b)</b>	91	99	97	91	103	60	45	586	36.99%
<b>Rear Yards (32, D-2b)</b>	47	29	53	39	38	27	18	251	15.85%
<b>8-Foot Yard (32, D-2e)</b>	42	10	7	9	14	5	1	88	5.56%
<b>A/C Units (32, D-3b)</b>	32	2	8	2	1	3	0	48	3.03%
<b>50% of Floor Area (35, A.3.b.)</b>	4	1	5	7	20	18	10	65	4.10%
<b>All Others*</b>	<u>18</u>	<u>13</u>	<u>12</u>	<u>10</u>	<u>9</u>	<u>9</u>	<u>15</u>	<u>86</u>	5.43%
<b>TOTALS</b>	333	210	260	224	262	168	127	1,584	100.00%

\* Includes variances for fences (35), resubdivisions (6), building height (12), driveway aprons (1) coverage over 56 percent (9), parking area encroaching on a setback (8), parking space size and drive aisle width (4), oversized accessory structures (4), waiver of screening wall requirement (1), vision clearance (1), main building footprint (1).

**DISCUSSION:** The Code of Virginia gives the County Board the authority to authorize the BZA to grant special exceptions. This Zoning Ordinance Amendment would give the BZA the authority to approve use permits that modify placement requirements for by-right development, primarily involving one-family dwellings. The use permit process could be used as an alternative to the variance process that has been used by Arlington homeowners to deal with the constraints of their lots and/or existing dwellings when designing improvements.

When the County Board authorized public hearings to consider the Zoning Ordinance amendment it was proposed that the BZA would consider special exceptions that modify coverage and height requirements as well as placement requirements. As shown in Table 4, 82 percent of variances considered by the BZA in the last seven (7) years have been for modifications to the placement regulations for front setbacks, and side and rear yards. Variances for height and for coverage are relatively rare.

Variance requests in 2005 related mostly to the requirements for placement of structures on a lot. The most often requested variance (60) was for relief from side yard setback requirements (Section 32, Subsection D.2.b.). The second most often requested Variance (45) was for relief from street setback requirements (Section 32, Subsection D.1.d). Variances for these two sections of the Zoning Ordinance comprised approximately 66 percent of the total number of Variances heard by the BZA in 2005. The third most requested variance (27) was for Variances from rear yard requirements. The fourth most requested Variance was for additions totaling more than 50-percent of the floor area of the existing dwelling on substandard sized lots (Section 35, Subsection A.3.b.).

Variance requests in 2006 related mostly to the requirements for placement of structures on a lot. The most often requested variance (45) was for relief from side yard setback requirements (Section 32, Subsection D.2.b.). The second most often requested Variance (38) was for relief from street setback requirements (Section 32, Subsection D.1.e). Variances for these two sections of the Zoning Ordinance comprised approximately 66 percent of the total number of Variances heard so far in 2006. The third most requested variance (18) was for Variances from rear yard requirements. The fourth most requested Variance was for additions totaling more than 50-percent of the floor area of the existing dwelling on substandard sized lots (Section 35, Subsection A.3.b.).

On November 15, 2005 the County Board approved amendments to the Zoning Ordinance related to lot coverage (Section 32, Subsection C). The BZA had not heard any variance requests related to the new coverage regulations through its meeting in August, 2006. One coverage variance request is pending and scheduled for the February 2007 BZA meeting.

**The Proposed Amendment:** The proposed Zoning Ordinance Amendment would provide a mechanism to consider proposals to modify the requirements of the Zoning Ordinance to accommodate designs of new structures and additions to existing structures. This process would alleviate the difficulties from the very limited ability of the BZA to grant variances. The special exception use permit process that the BZA would administer would provide Arlington property owners the ability to request modification which formerly could only be done by variance. The proposed special exception process would permit the BZA to modify requirements when it finds

that the proposal meets the standards set forth in the Zoning Ordinance. The requests would be advertised in the newspaper, on the County's website, and on placards in the neighborhood. The BZA would consider the special exception request at a public hearing.

**Public Review Process:** The County Board at its meeting on January 21, 2006 authorized a public hearing to be held at its March 14, 2006 meeting to consider the proposed amendment. At its March meeting the County Board deferred the amendment to its July meeting at which time it deferred the amendment to September. The amendment was deferred to accommodate the public review process. The NCAC requested the last deferral in order to complete its deliberations on the amendment at its July meeting. ZOCO held two meetings to review the amendment. The Planning Commission held a public hearing in September and recommended approval of the proposed amendment with changes. The County Board deferred the amendment to its December meeting.

**Civic Federation Recommendation:** The Civic Federation recommended that the Zoning Ordinance Amendment be adopted as originally proposed, that is to authorize the Board of Zoning Appeals to grant special exception use permits that modify requirements contained in the Zoning Ordinance with respect to physical requirements of improvements on a lot or parcel of land, including setback and other placement requirements, coverage, and height.

**NCAC Recommendation:** The NCAC has recommended that the proposed Zoning Ordinance be adopted, however, excluding use permits for modifications for height and coverage. It also recommended that the standards for approving a use permit be modified.

The proposed standards are as follows:

*The BZA shall approve a use permit when it finds:*

- a. That the proposal will not affect adversely the health or safety of persons residing in the neighborhood.*
- b. That the proposal will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood.*
- c. That the proposal will not be in conflict with the purposes of the master plans of the County.*
- d. That the modification will promote compatibility of development with the surrounding neighborhood.*
- e. That the modification will help preserve natural land form, historical features and/or significant trees and foliage.*

NCAC proposes that the following language be added to the fourth standard (d.) listed above:  
*“In determining compatibility of development with the surrounding neighborhood, the BZA shall not approve a use permit unless it finds that the exception sought – if granted – would authorize a structure whose proportions and placement are similar to the structures on the properties surrounding the lot in question.”*

## Planning Commission Recommendation:

The Planning Commission recommended approval of the language suggested by the NCAC and recommended additional changes to the proposed amendment as follows:

6. The Board of Zoning Appeals may approve use permits that allow modifications of placement, coverage and/or height requirements for structures on lots where the use is a one-family dwelling and there is no option in the Zoning Ordinance to allow modification of requirements by the County Board, such as special exception use permit described in Section 36.G. or site plans described in Section 36.H. The Board of Zoning Appeals may impose conditions on the use permit that it deems necessary in the public interest, including limiting the duration of the use permit. The BZA shall may approve a use permit when it finds:
  - a. That the proposal will not affect adversely the health or safety of persons residing in the neighborhood.
  - b. That the proposal will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood.
  - c. That the proposal will not be in conflict with the purposes of the master plans of the County.
  - d. That the modification will promote compatibility of development with the surrounding neighborhood.  
In determining compatibility of development with the surrounding neighborhood, the BZA shall not approve a use permit unless it finds that the exception sought – if granted – would authorize a structure whose proportions and placement are similar to the structures on the properties surrounding the lot in question.
  - e. That the modification will help preserve not adversely affect natural land form, historical features and/or significant trees and foliage.
  - f. When a modification to the setback from a street is sought an easement will be granted to the County for a public sidewalk if no sidewalk exists and if a sidewalk is designated for the property on County plans.

**ANALYSIS:** The NCAC proposal to exclude coverage and height modifications from the list of restrictions that may be varied by special exception by the BZA is a good recommendation. Variances for height are few and generally are the result of builder error. The BZA has consistently denied these requests. The new coverage restrictions have only recently been adopted and time should be taken to see how well these regulations work. It should be noted that the BZA will still be able to consider requests for variances for those restrictions for which they cannot grant special exceptions, therefore, property owners could request variances for height and coverage subject to meeting the standards for approval of a variance.

In addition, the additional language proposed by the NCAC is a good recommendation. It provides additional guidance to the BZA in considering proposals for modifications. It is proposed that the standards be modified from the originally proposed language. This is discussed later in this report.

The Planning Commission recommended that use permits be limited to one-family dwellings. Although most variance applications are for one-family dwellings, many are for two-family dwellings in “R2-7” districts. In addition there are very few variance requests for multiple family dwellings/apartments and for commercial properties. This modification of the proposed language would prevent two-family dwelling homeowners from seeking relief from placement regulations through the proposed use permit process. It is unnecessary to prohibit multiple family dwellings/apartments and commercial property from requesting use permits for modification of placement requirements because there are few requests and they would be subject to the same criteria as proposals for other uses.

The Planning Commission recommended that the language be changed to say that the BZA “may” approve a use permit when it finds that the standards for approval have been met. However, “shall” would require that the standards be met in order for the BZA to approve a use permit whereas “may” would not. It is recommended that “shall” remain.

The Planning Commission recommended that standard e. be changed from “help preserve” to “not adversely affect” natural land form, historical features and/or significant trees and foliage. It is recommended that “help preserve” remain the language because it is stronger language that is more likely to achieve County goals regarding natural land form, historical features and/or significant trees and foliage.

The Planning Commission recommended the addition of a new standard f. that would require dedication of an easement for a sidewalk when a property owner requests a modification of street setback and there is no sidewalk on the frontage of the property. There is no authority in the Code of Virginia that would permit such a condition of approval for a use permit.

It is proposed that the criteria be changed to better clarify the criteria as the NCAC intended by its recommendation. The following language is proposed to address these issues:

*...The BZA shall approve a use permit when it finds:*

- a. That the proposal will not affect adversely the health or safety of persons residing in the neighborhood.*
- b. That the proposal will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood.*
- c. That the proposal will not be in conflict with the purposes of the master plans of the County. In determining whether the proposal will be detrimental to the public welfare, injurious to property or improvements in the neighborhood or will adversely affect the health or safety of persons residing in the neighborhood, the BZA shall consider whether the modification will promote compatibility of development with the surrounding neighborhood because the structure’s overall footprint, size and placement are similar to the structures on the properties surrounding the lot in question; and whether the modification will help preserve natural land form, historical features and/or significant trees and foliage.*

**CONCLUSION:** It is recommended that the County Board adopt an ordinance to amend the Zoning Ordinance to give the BZA the authority to approve use permits that modify placement requirements for by-right development. The use permit process would be used as an alternative to the variance process that has been used by Arlington homeowners to deal with the constraints of their lots and/or existing dwellings when designing improvements for many years.

**ORDINANCE TO AMEND, REENACT, AND RECODIFY SECTION 36. ADMINISTRATION AND PROCEDURES OF THE ARLINGTON COUNTY ZONING ORDINANCE TO AUTHORIZE THE BOARD OF ZONING APPEALS TO GRANT SPECIAL EXCEPTION USE PERMITS THAT MODIFY REQUIREMENTS CONTAINED IN THE ZONING ORDINANCE WITH RESPECT TO PHYSICAL REQUIREMENTS OF IMPROVEMENTS ON A LOT OR PARCEL OF LAND, INCLUDING SETBACK AND OTHER PLACEMENT REQUIREMENTS.**

BE IT ORDAINED, by the County Board of Arlington that Section 36 of the Arlington County Zoning Ordinance is amended in order to facilitate the creation of a convenient, attractive and harmonious community; and for other reasons required by the public necessity, convenience and general welfare and good zoning practice.

**SECTION 36. ADMINISTRATION AND PROCEDURES**

\* \* \*

**E. Board of Zoning Appeals; Variances and Appeals.**

1. There shall be a Board of Zoning Appeals as provided for and having the powers, functions and responsibilities as described in the Code of the Commonwealth of Virginia.
2. Every appeal from a determination of the Zoning Administrator and every application for a variance shall be filed in writing with the Zoning Administrator. The time of the public hearing is determined by the Board of Zoning Appeals. The filing fee shall be as follows:
  - a. Appeals from a determination of the zoning administrator--Three hundred forty dollars (\$340.00).
  - b. Variances or Use Permits for existing single-family residential--Two hundred eighty-five dollars (\$285.00) for the first subsection of the zoning ordinance being modified. Each additional subsection to be modified will be an additional fee of twenty percent [20%] of the base fee.
  - c. Variances or Use Permits for single-family new construction/resubdivision for new construction--Two thousand two hundred sixty dollars (\$2,260.00) for the first subsection of the zoning ordinance being modified. Each additional subsection to be modified will be an additional fee of twenty [20] percent of the base fee.
  - d. Variance or Use Permit applications from nonprofit organizations and for nonprofit institutional uses--Two hundred thirty-five dollars (\$235.00).
  - e. Variances or Use Permits for a building location error, defined as a request for an "as-built" variance when a new structure is not built in accordance with the approved plans—Three thousand four hundred dollars (\$3,400.00).
  - f. Variances or Use Permits for all other uses—Two thousand eight hundred twenty dollars (\$2,820.00) for the first subsection of the zoning ordinance being modified. Each additional subsection to be modified will be an additional fee of twenty [20] percent of the base fee.
3. In addition to the above, the board shall have authority to grant, upon such conditions and safeguards as it may determine, such variances from the ordinance as may be in harmony with its general purpose and intent, so that the spirit of this ordinance shall be observed, public safety and welfare secured, and substantial justice done, as follows:
  - a. Permit the continuance of a nonconforming use in a conforming building for periods of three (3) years beyond the three-year limitation contained in Section 35, subsection B.2, if the board finds that: (a) said nonconforming use is not detrimental to, and does not affect adversely, adjacent property by reason of the nature of the use, generation of traffic, parking, lighting, noise and similar factors; (b) no commercial display, lighting, advertising and

wholesale or retail merchandising is carried on in connection with the conduct of said nonconforming use; (c) such discontinuance shall work practical difficulty and undue hardship upon the owner of said building.

4. If any variance or use permit granted by the board of zoning appeals is not acted upon and put into effect within one (1) year after the date of such grant, then the variance or use permit shall be null and void and of no force and effect.
5. Every applicant for a variance or use permit shall file with his application a complete disclosure of the equitable ownership of the real estate to be affected including in the case of corporate ownership, the names of stockholders, officers and directors and in any case the names and addresses of all of the parties in interest; provided that the requirement of listing names of stockholders, officers and directors shall not apply to a corporation whose stock is traded on a national or local stock exchange and having more than five hundred (500) stockholders.
6. The Board of Zoning Appeals may approve use permits that allow modifications of placement, coverage and/or height requirements for structures on lots where there is no option in the Zoning Ordinance to allow modification of requirements by the County Board, such as special exception use permits described in Section 36.G. or site plans described in Section 36.H. The Board of Zoning Appeals may impose conditions on the use permit that it deems necessary in the public interest, including limiting the duration of the use permit. The BZA shall approve a use permit when it finds:
  - a. That the proposal will not affect adversely the health or safety of persons residing in the neighborhood.
  - b. That the proposal will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood.
  - c. That the proposal will not be in conflict with the purposes of the master plans of the County.

In determining whether the proposal will be detrimental to the public welfare, injurious to property or improvements in the neighborhood or will adversely affect the health or safety of persons residing in the neighborhood, the BZA shall consider whether the modification will promote compatibility of development with the surrounding neighborhood because the structure's overall footprint size and placement are similar to the structures on the properties surrounding the lot in question; and whether the modification will help preserve natural land form, historical features and/or significant trees and foliage.

- ~~d. That the modification will promote compatibility of development with the surrounding neighborhood.~~
- ~~e. That the modification will help preserve natural land form, historical features and/or significant trees and foliage.~~