

PREPARED BY:
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PLEASE RETURN TO:
Dawn Bowne, City Clerk
City of Dunnellon
20750 River Drive
Dunnellon, FL 34431

**DEVELOPMENT ORDER #DOR2016-03
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DEVELOPMENT ORDER
GRANTING VARIANCE**

APPLICANT: Virmane, LLC

VARIANCE #: VAR2016-03

OWNER(s)/Manager: Virmane, LLC

ADDRESS OF PROPERTY: 20056 E. Pennsylvania Avenue
Dunnellon, Florida 34432

PARCEL ID #: 3383-007-004

ZONING DESIGNATION: NBR

COMPREHENSIVE PLAN

LAND USE DESIGNATION: Traditional Neighborhood

THIS MATTER came before the City Council on the 10th day of October, 2016, pursuant to Appendix A, Article IX, Section 9.3-1 of the City of Dunnellon Land Development Regulations and Section 74-108(4)(b) of the City of Dunnellon Code of Ordinances. After having considered the recommendation of the Planning Commission and Staff's Report, having heard testimony, and being otherwise duly advised on the matter, the following findings of fact and conclusions of law are made:

Findings of Fact.

1. The Subject Property comprises .72 acres±, is located at 20056 E. Pennsylvania Avenue in Dunnellon, and is legally described in Exhibit "A" attached hereto and made a part of this Development Order.

2. The Subject Property is zoned Neighborhood Business Residential (NBR). The goals, objectives, and policies of the Comprehensive Plan do not prohibit variances from Code requirements pertaining to required landscaping.

3. The City of Dunnellon Land Use and Development Code, Appendix A, Article IX, Section 9.3-1 states in pertinent part:

(a) All commercial development, regardless of size, shall comply with the following design standards.

(1) Landscape buffers shall be provided for all commercial uses in compliance with Section 74-108...

4. Section 74-108 of the City of Dunnellon's Code of Ordinances states in pertinent part:

(1) *Location and design.* Buffers shall be provided on the outer perimeter of a lot or parcel, in accordance with the requirements and standards contained in this article...

(4)(b)

Required landscaping. Within each 100 linear feet or fraction thereof of boundary, the following plants shall be provided in accordance with the planting standards and requirements of this article: three canopy trees and five understory trees along the property boundaries, together with a minimum three-gallon shrubbery or hedge to provide a continuous visual screen along all streets.

5. Applicant seeks a variance from the Section 9.3-1 and Section 74-108 requirements regarding required plantings previously approved in Applicant's prior landscaping plan.

Conclusions of Law.

6. Granting the variance is not inconsistent with the City's Comprehensive Plan.

7. ***Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the NBR zoning district.*** A special condition exists due to a prior Variance that allows a smaller landscape buffer width. The smaller width results in higher density plantings.

8. ***The special conditions and circumstances do not result from any actions of the Applicant.*** The applicant's actions have not created the density issue due to a smaller landscape buffer width.

9. ***Granting the variance requested will not confer on the applicant any special privilege that is denied by ordinance to other lands, buildings, or structures in the same zoning district.*** The Applicant will receive no special privileges as a result of granting the requested variance. There will be no change to the building use or function.

10. ***Literal interpretation of the provisions of the ordinance requiring that a 25-foot perimeter landscape buffer around the Subject Property would deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance and would work unnecessary and undue hardship on the Applicant.*** The subject property's landscape buffers have been constrained by a prior Variance. The installation of all vegetation required by the code could hinder the proper growth of the landscaping and possibly incur greater costs on the owner and city due to infrastructure damage.

11. ***The variance granted is the minimum variance that will make possible the reasonable use of the land.*** The variance requested is the minimum, according to a certified landscape architect, to allow the reasonable use of this property. The subject property has been altered to create the least amount of impact to the code requirements.

12. ***The grant of the variance will be in harmony with the general intent and purpose of the ordinance, and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.*** The subject property has relatively little open space due to a large Drainage Retention Area required by the SW Florida Water Management District. The proposed variance will improve the survivability of the landscaping, clear sight triangles as you enter E Pennsylvania Ave, and limit interference of Utilities and City Infrastructure.

BASED ON THE FOREGOING, IT IS ORDERED:

The variance requested by Applicant is approved whereby allowing Applicant to remove Live Oaks from the previously approving landscaping plan and replace with Sylvester Hollys or comparable with 3" caliper and 12' height and requiring applicant to contribute \$1,000 to the City of Dunnellon Tree Restoration Fund.

[PAGE FOLLOWS]

Upon motion duly made and carried, the foregoing Development Order was approved and passed upon the public hearing on the 14th day of March, 2016.

ATTEST:

CITY OF DUNNELLON

Dawn M. Bowne, M.M.C.
City Clerk

Nathan Whitt, Mayor

Approved as to Form and Legal Sufficiency:

Andrew Hand, City Attorney

I HEREBY CERTIFY that a copy of the foregoing Development Order was sent by electronic mail to vlumapas@att.net and by U.S. Mail to Virmane, LLC at 2551 SW 35th Street, Ocala, Florida 34471, on the ___day of _____, 2016.

Dawn M. Bowne M.M.C.
City Clerk