

Variance Justification:

In order to justify approval of any variance, the Board of Zoning Adjustment considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

1. Explain how the variance will not adversely affect the public health, safety or welfare.

It will not adversely impact the public because MSD approved best management practices will be employed for onsite storm water management prior to the storm water entering the Big Run ditch. Specifically, sediment, hydrocarbons and trash will be cleaned from the storm water entering Big Run ditch by MSD approved storm interceptors installed in the catch basins in the Boiangles parking lot.

2. Explain how the variance will not alter the essential character of the general vicinity.

The neighboring commercially zoned properties have existing encroachments into the 100 ft Streambank Buffer Area. The lack of provision of the 100 ft streambank buffer area complies with the established commercial development pattern in the general vicinity.

3. Explain how the variance will not cause a hazard or a nuisance to the public.

It will not cause a hazard or nuisance to the public because MSD approved best management practices will be employed for onsite storm water management prior to the storm water existing the proposed development and entering the Big Run ditch. Refer to 1 for details. MSD's required 25 ft Vegetative Buffer is being provided in full free of encroachments.

4. Explain how the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.

The intent of the zoning regs to protect the region's water quality is being provided by the onsite cleaning of the proposed developments storm water.

Additional consideration:

1. Explain how the variance arises from special circumstances, which do not generally apply to land in the general vicinity (please specify/identify).

The property was platted and originally commercially developed prior to the adoption of the Land Dev Code's streambank buffer requirements. Combined with the existing location of Dixie Highway to Big Run ditch there is not sufficient property area to continue to use it commercially without an encroachment.

2. Explain how the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship.

The subject site is 1.2 acres and the streambank buffer area encompasses approximately 7,520 s.f. or 15% of the site. This is a significant impact on the developable area of the site.

3. Are the circumstances the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought?

The proposed development is an adaptive re-use of two sites that are already commercially development and are the majority of the sites are impervious. The proposed development will not alter this circumstance.
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