

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.

Variance of Section 4.8, Table 4.8.1 to allow the proposed warehouse building to be located within the 100 ft protected waterway buffer

1. The variance will not adversely affect the public health, safety or welfare because this is a man-made protected waterway created during the development of the area and the proposed building will be set back further from the stream than a large number in the immediate area, including the existing building on this tract. The building on the adjacent tract 1 is also built far closer to the stream than this building is proposed. The applicant will provide all necessary floodplain compensation and water quality, etc. as needed to insure no negative impacts.

2. The variance will not alter the essential character of the general vicinity because, as stated, this is not a normal or standard protected waterway which the regulations were designed to address. Instead, the proposed building will be set back further than many in area.

3. The variance will not cause a hazard or a nuisance to the public because this area was developed prior to the adoption of the current Section 4.8. Therefore, the proposed building will fit well within the surrounding area and all impacts will be addressed.

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4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the applicant attempted to move the building as far away from the waterway as possible in laying out this site and full compliance means the regulation renders the remaining property unbuildable.

Additional consideration:

1. The Variance arises from special circumstances, which do not generally apply to land in the general vicinity because the infrastructure for this lot and the area were developed and installed prior to the adoption of the regulation unlike areas developed after the adoption.

2. Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because it would render the remainder of this property unbuildable.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation because the lot has been vacant since the adoption of the regulations.

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