

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.

The variance will not adversely affect public health safety or welfare as the encroachment is relatively minor and is much less than the previously approved encroachment (which includes an access road) for the adjacent property owner, which encroaches further into the buffer area.

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

There is already pavement and a drive encroaching into the stream buffer area more closely than the proposed encroachment so the essential character will not be altered.

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

There will not be any hazard or nuisance to the public as a result of the encroachment. There is an access drive and other paving that encroaches further into the buffer area than what is proposed here and it will not affect the stream.

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

This is a reasonable request to avoid an economic hardship that would result from a strict application of the requirements; in addition a more invasive variance was previously granted between this site and the stream. Appropriate compensation will be performed by the applicant.

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 current property is burdened by an access easement that branches off of an access easement used by the neighboring owner and MSD to reach the property closer to the streambank than applicant's. That easement was a precaution in case MSD didn't want to share its access.

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.

Strict application of the provisions of the regulation would not allow the applicant to even reach the access road that is closer to, and encroaches further, into the stream buffer area.

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

Yes. Applicant proposes to construct a medical office for dialysis use which was decided after the adoption of the regulation.