

**Subject:** Variance (Fifth District)  
**Author:** Teresa Concannon, AICP, Planning & Zoning Manager  
**Department:** Development Services  
**Meeting Date:** May 3, 2022  
**Item Description:** **K&M Effingham Properties, LLC** requests a **variance** from section 3.4 Buffers to reduce required vegetative buffers for an industrial property. Located at 1204 Mill Pond Road. **Map# 446 Parcel# 7C**

### Summary Recommendation

Staff has reviewed the application, and recommends **denial** of the request for a **variance** from *section 3.4 Buffers* to reduce required buffers for an industrial property, to accommodate a proposed development.

### Executive Summary/Background

- Pursuant to Appendix C-Zoning Ordinance, Article VII-Planning Board, Section 7.1.8, variances may only be granted if the following findings are made:
  - That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness, of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not to circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located; and*
  - That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning ordinance, and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.*
- The proposed business involves uses that did not fit into the B-3 zoning district, but required rezoning to I-1. The proposed uses may be considered a light industrial use. The required buffer between light industrial and R zoning districts is 300’.
- The parcels to the north and west are I-1. Parcels to the south and east are R-1. The proposed buffer reduction is from 300’ to 25’ along the south and east property boundaries with R zoning.
- The applicant elected to rezone only the 7-acre tract to I-1 (approved on 6/2/2020), and opted to leave a 61.52’ strip of R zoned property along the eastern boundary in a plat recorded 8/11/2021, and subsequently re-subdivided, and recorded on 1/5/2022.
- The required buffer between the I-1 and AR zoning districts is 150’.
- The buffer requirements were discussed at the sketch plan pre-application meeting on 3/3/2022.
- The lot does not present any exceptional topographical features; it is merely too small to accommodate an industrial use and the required buffers. The solution would be to expand the parcel and expand south to allow for the buffer.
- Given the residential development to the east, on both sides of Ebenezer Road, there is no case to be made for reducing the I-1 to R buffer requirement. The solution is to increase the size of the project site to allow for inclusion of a vegetative buffer substantial enough to screen the industrial use and allow for stormwater filtration. Removing the R-1 strip to the east would reduce the buffer requirement to 150’ against the AR-1 parcel.
- At the April 18 Planning Board meeting, Ryan Thompson made a motion to **approve** the request for a variance from *section 3.4*, to reduce required buffers for an industrial property, and added the following condition:
  1. Required vegetative buffer is reduced from 300’ to 25’ along the eastern property boundary only. All other required buffers apply.
- The motion was seconded by Brad Smith, and carried by a 4/1 vote.

### Alternatives

**1. Approve** request for a **variance** from *section 3.4 Buffers* to reduce required buffers for an industrial property, with the following Planning Board recommendations:

1. Required vegetative buffer is reduced from 300' to 25' along the eastern property boundary only. All other required buffers apply.

2. **Deny** the request for a **variance** from *section 3.4 Buffers*.

**Recommended Alternative:** 2

**Other Alternatives:** 1

**Department Review:** Development Services

**FUNDING:** N/A

**Attachments:**

1. Variance application
2. Ownership Certification

3. Deed
4. Aerial photography