

Staff Report

Subject: Variance (Fifth District)
Author: Katie Dunnigan, Zoning Manager
Department: Development Services
Meeting Date: February 7, 2023
Item Description: Jay Maupin as Agent for Oleg Mitnik requests a **variance** to reduce required buffers between industrial and various-zoned parcels. Located on Highway 21, zoned **B-3** proposed zoning **B-3 & I-1**
Map# 465 Parcel# 1

Summary Recommendation

Staff has reviewed the application, and recommends **approval** of the request for a **variance** to reduce required buffers between industrial and various-zoned parcels, with conditions.

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.*
- A wrecked car export facility is a heavy industrial use. The parcel is bordered by I-1 and B-3 zoned properties.
- The required vegetative buffer between I-1 zoned parcels is 25'; the required buffer between I-1 and B-3 zoned parcels is 50' (Light) or 150' (Heavy).
- The applicant owns the I-1 parcels to the east, and is requesting elimination of the required 25' buffers between all I-1 parcels.
- The applicant is proposing a 50' vegetative buffer between the proposed I-1 zoned section of 465-1 and the B-3 zoned remainder fronting on Hwy 21; and a 25' buffer between the proposed I-1 section and the B-3 zoned parcels to the west.
- At the December 19, 2022 Planning Board meeting, Peter Higgins made a motion for approval, with the added stipulation that minimum 50' vegetative buffers be added and maintained between 465-1, and adjacent B-3 parcels..
- The motion was seconded by Ryan Thompson and carried unanimously.
- At the January 3, 2023 Board of Commissioners meeting, Commissioner Phil Kieffer made a motion to table this item until the February 7, 2023 Board of Commissioners meeting.
- The motion was seconded by Commissioner Reggie Loper and carried unanimously.
- On January 12, 2023, the applicant submitted an updated site plan and clarification/revision for requested buffers as follows:
 - 0' - 50' on North and East (0' on I-1 to I-1 property lines)
 - 50' – 100' on West (50' buffer against BFS and Elite Sports)
 - 0' on South (B-3 parcel to inherit burden of 150' buffer)
- Staff has submitted comment to the applicant regarding these proposed revisions.

Alternatives

1. **Approve** the request for a **variance** to reduce required buffers between industrial and various-zoned parcels, with the following conditions:
 1. Applicant must maintain minimum 50' vegetative buffers between 465-1 and adjacent B-3 parcels.
2. **Deny** the request for a **variance** to reduce required buffers between industrial and various-zoned parcels.

Recommended Alternative: 1

Department Review: Development Services

Attachments: 1. Variance application

2. Ownership certificate/authorization

Other Alternatives: 2

FUNDING: N/A

3. Site Plan

4. Aerial photograph

5. Deed