



**DATE:** April 23<sup>rd</sup>, 2019

**CASE #:** V-01-19

**DESCRIPTION:** Variance Request from buffer yard requirements (CDO Section 11.4)

**APPLICANT/OWNERS:** Steve Ruggles – JR Construction

**LOCATION:** 256 Davidson Hwy

**PIN#s:** 56117682720000

**AREA:** 4.79 AC

**ZONING:** General Commercial (I-1)

**PREPARED BY:** Julian Burton, AICP – Development Review Administrator

***Application Summary:***

The subject property is located at 256 Davidson Highway near the intersection with Central Drive. The 4.79 acre property is zoned I-1 (Light Industrial) and the property and the surrounding parcels are designated as Industrial/Employment in the 2030 Land Use Plan.

Several of the adjoining properties are zoned RC (Residential Compact) and the ordinance requires that new development projects provide buffers between incompatible uses. Article 11 of the Concord Development Ordinance (CDO) includes the standards for Landscaping and Buffering, and Section 11.4 states the specific requirements for buffer yards between adjoining properties. The purpose of a buffer yard is to “provide a transitional buffer between uses that may differ in development intensity and density; or provide a minimum buffer between uses of similar intensity and density” (Section 11.4.1). Section 11.4 requires either a 50 foot buffer yard or a 25 foot buffer yard with a 6 foot berm between an industrial property and a residential property.

The applicant requests that the Board of Adjustment grant a variance from the buffer requirement for a portion of the property located at 256 Davidson Hwy. The requested reduction in buffer width would be from the required 50 feet/25 feet with a berm strictly along the narrow strip of land that provides access to the bulk of the site. At its narrowest point, the strip of land is approximately 45 feet wide and the minimum required driveway width is 24 feet. Therefore, the applicant cannot meet the buffer requirement and also provide access to the property. Although the applicant has provided a proposed site plan and a proposed use as a reference, the request pertains only to a variance for the buffer width. The plan itself would be subject to technical site

plan review and the applicant is willing to commit to providing as much of a landscape buffer as possible on the technical site plan submittal.

***Background information regarding Case V-01-19 is as follows*** (based on application review):

- The subject property is currently undeveloped.
- The subject property is located at 256 Davidson Hwy
- The property is zoned I-1 (Light Industrial)
- The 2030 Land Use Plan designates the property as Industrial/Employment
- The applicant is requesting a variance from the CDO's buffer yard requirement along the narrow strip of land to provide access to the property (Section 11.4)

***Potential Board's Conclusions of Fact*** (based on staff's findings of fact):

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
  - It is impossible to meet both the driveway width requirements and the buffer requirements. Therefore, a strict application of the ordinance would make a majority of the parcel unusable.
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
  - The shape of the property is unique and unusual and contains a narrow strip of land that would not meet current standards (minimum lot width in I-1 is 50 feet).
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
  - The hardship did not result from actions taken by the applicant. The property is currently undeveloped.
4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.
  - The requested variance is consistent with the spirit, purpose, and intent of the ordinance so that public safety is secured, and substantial justice is achieved. The property under its current zoning is unusable without a variance on the buffer width.