



## CITY OF TONTITOWN PLANNING OFFICE

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Meeting: **July 25, 2023**  
**Joe Bumper Collision Variance**  
Planner: Mark Latham, City  
Planner

### BOARD OF ADJUSTMENTS AGENDA ITEM

## PH4, BOZA 3

### VARIANCE REQUEST

110 W. Industrial Circle

**SUMMARY:** Applicant is requesting a variance to reduce the landscape buffer along W. Industrial Circle.

**CURRENT ZONING:** C-2 General Commercial-the proposed development meets the current zoning.

**CITY WARD:** 1- Misty Piazza, Amber Ibarra

**FLOODPLAIN:** No

**INFRASTRUCTURE SERVICE AREAS (not a guarantee of service availability):**

**Water:** Tontitown Water, existing 8" waterline

**Electric:** Ozarks Electric

**Sewer/Septic:** Tontitown Sewer

**Phone:** AT&T

**Natural Gas:** Black Hills Energy

**Cable:** Cox Communications

**School District:** Springdale

### PROJECT SYNOPSIS:

Applicant is requesting a variance request from section 153.212, (l) (4) (a), a 10' landscape buffer along W. Industrial Circle. applicant describes their hardship as unusable area of the lot which requires drive aisles on either side.

### Variance to Landscape Buffer:

#### Section 153.262 Powers and Duties:

*(B) To authorize upon appeal, in specific cases, such variance from the terms of this zoning chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations would result in unnecessary hardship that would deprive the owner of any reasonable use of the land or building involved. **A variance from the terms of these zoning regulations, shall not be granted by the***

**Board of Zoning Adjustment unless and until:**

- (1) The applicant demonstrates that special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district.

**Staff's Response:** Although the proposed building on the lot limits the driving lanes on both sides, it may not be considered as a hardship.

that literal interpretation of the provisions of these regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these regulations.

**Staff's Response:** At this time, there are no known projects in the area to compare to.

that special conditions and circumstances do not result from the actions of the applicant.

**Staff's Response:** N / A

and that granting the variance requested will not confer on the applicant any special privilege that is denied by the zoning regulations to other lands, structures, or buildings in the same district.

**Staff's Response:** This variance will not convey special privilege to the applicant.

- (2) *No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.*

**Staff's Response:** There are no nonconforming uses in the surrounding area.

- (3) *The Board of Zoning Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of land, building, or structure.*

**Staff Response:** Only a small portion of the site is impacted by this request.

- (4) *The Board of Zoning Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of these zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.*

**Staff's Response:** Granting this variance will not be injurious to the general neighborhood area or detrimental to the public.

- (5) *In granting any variance, the Board of Zoning Adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of these regulations.*

**Staff Response:** No additional conditions are recommended at this time.

- (6) *Under no circumstances shall the Board of Zoning Adjustment grant a variance to allow a use not permissible under the terms of these zoning regulations in the district involved, or any use expressly, or by implication, prohibited by the terms of these regulations in said district.*

**Staff's Response:** Granting this request will not allow a use that is not permissible by code.

**STAFF RECOMMENDATION:**

Staff recommends a reduction of 5' vs the 2.5' as requested.