

CITY OF BLOOMINGTON



January 23, 2020 @ 5:30 p.m.
COUNCIL CHAMBERS #115
CITY HALL

**CITY OF BLOOMINGTON
BOARD OF ZONING APPEALS
January 23, 2020 at 5:30 p.m.**

◆Council Chambers - Room #115

ROLL CALL

APPROVAL OF MINUTES: November 2019
(No December meeting)

REPORTS, RESOLUTIONS, AND COMMUNICATIONS:

ELECTION OF OFFICERS:

- Current President: Barre Klapper
- Current Vice-President: Jo Throckmorton

PETITIONS CONTINUED TO: February 2020

AA-41-19 **Judie Baker and David Holdman**
523 W. 7th St.
Request: Administrative Appeal of the Notice of Violation (NOV) issued related to the demolition of two structures.
Case Manager: Jackie Scanlan

PETITIONS WITHDRAWN:

V-17-19 **City of Bloomington**
105/111 W. 4th St., and 222 S. Walnut St.
Request: Variances from entrance and drive standards in the Commercial Downtown (CD) zoning district.
Case Manager: Jackie Scanlan

UV/V-31-19 **Rimrock Companies** (UV portion denied 11/21/19. Variance continued to 12/19/19)
1901 W. 3rd St., and 307 S. Cory Lane
Request: Use variance to allow for larger units in the 'Mini-warehouse Facility' use in the Commercial Arterial (CA) zoning district. Also requested is a variance from non-residential sign standards.
Case Manager: Jackie Scanlan

PETITIONS:

UV-26-19 **Kimberly Carballo** (continued by staff)
1300 S. Lincoln St.
Request: Use variance to allow the raising of goats on a single lot in the Residential Core (RC) zoning district.
Case Manager: Ryan Robling

****Next Meeting: February 20, 2020**

Auxiliary aids for people with disabilities are available upon request with adequate notice. Please call [812-349-3429](tel:812-349-3429) or e-mail human.rights@bloomington.in.gov.

V-44-19

Randall McGlothlin

621 N. Lincoln St.

Request: Variances from front yard setbacks and maximum impervious surface coverage standards to allow for a deck.

Case Manager: Ryan Robling

AA-45-19

Tariq Khan520 E. 2nd St.

Request: Administrative Appeal of the Notice of Violation (NOV) issued related to the removal of windows in a historic structure.

Case Manager: Jackie Scanlan

****Next Meeting: February 20, 2020**

Auxiliary aids for people with disabilities are available upon request with adequate notice. Please call 812-349-3429 or e-mail human.rights@bloomington.in.gov.

BLOOMINGTON BOARD OF ZONING APPEALS
STAFF REPORT
LOCATION: 1300 S. Lincoln St.

CASE #: UV-26-19
DATE: August 22, 2019

PETITIONERS: **Kimberly Carballo**
1300 S. Lincoln St., Bloomington, IN

REQUEST: The petitioner is requesting a variance to allow the raising of goats on a single lot in the Residential Core (RC) district.

REPORT: The 5,227 square foot property is located at 1300 S. Lincoln St. The property is zoned Residential Core (RC) and has been developed with a one-story single family house, and a detached accessory structure. The surrounding properties to the north, south, east, and west are also zoned RC, and have been developed with single family houses. The property fronts on S. Lincoln St. to the east and E. Driscoll St. to the north. As 1300 S. Lincoln has fronts along the north and east property line, the south and west property lines are considered side property lines.

The Unified Development Ordinance (UDO) defines the keeping of livestock other than chicken flocks as the use 'crops and pasturage'. 'Crops and pasturage' is not an approved use in the RC zoning district. 'Crops and pasturage' is only an approved use with special conditions in the Residential Estate (RE) district. Per 20.05.091, livestock shall be permitted only in a pasturage context. Pasture use shall be limited to one animal unit per acre of land actually used as pasture and accessible to the livestock. Goats equal 0.5 animal units, per the UDO. If 2 goats were kept in the RE zoning district, they would require a total of one acre of dedicated pasturage to meet UDO requirements. Eligible RE lots are required to be no less than 5 acres, and structures containing livestock or livestock waste must be setback a minimum of 75' from the front property line, and 50' from side property lines.

The petitioner currently has 2 goats on the property and are proposing to continue keeping a maximum of 2 goats there. The petitioner has converted a majority of their backyard into an area for the goats. The backyard has a fence around the entire perimeter. An existing accessory structure, along the west property line, acts as shelter for the goats.

20.09.140 CRITERIA AND FINDINGS FOR USE VARIANCE:

Findings of Fact: Pursuant to IC 36-7-4-918.4. the Board of Zoning Appeals or the Hearing Officer may grant a variance from use if, after a public hearing, it makes findings of fact in writing, that:

- (1) *The approval will not be injurious to the public health, safety, morals, and general welfare of the community; and*

Proposed Finding: The Department finds that there is a negative impact on the public health and safety of the community. Close proximity to animal waste is a potential health risk to surrounding residents. RE district properties on which the UDO permits the raising of livestock are required to be no less than 5 acres, with dedicated pasturage area which would be a minimum of 1 acre for two goats. 1300 S. Lincoln St. is significantly smaller than that at only .12 acres. The health and safety of livestock on such a small parcel is also a concern. Additionally, structures containing livestock and livestock waste must be setback 75' from the front property line, and 50' from the side property line in the RE scenario. The current accessory structure which is used to keep live stock at 1300 S. Lincoln is setback 0' from the west side property line, 14' from the south side property line, and 5' from the north front property line. The size of the property does not adequately allow for livestock and livestock waste to be located safely away from surrounding residents.

- (2) *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and*

Proposed Finding: The Department finds adverse impacts associated with the proposed use variance. The sights, sounds, and smells of livestock are not customary in a small lot, urban, residential neighborhood. These nuisances could contribute to a loss in the value of adjacent properties.

- (3) *The need for the variance arises from some condition peculiar to the property involved; and*

Proposed Finding: The Department finds no peculiar condition to the property which would cause the need for this variance. The property was developed with a single family residence which is the intended use in the RC district. The yard, and primary structure were developed with single family residence activities in mind and can easily support those activities.

- (4) *The strict application of the terms of the Unified Development Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and*

Proposed Finding: The Department finds that strict application of the terms of the UDO will not constitute an unnecessary hardship if applied to the property. The size of the property is not sufficient for safely raising livestock, according to the UDO. Parcels within the RC district were not intended to host livestock and this parcel could easily continue a single family residential use.

- (5) *The approval does not interfere substantially with the Comprehensive Plan.*

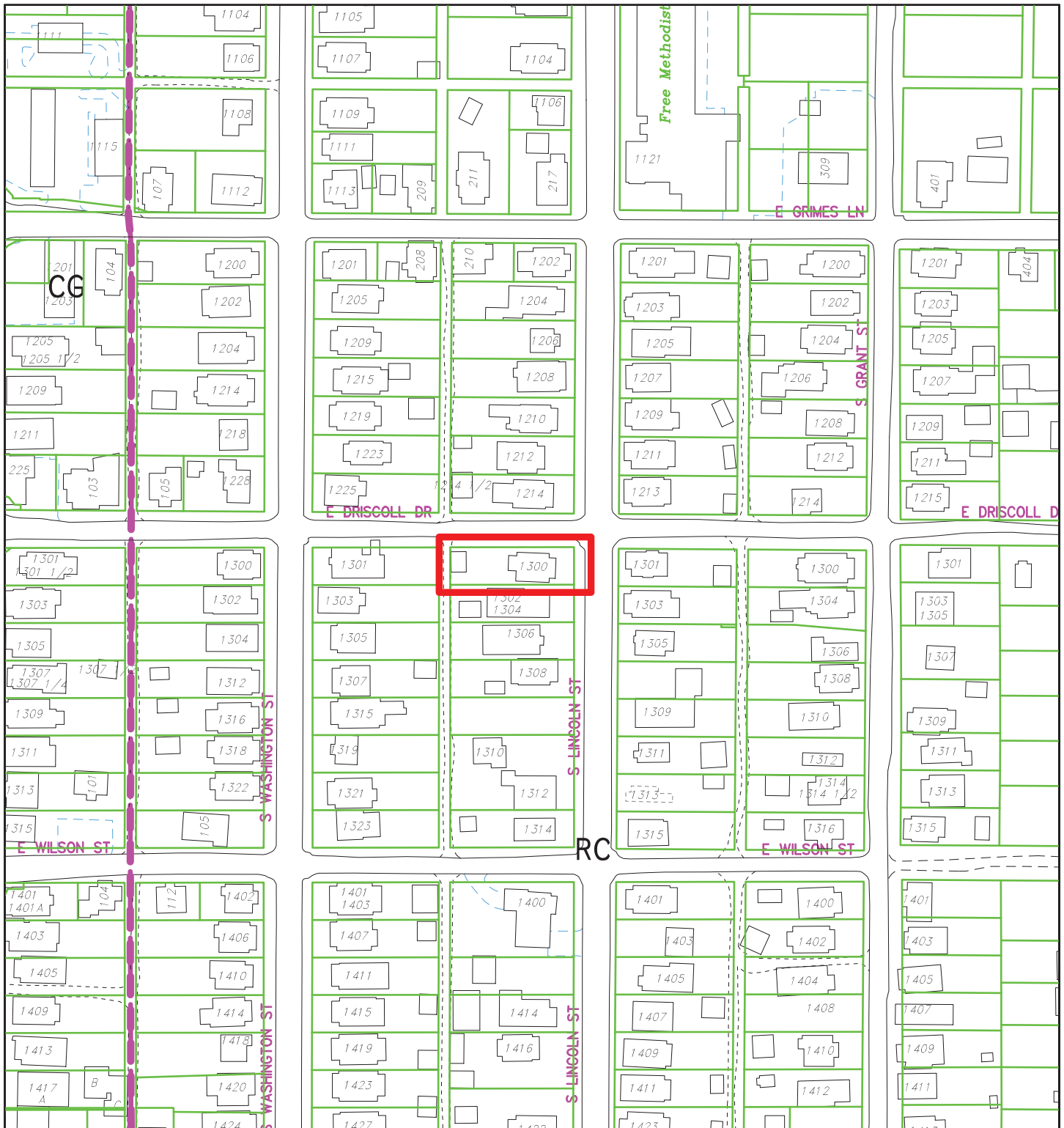
Proposed Finding: The Department finds that this proposal meets some of the goals and policies of the Comprehensive Plan. The Comprehensive Plan states that

urban agriculture should be supported and that local food processing should be facilitated and not hindered by local regulations.

The Comprehensive Plan also calls for the assessment and possible creation of permitted urban agricultural uses within nonagricultural zoning districts. This petition would allow for an urban agricultural use within a nonagricultural zoned district. The Comprehensive Plan identifies this property as Mixed Urban Residential.

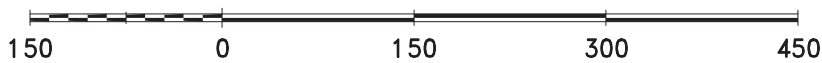
In addition, Policy 3.8 in the Comprehensive Plan gives guidance to “Promote and protect local food culture and Bloomington’s food system.” This petition will promote Bloomington’s local food system, as goats are capable of producing fertilizer for other agricultural uses, and milk for human consumption.

RECOMMENDATION: Based upon the written findings above, The Department recommends adoption of the proposed findings and denial of V-26-19.



UV-26-19 Kimberly Carballo
 1300 S. Lincoln St.
 Board of Zoning Appeals
 Site Location, Zoning, Parcels

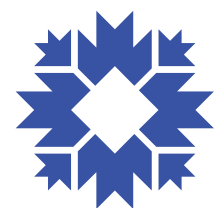
By: roblingr
 16 Aug 19



For reference only; map information NOT warranted.



City of Bloomington



Scale: 1" = 150'



V-26-19 Kimberly Carballo

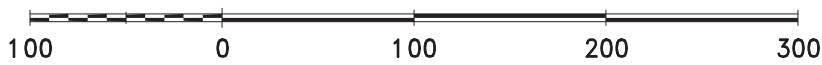
1300 S. Lincoln St.

Board of Zoning Appeals

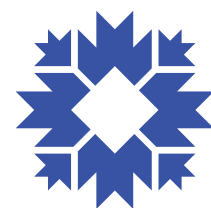
2016 Aerial

By: roblingr

16 Aug 19



City of Bloomington



Scale: 1" = 100'

For reference only; map information NOT warranted.

Kimberly Carballo
1300 S Lincoln St
Bloomington, IN 47401
812.345.3743

Petitioner's statement for request to the Board of Zoning Appeals
16 July 2019

I am requesting a variance from the development standards of the UDO, to be allowed to keep two dwarf goats on my property at 1300 S Lincoln St. This request fulfills the three criteria for a variance allowance:

1. "It will not be injurious to the public health, safety, morals, and general welfare of the community." These are dwarf goats, not full-size. They actually are a point of bonding (general welfare) for the community, with many neighborhood individual members and families coming to visit them regularly. They also contribute to the morals and general welfare by being willing to eat food scraps from my house and anyone else who wants to take the trouble to bring them scraps, cutting down significantly on landfill use.
2. "The use and value of the area adjacent to the property will not be affected in a substantially adverse manner." The house directly next door to the south is a two-part rental, and is not affected at all by keeping animals. The house across the alley is long-term unoccupied and is not affected in any way by keeping animals. The neighbors to the south and north (those closest to the back yard) have submitted encouraging letters of support for keeping the goats.
3. "... the practical difficulties are peculiar to the property in question; that the Development Standards Variance will relieve the practical difficulties." The code outlines RE, but RC is not specifically addressed. Furthermore, a variance has already been issued to a neighbor across the alley for a potbelly pig, and the goats will be no more of a nuisance (and are much more community-building) than the pig.

The area for the outdoor goat run has a very sturdy 5'6" / 6' fence on the north side (on Driscoll) and a 4' metal fence on the south side. The goats do not jump these fences. They also have a large sheltered area: the entire garage at Driscoll and the alleyway is for their indoor shelter and feeding area. It is warm in the winter, and has an industrial strength fan for cooling in the summer. The straw used for bedding and waste collection is cleaned regularly, with the straw and waste used on gardens (mine and other people's). There is no additional construction, vehicular access, or drainage adaptations needed.



S Lincoln St

E Driscoll St

Driscoll St

Google

Marian M. Conaty
1305 S. Washington St
Bloomington, IN 47401
812-333-0786
mmconaty@yahoo.com

May 23, 2019

To whom it may concern,

Kim Carballo lives down the alley from me at 1300 S. Lincoln Street. In the time she's been there she has made numerous improvements to her land and house. In all respects, she has been an excellent neighbor.

I am aware that she has two goats living on her property. They are adorable. In no way do they bother me, or cause me any concern.

She has informed me that she will need a variance to keep the goats. I support her request for such a variance. She has proven herself to be a responsible and diligent animal owner and that she is fully capable of caring for her animals with no impact on her neighbors.

Sincerely,



Marian M. Conaty-

To whom it may concern,

We are Ashley and Mark Chilla and we live at 1201 S. Washington Street, one block away from Kim Carballo at 1300 South Lincoln St. This letter is in support of keeping the goats at 1300 S. Lincoln St.

Not only are the goats unobtrusive, but they are also part of the fabric of our neighborhood community. At least twice a day, we walk our dog Pete by Oreo and Snickerdoodle and greet them on our walk. Pete is particularly fond of Oreo. Part of what makes Bryan Park so special is that you can go by certain houses and see lovely flowers, trees, cats, dogs, and even chickens or goats. It adds to the unique character of the neighborhood.

We feel that our neighborhood is made better by their presence, and we feel it would be a detriment to the area to not have them as part of our community.

Thank you so much for your time,
Ashley and Mark

Subject: Goats

Date: Monday, May 27, 2019 at 3:37:47 PM Eastern Daylight Time

From: Steph Estell

To: kscarballo@gmail.com

Dear Kim Carballo,

I am your neighbor at 1204 S. Washington St. I support your keeping of Oreo and Gingersnap, our neighborhood goats.

Thank for adding to the biodiversity in our world.

Sincerely,
Stephanie Estell

Sent from my iPhone

Subject: Goats in the neighborhood

Date: Sunday, May 26, 2019 at 10:39:29 PM Eastern Daylight Time

From: lynae.phillipsmitchell

To: kscarballo@gmail.com

To whom it may concern,

I'm writing this email in support of having the goats in my neighborhood. Our dogs love to visit them on our walks in the evenings and they are very sweet to pet.

They have been a great addition to our neighborhood.

Sincerely,

Lynae Mitchell

1200 S Palmer Ave

Bloomington Indiana

Sent from my Verizon, Samsung Galaxy smartphone

Subject: Goats

Date: Saturday, May 25, 2019 at 12:49:56 AM Eastern Daylight Time

From: haddie k

To: KS Carballo

To Whom It May Concern-

Kim Carballo and her two goats are my neighbors. My family and I live in a rental property nearby. Taking my son for walks, we became acquainted with our neighbor through curiosity and admiration of her backyard farm. For the last year and a half, Kim has generously invited us to bring our compost to her goats. The compost feeds her goats, reduces our waste, and gives both my child and myself exposure to animals and their keeping we would not have otherwise. We consider ourselves profoundly lucky to live in close proximity to a talented and generous urban farmer, such as Ms. Carballo. Being near her goats has allowed us to reduce our waste, learn new skills (goat milking, goat petting, goat feeding), and create closer connections to our neighbors. Just this week, my usually timid son fed her goats some alfalfa treats from the palm of his little toddler hand. He was thrilled, and Kim and I shared in his pride. We sincerely hope her goats will remain our neighbors.

Sincerely,

Haddie Katz

--

Haddie Katz, CPM

May 23, 2019

To Whom it May Concern--

My name is Mike Voyles, and I am writing this letter of support for Kim Carballo and her two goats, Oreo and Ginger Snap.

I have lived with my family in the Bryan Park neighborhood since 2005 and consider Kim and her goats to be one of the highlights of being a part of this neighborhood. When family and friends visit from out of town, we routinely make a point of taking them to meet the goats. Oreo and Ginger Snap are natural ambassadors of this town: eclectic but humble, local yet global. These visitors always leave with a greater appreciation for Bloomington's distinct character.

Additionally, I consider myself lucky to be one of the individuals Kim trusts to care for Oreo and Ginger Snap when she's out of town. Milking and feeding the goats daily is a rare and welcome task that I've been able to share with my two young children. They assist in the routines and are able to be part of this basic human and animal connection that few children outside of a farm have the chance to experience.

My hope is that Oreo and Ginger Snap can continue to be part of this diverse community in the Bryan Park neighborhood. Thank you for your consideration.

--Mike Voyles

May 24, 2019

To whom it may concern:

I am the current tenant at 1304 S. Lincoln St. I have lived here for 3 years and the entire time the goats have been next door. I am ~~not~~ bothered by them - they are quiet and seem to be well taken care of. I do not think they are of any nuisance to the neighborhood, and I am fine with them being present.

Sincerely,

Abby Kimitt

31 May 2019

To whom it may concern,

I live across Driscoll Street from Kim Carballo's backyard where her goats reside. My front door is approximately 50 feet or less from their pen and sleeping quarters.

If anyone were to have a problem with the goats being there it would be me, but I don't. It's a pleasure having them as neighbors. 95% of the time I am not even aware that they're there. I like interacting with them and watching others enjoy meeting them.

I urge you to allow their continued presence in our neighborhood. Thank you for your time.

Sincerely,

Richard A. Serpa

A handwritten signature in black ink, appearing to read "Richard A. Serpa", with a long horizontal flourish extending to the right.

1214 ½ S. Lincoln Street

Bloomington, IN 47401

812-272-0852

rserpa311@gmail.com

May 27, 2019

To Whom It May Concern:

I have been the next door neighbor to Kim for the past two years, and believe she is an excellent and responsible steward of her land and animals. She takes great care of her property and her animals have never inconvenienced me or others.

Please contact me for any further questions.

Best,

Lienne Sethna

Lienne Sethna
1302 S. Lincoln St.
Bloomington, IN 47401

LSETHNA@GMAIL.COM



Ryan Robling <roblingr@bloomington.in.gov>

Neighbor, Kim Carballo's, request for goat approval

Jim Gronquist <jgronquist@gmail.com>
To: roblingr@bloomington.in.gov

Mon, Jul 22, 2019 at 11:28 AM

Dear Planning:

My neighbor, Kim Carballo, very responsibly keeps (2) goats at her home on S. Lincoln. She pursues this activity in a manner that respects her neighbor's needs and definitely adds to our neighborhood.

Best,

Jim Gronquist
Neighbor
1414 S. Lincoln St.
812 219 0135



Ryan Robling <roblingr@bloomington.in.gov>

FW: Support variance for goats

1 message

Carballo, Kimberly Sue Laura <kscarballo@gmail.com>
To: roblingr@bloomington.in.gov

Sat, Jul 27, 2019 at 8:58 PM

Hi Ryan,

Here's a support letter (I'm not sure if I sent it before or not).

Thanks,

Kim

From: Jenny Bauer <jenny.bauer65@gmail.com>
Date: Monday, June 10, 2019 at 11:58 AM
To: K Carballo <kscarballo@gmail.com>
Subject: Support variance for goats

To Whom It May Concern:

I am a neighbor of Kim Carballo's at 1223 S. Washington Street. I fully support Kim's application for a variance to have backyard goats.

Thanks for your consideration.

Jenny Bauer



Ryan Robling <roblingr@bloomington.in.gov>

FW: The goats

1 message

Carballo, Kimberly Sue Laura <kscarballo@gmail.com>
To: "roblingr@bloomington.in.gov" <roblingr@bloomington.in.gov>

Sat, Jul 27, 2019 at 11:49 PM

Hi Ryan,

Here's another one.

Thanks,

Kim

To whom it may concern,

We are Ashley and Mark Chilla and we live at 1201 S. Washington Street, one block away from Kim Carballo at 1300 South Lincoln St. This letter is in support of keeping the goats at 1300 S. Lincoln St.

Not only are the goats unobtrusive, but they are also part of the fabric of our neighborhood community. At least twice a day, we walk our dog Pete by Oreo and Ginger Snap and greet them on our walk. Pete is particularly fond of Oreo. Part of what makes Bryan Park so special is that you can go by certain houses and see lovely flowers, trees, cats, dogs, and even chickens or goats. It adds to the unique character of the neighborhood.

We feel that our neighborhood is made better by their presence, and we feel it would be a detriment to the area to not have them as part of our community.

Thank you so much for your time,
Ashley and Mark



Ryan Robling <roblingr@bloomington.in.gov>

FW: Goats

1 message

Carballo, Kimberly Sue Laura <kscarballo@gmail.com>
To: "roblingr@bloomington.in.gov" <roblingr@bloomington.in.gov>

Sat, Jul 27, 2019 at 11:59 PM

One more!

KC

On 5/27/19, 3:37 PM, "Steph Estell" <steph.stell@gmail.com> wrote:

Dear Kim Carballo,

I am your neighbor at 1204 S. Washington St. I support your keeping of Oreo and Gingersnap, our neighborhood goats.

Thank for adding to the biodiversity in our world.

Sincerely,
Stephanie Estell

Sent from my iPhone



Ryan Robling <roblingr@bloomington.in.gov>

FW: Goats in the neighborhood

1 message

Carballo, Kimberly Sue Laura <kscarballo@gmail.com>

Sun, Jul 28, 2019 at 12:00 AM

To: "roblingr@bloomington.in.gov" <roblingr@bloomington.in.gov>

To whom it may concern,

I'm writing this email in support of having the goats in my neighborhood. Our dogs love to visit them on our walks in the evenings and they are very sweet to pet.

They have been a great addition to our neighborhood.

Sincerely,

Lynae Mitchell

[1200 S Palmer Ave](#)

[Bloomington Indiana](#)

Sent from my Verizon, Samsung Galaxy smartphone



Ryan Robling <roblingr@bloomington.in.gov>

FW: Goats

1 message

Carballo, Kimberly Sue Laura <kscarballo@gmail.com>
To: "roblingr@bloomington.in.gov" <roblingr@bloomington.in.gov>

Sun, Jul 28, 2019 at 12:02 AM

To Whom It May Concern-

Kim Carballo and her two goats are my neighbors. My family and I live in a rental property nearby. Taking my son for walks, we became acquainted with our neighbor through curiosity and admiration of her backyard farm. For the last year and a half, Kim has generously invited us to bring our compost to her goats. The compost feeds her goats, reduces our waste, and gives both my child and myself exposure to animals and their keeping we would not have otherwise. We consider ourselves profoundly lucky to live in close proximity to a talented and generous urban farmer, such as Ms. Carballo. Being near her goats has allowed us to reduce our waste, learn new skills (goat milking, goat petting, goat feeding), and create closer connections to our neighbors. Just this week, my usually timid son fed her goats some alfalfa treats from the palm of his little toddler hand. He was thrilled, and Kim and I shared in his pride.

We sincerely hope her goats will remain our neighbors.

Sincerely,

Haddie Katz

--

Haddie Katz, CPM

May 23, 2019

To Whom it May Concern--

My name is Mike Voyles, and I am writing this letter of support for Kim Carballo and her two goats, Oreo and Ginger Snap.

I have lived with my family in the Bryan Park neighborhood since 2005 and consider Kim and her goats to be one of the highlights of being a part of this neighborhood. When family and friends visit from out of town, we routinely make a point of taking them to meet the goats. Oreo and Ginger Snap are natural ambassadors of this town: eclectic but humble, local yet global. These visitors always leave with a greater appreciation for Bloomington's distinct character.

Additionally, I consider myself lucky to be one of the individuals Kim trusts to care for Oreo and Ginger Snap when she's out of town. Milking and feeding the goats daily is a rare and welcome task that I've been able to share with my two young children. They assist in the routines and are able to be part of this basic human and animal connection that few children outside of a farm have the chance to experience.

My hope is that Oreo and Ginger Snap can continue to be part of this diverse community in the Bryan Park neighborhood. Thank you for your consideration.

--Mike Voyles

BLOOMINGTON BOARD OF ZONING APPEALS
STAFF REPORT
LOCATION: 621 N. Lincoln St.

CASE #: V-44-19
DATE: December 19, 2019

PETITIONERS: Randall McGlothlin
621 N. Lincoln St., Bloomington, IN

REQUEST: The petitioner is requesting variances from front building setbacks and maximum impervious surface coverage for the construction of a deck.

REPORT: The 3,310 square foot property is located at 621 N. Lincoln St. The property is zoned Residential Multifamily (RM) and has been developed with a detached single-family dwelling. The surrounding properties are also within the RM district. The properties to the north and east have been developed with multifamily dwellings. The properties to the south and west have been developed with detached single-family dwellings. The property fronts on N. Lincoln St. to the east, and E. Cottage Grove Ave. to the north.

On September 12, 2019, the Department issued a Notice of Violation to the property owner for a deck which encroaches into required front building setbacks, and caused the property to be in excess of the maximum impervious surface coverage standards for the RM district.

In the RM district, the Unified Development Ordinance (UDO) requires a minimum front building setback of “15 feet from the proposed right-of-way indicated on the Thoroughfare Plan; or the block face average setback of the existing primary structures on the same block face, whichever is more”. The block face average along N. Lincoln St. is 22 feet from the right-of-way line, which establishes the front building setback at 22 feet along N. Lincoln St. The block face average along E. Cottage Grove Ave. is 7 feet, therefore the front building setback is 15 feet along E. Cottage Grove Ave. The existing house is located at the front building setback along N. Lincoln St. and is encroaching into the front building setback along E. Cottage Grove Ave. The petitioner has constructed a deck which encroaches 6 feet and 2 inches into the front building setback along N. Lincoln St., and 15 feet into the front building setback along E. Cottage Grove Ave. The UDO allows decks to encroach up to 6 feet into side or rear setbacks, but makes no exemption for front building setbacks. The steps of the deck encroach into the front setback an additional 4 feet 3 inches along N. Lincoln St. In total, the deck and steps encroach 12 feet and 5 inches into the front building setback along N. Lincoln St. and 15 feet into the front building setback along E. Cottage Grove Ave.

In the RM district, the UDO allows for a maximum of 40% of the lot area to be covered by impervious surfaces. 45% of the lot area was covered by impervious surfaces, prior to the construction of the deck. The construction of the deck has covered 48% of the lot area in impervious surfaces and therefore brought the property further out of compliance.

CRITERIA AND FINDINGS FOR DEVELOPMENT STANDARDS VARIANCE

20.09.130 e) Standards for Granting Variances from Development Standards: A variance from the development standards of the Unified Development Ordinance may be approved only upon determination in writing that each of the following criteria is met:

- 1) *The approval will not be injurious to the public health, safety, morals, and general welfare of the community.*

PROPOSED FINDING: Injury is found with the requested variance from front building setbacks. The requested variance from front building setbacks will have negative impacts on public space and public safety. The creation of the deck further increases the amount of structure directly adjacent to E. Cottage Grove. The deck's 6'2" encroachment into the front building setback along N. Lincoln places the structure roughly 12 feet 5 inches from the right-of-way. This reduced separation between the structure and right-of-way along E. Cottage Grove, along with the encroachment into the front building setback along N. Lincoln may have negative impacts on pedestrian and vehicular traffic along E. Cottage Grove and N. Lincoln. The residence will continue to be used as a detached single-family dwelling, which is a permitted use in the district. Decks are a common building feature on residential uses.

Injury is found in the requested variance from maximum impervious surface coverage. 45% of the lot area (1,511 square feet) was covered in impervious surfaces, prior to the deck's construction. 48% of the lot area (1,599 square feet) is covered in impervious surfaces after the deck's construction. The creation of the deck reduces greenspace on the property and brings the site further out of compliance.

- 2) *The use and value of the area adjacent to the property included in the Development Standards Variance will not be affected in a substantially adverse manner.*

PROPOSED FINDING: No adverse impacts to the use and value of the surrounding properties have been found as a result of the requested variance from the required front building setbacks. The deck utilizes the primary structure's front building setback along E. Cottage Grove. The deck will encroach 6'2", and the steps will encroach an additional 4'3", into the front building setback along N. Lincoln. The deck does not encroach toward adjacent properties and therefore should not negatively affect the use and values of those properties.

No adverse impacts to the use and value of the surrounding properties have been found as a result of the requested variance from maximum impervious surface coverage. The lot was previously over the RM district's maximum impervious surface

percentage. The deck has increased the lot's impervious coverage by 3% (88 square feet).

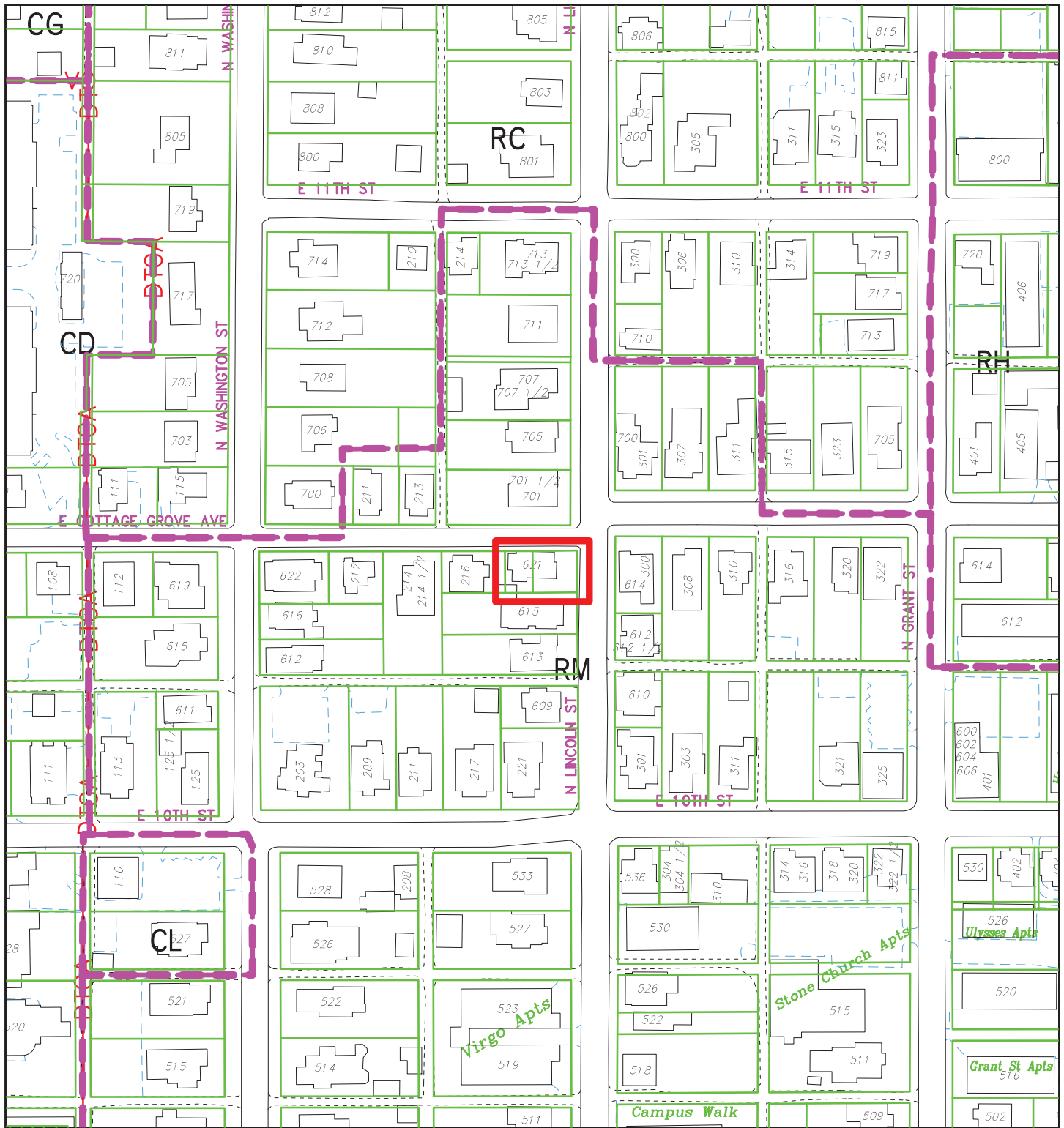
However, on July 16, 2019 the Department received a complaint about the deck from an adjacent property owner.

- 3) *The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property; that the practical difficulties are peculiar to the property in question; that the Development Standards Variance will relieve the practical difficulties.*

PROPOSED FINDING: No practical difficulties in the use of the property as a result of the strict application of the setback standards of the UDO are found. Decks are a common building features on residential properties but they are incidental to the primary use. The property is currently, and was previously, used as a detached single-family dwelling. The UDO does not prohibit decks from being placed on any property, as long as they meet required setbacks. There are neither environmental constraints nor topographical challenges which prevent the property from meeting the terms of the UDO. As such, the requested variances will not alleviate any peculiar conditions on the property that limit its use.

No practical difficulties in the use of the property as a result of the strict application of the impervious surface standards of the UDO are found. The site is currently in excess of the UDO maximum impervious surface allowances. Because of this the construction of a deck would be limited. However, this limitation would apply to any increase in impervious surface coverage and is not unique to the construction of a deck nor the proposed use. There are neither environmental constraints nor topographical challenges which prevent the property from meeting the terms of the UDO. As such, the requested variances will not alleviate any peculiar conditions on the property that limit its use.

RECOMMENDATION: Based upon the written findings above, The Department recommends adoption of the proposed findings and denial of V-44-19.



V-44-19 Randall McGlothlin

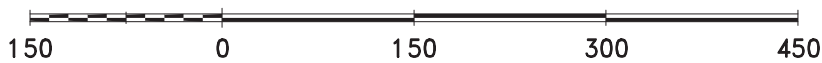
621 N. Lincoln St.

Board of Zoning Appeals

Location, Zoning, Parcels

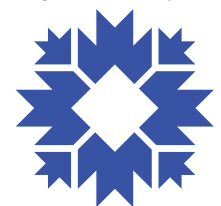
By: roblngr

11 Dec 19

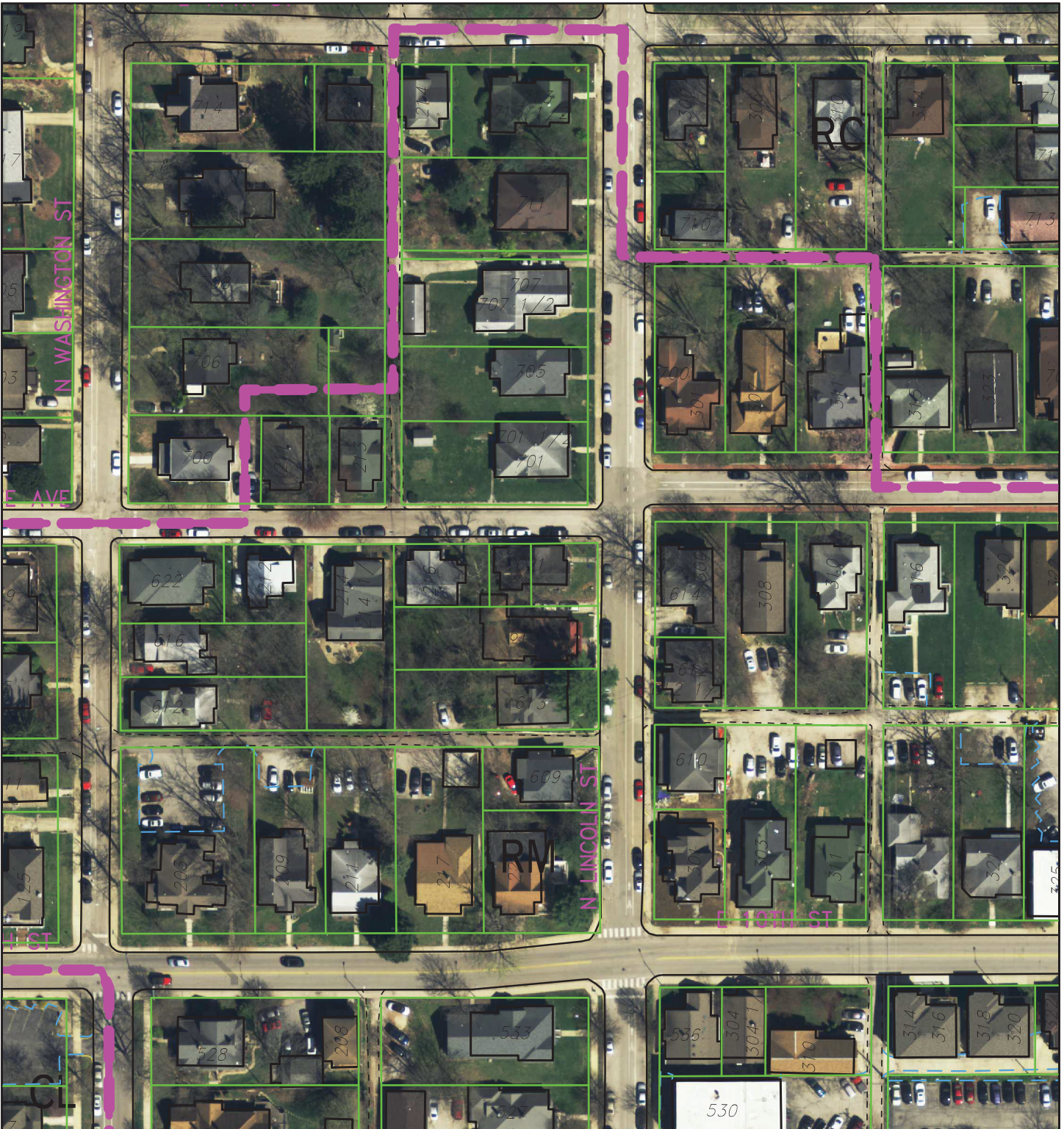


For reference only; map information NOT warranted.

City of Bloomington
Planning & Transportation



Scale: 1" = 150'



V-44-19 Randall McGlothlin

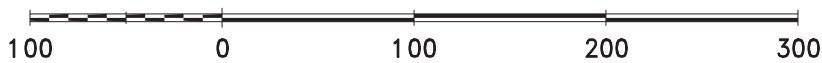
621 N. Lincoln St.

Board of Zoning Appeals

2016 Aerial

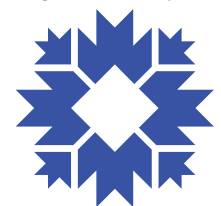
By: roblingr

11 Dec 19



For reference only; map information NOT warranted.

City of Bloomington
Planning & Transportation



Scale: 1" = 100'

PETITIONER'S STATEMENT

Randall McGlothlin owns property located at 621 N. Lincoln Street, Bloomington. The property is the southwest corner of E. Cottage Grove and N. Lincoln Street.

I request design standards variances from maximum impervious surface area and front yard setbacks.

The property and surrounding properties are all zoned residential, multi-family (RM). The lot was originally improved with a single family residential structure. The property was converted many years ago to a rental consistent with many, if not most, of the properties in the surrounding neighborhood.

The home was built at a time prior to a zoning ordinance and development standards. Because the lot is a corner lot, the property must now meet two front yard setback standards – Cottage Grove and Lincoln Street.

The existing residential structure does not comply with the front yard setback requirements along Cottage Grove.

The entry doorway to the residence is elevated. The house had a set of four concrete steps leading to the front door. There was no landing at the top of the steps. Guests coming to the home would be required to stand on the top step waiting for the door to be opened.

The home was without a porch or deck area.

I decided to add new steps covering over the existing concrete steps and a small deck, which also serves as a landing for persons coming to the front door, as well as serves as a small front porch. I called to check on any building permit requirement. I was told no permit required for the stairs and deck. I was not aware of any other permit or requirement. I looked around the neighborhood and saw other stairs and decks similar to what I intended to construct. I worked within the area on the lot less than areas on other lots where new stairs and decks has been added. I assumed that what I planned was permitted since it was less intrusive than I see for existing, recent construction on other lots in the neighborhood. I did not think there was any problem with my improvements to the property.

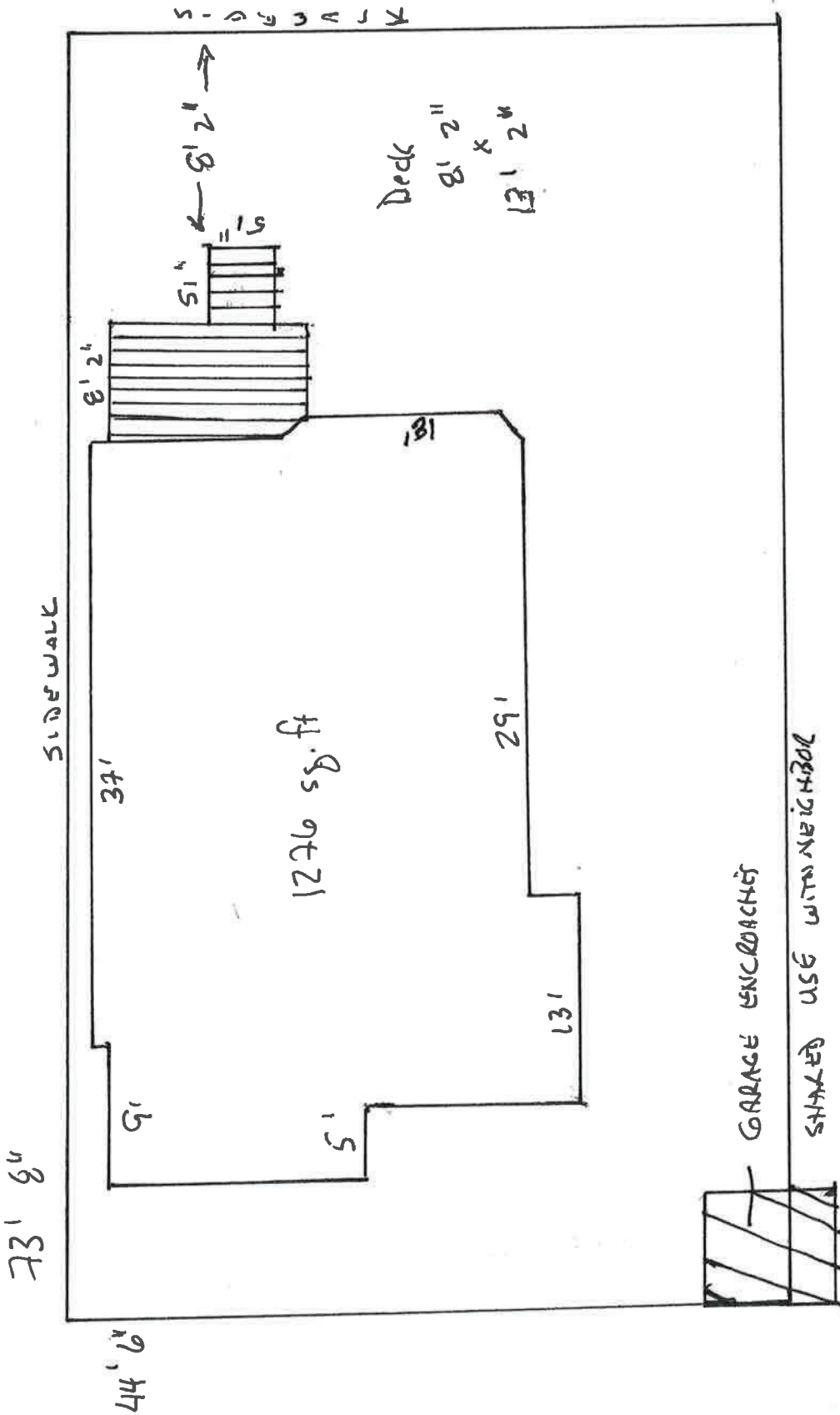
It is now my understanding that because of the modification I made by adding the steps and deck, the property was required to come into compliance with design standards. That is not possible. The wall of the residential structure cannot be moved nor the building come into compliance with the front yard setback on Cottage Grove unless the building is demolished and a new structure erected.

In addition to the encroachment into the setback area, I have been advised that the property does not meet the required minimum 40% maximum impervious surface requirement. The deck and steps that I added to the property did not increase the amount of impervious surface or at most a negligible amount. While the deck and steps are wood structures, it is not solid wood construction. It is planks, meaning there are gaps and spaces between all of the planks allowing rain water to run off the steps on the deck along the edges, but also between the planks and the boards that comprise the steps and the flooring of the deck. The deck is elevated and the ground beneath the deck is essentially undisturbed and remains the same surface as before with the exception of the support posts for the stairs and deck.

The steps and the deck/front porch are improvements to the property. The steps are a safety improvement. The creation of a landing at the top step is a safety improvement. Adding a front porch is a general amenity and I believe is consistent with planning philosophies to encourage front porches as a more pedestrian friendly development. A front porch allowing tenants/residents to sit and enjoy the front porch adds to the pedestrian friendly neighborhood.

417276 / 24734-1

COTTAGE GARAGE



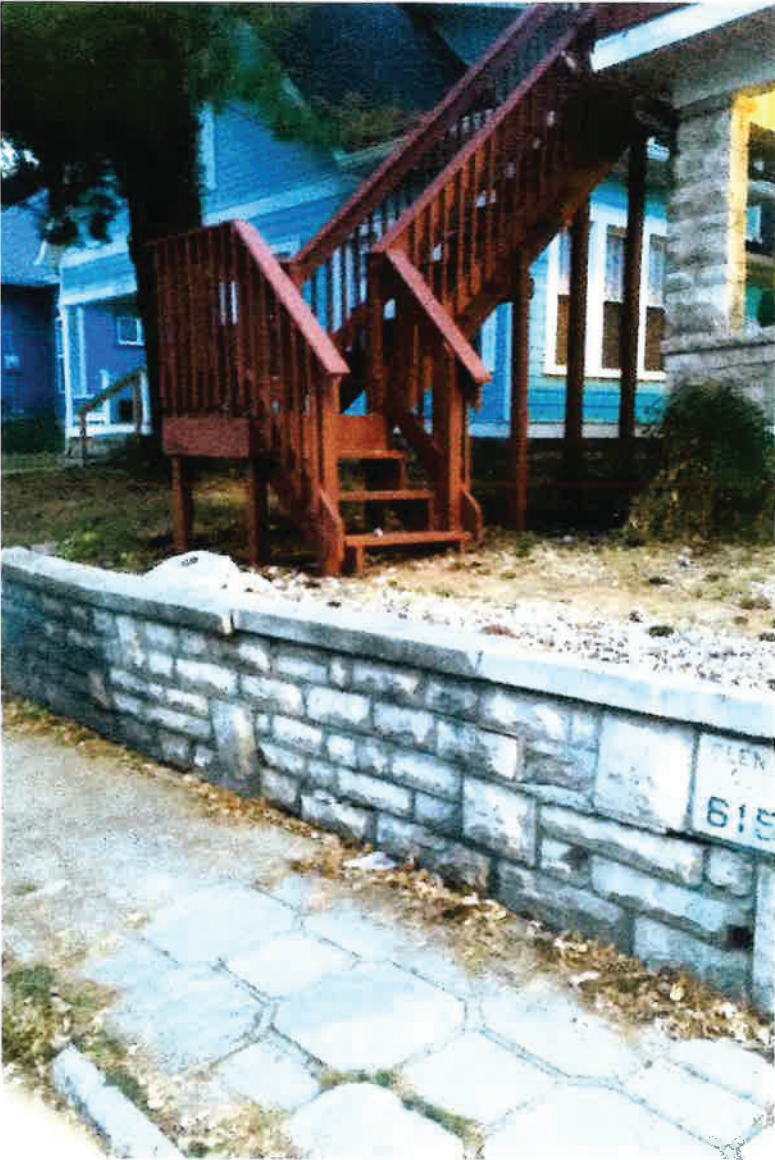
LIKELY

SIDE WALK

Deck
8' 2" x
13' 2"

GARAGE ENCROACHMENT

SHARED USE WITH NEIGHBOR





PETTYMORRIS'S PROPERTY



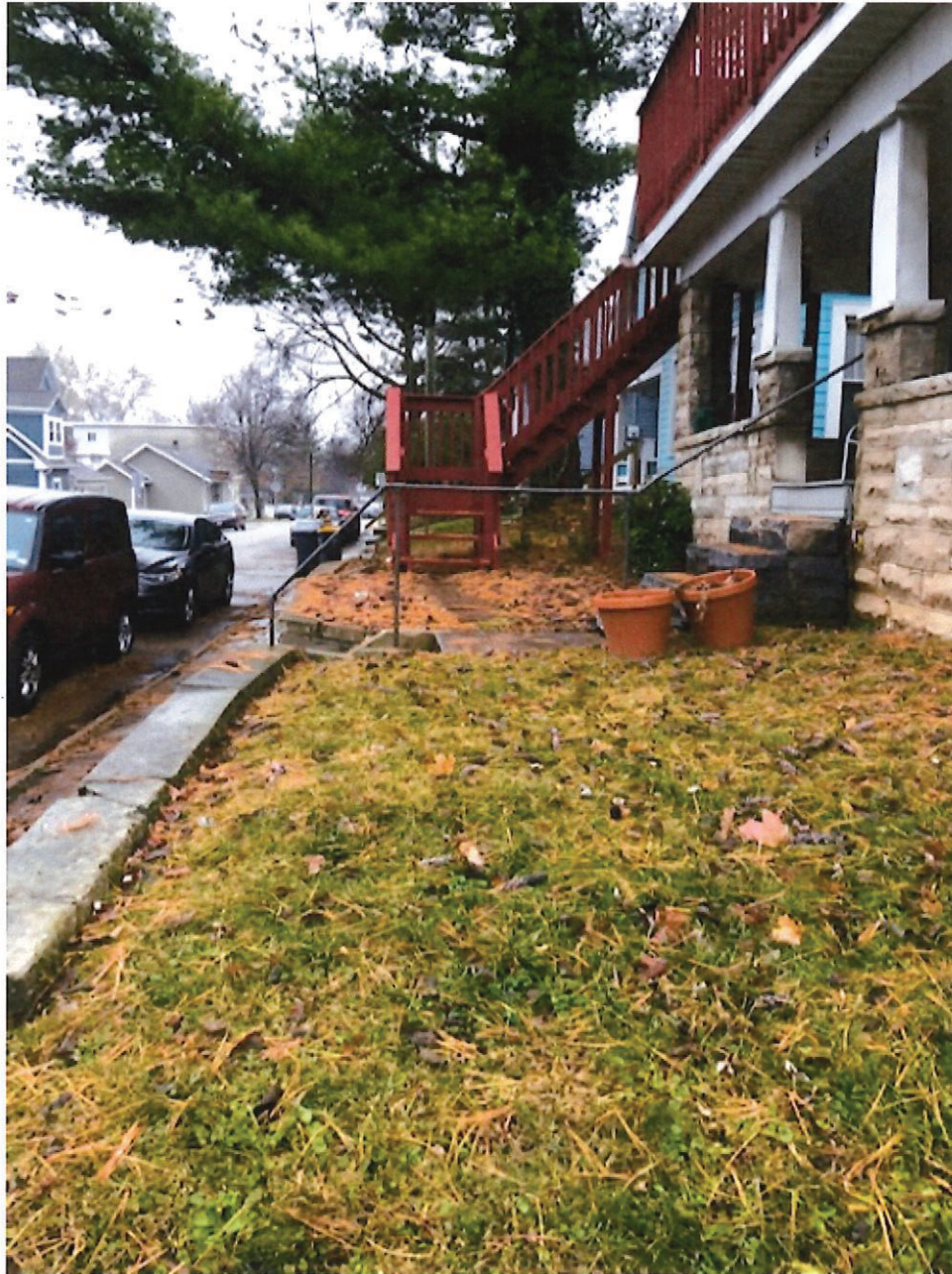
Petitioner's Property



Petitioner's Property



NEARBY PROPERTY





City of Bloomington
Planning and Transportation Department

September 12, 2019

Randall J. McGlothlin
 5891 W State Road 48
 Bloomington, IN 47404

Tenant
 621 N. Lincoln St.
 Bloomington, IN 47408

Re: **Notice of Violation (warning)**
 Development Standards – 621 N. Lincoln St.

Dear Sir or Madam:

This Notice of Violation (NOV) serves as a formal warning of non-compliance with Unified Development Ordinance Section 20.02.160 Residential Multifamily (RM); Development Standards at 621 N. Lincoln Street. Records show that you are the owner (or tenant) of this property.

The City of Bloomington Planning and Transportation Department received a complaint of a development standards violation at 621 N. Lincoln Street on 07/16/2019. On 07/16/2019 staff observed a porch being built at 621 N. Lincoln Street.

According to the City of Bloomington Unified Development Ordinance (UDO) **Section 20.02.160 Residential Multifamily (RM); Development Standards:** Maximum Impervious Surface Coverage: 40% of the Lot Area. The total area of the existing impervious surface does not allow for additional impervious surface (i.e. stairs and porch) to be added to the lot.

Additionally, according to the City of Bloomington Unified Development Ordinance (UDO) **Section 20.02.160 Residential Multifamily (RM); Development Standards:** Minimum Front Building Setback: 15 feet from the proposed right-of-way indicated on the Thoroughfare Plan; or the block face average setback of the existing primary structures on the same block face, whichever is more. The block face average on N. Lincoln Street is 22 feet from the right-of-way line, therefore, the minimum setback is 22 feet. The house on your property appears to be 20 feet from the front property line.

According to the City of Bloomington Unified Development Ordinance (UDO) to UDO **Section 20.05.077 SB-01 [Setback Standards; General];**

- (b) The following site feature setback requirements or exemptions shall apply:
- (N) Porches (uncovered, open): May encroach up to six (6) feet into the setback.
 - (O) Steps: May encroach up to six (6) feet into the setback.

In accordance with UDO Section 20.10, violations of this nature may result in a one hundred dollar (\$100) fine. Each code violation is considered a distinct and separate violation. Each day a violation is allowed to continue is considered a distinct and separate violation. Subsequent

violations are twice the previous fine, up to a maximum daily fine of seven thousand five hundred dollars (\$7,500).

No fines have been issued at this time. You have the following options to remedy the situation.

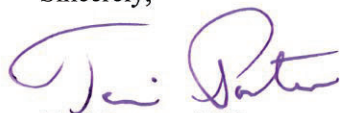
1. The Setback Standards as applied to your property would allow for a porch and stairs to extend 4 feet from the front of the building, however, the existing impervious surface coverage on your property does not allow for any additional impervious surface coverage (i.e. stairs and porch). Considering these factors, the remedy is to remove the stairs and porch by 09/26/2019, **OR**;
2. Make an appointment with a Planner to discuss filing a variance request. The appointment must be on or before 10/17/2019 for the 11/21/2019 Board of Zoning Appeals hearing.

If you dispute the City's assertion that the property is in violation of the above referenced sections of the Unified Development Ordinance, you may file an appeal with the City's Board of Zoning Appeals. Said appeal shall be filed with the Planning and Transportation Department within five (5) days of your receipt of this Notice of Violation and shall conform to the requirements of UDO Section 20.09.350.

Failure to resolve this violation may result in further enforcement action. If a fine is issued, the final fine amount shall be paid to the City of Bloomington. All fines may be contested in the Monroe County Circuit Courts.

Please contact the Planning and Transportation Department at planning@bloomington.in.gov or 812-349-3423 with any questions or concerns.

Sincerely,



Terri Porter, AICP
Director, Planning and Transportation

CC: Scott Robinson, AICP
Jackie Scanlan, AICP

**BLOOMINGTON BOARD OF ZONING APPEALS
STAFF REPORT**

**CASE #: AA-45-19
DATE: January 23, 2020**

Location: 520 E. 2nd Street

PETITIONER: Tariq Khan
3500 E. Homestead Drive, Bloomington

REQUEST: The petitioner is requesting an administrative appeal of the issuance of a Notice of Violation of a Certificate of Zoning Compliance.

REPORT: This appeal request is the result of issuance of a Notice of Violation related to non-permitted construction done on the house at 520 E. 2nd Street. The property at 520 E. 2nd Street is located at the southwest corner of E. 2nd and S. Henderson Streets. This property is zoned Residential Multifamily (RM). Surrounding properties to the west and east are also zoned RM. Properties to the north across E. 2nd Street are zoned Residential High-Density Multifamily (RH), and adjacent properties to the south are zoned Residential Core (RC). The violation is a result of construction work done on the building outside of the work allowed in the Certificate of Zoning Compliance (CZC) issued for the site.

CZC #C18-582 was issued on November 16, 2018 with six (6) conditions. The first three conditions were related to limitations on the allowed construction and are listed below. The conditions combine to limit the allowable exterior changes to those shown in the application packet related to boards on the porch. No other exterior work is permitted. A specific scope of work is always required and was especially important in this instance because if exterior work was limited to the work shown in the application, Demolition Delay review was not required. So, the petitioner did not go through that process. The first 3 CZC conditions are listed below.

1. This permit authorizes the interior remodel as shown in the building permit.
2. The only exterior changes permitted to the structure is to the replace existing boards on the porch. This does not permit the expansion of the porch.
3. No new windows or doors are permitted. No changes to the footprint of the house are permitted.

The property is listed as ‘Contributing’ in the City of Bloomington Survey of Historic Sites and Structures (City Survey). Per BMC 20.09.230(b), no CZC allowing demolition or partial demolition can be issued for the structure without Demolition Delay review. The scope of work as described in the approved CZC did not reach the level of requiring Demolition Delay. However, the work that was done meets the UDO definition of ‘partial demolition’ and would have required Demolition Delay review.

Partial Demolition is defined in the UDO as:

Means the complete or substantial removal or destruction of any exterior portion of a structure, which shall include but not be limited to:

- (1) Complete or substantial removal or destruction of a porch, wing, cupola, addition, or similar feature; or

- (2) Partial demolition of a roof shall include work that results in any change to the pitch of any portion of the roof, or; covering or otherwise obscuring an existing roof with a new roof of different pitch or material, or; adding any gable, dormer or other similar feature to an existing roof; or
- (3) Any work resulting in the obscuring from view of forty percent or more of the exterior of any façade on the structure; or, removal or destruction of the exterior surface of forty percent or more of the area of any exterior façade on the structure; or**
- (4) Construction or attachment of any addition to a structure;
- (5) Replacement of any window or door where the window or door opening is enlarged or obscured from view; or**
- (6) Creation of any new window or door opening.

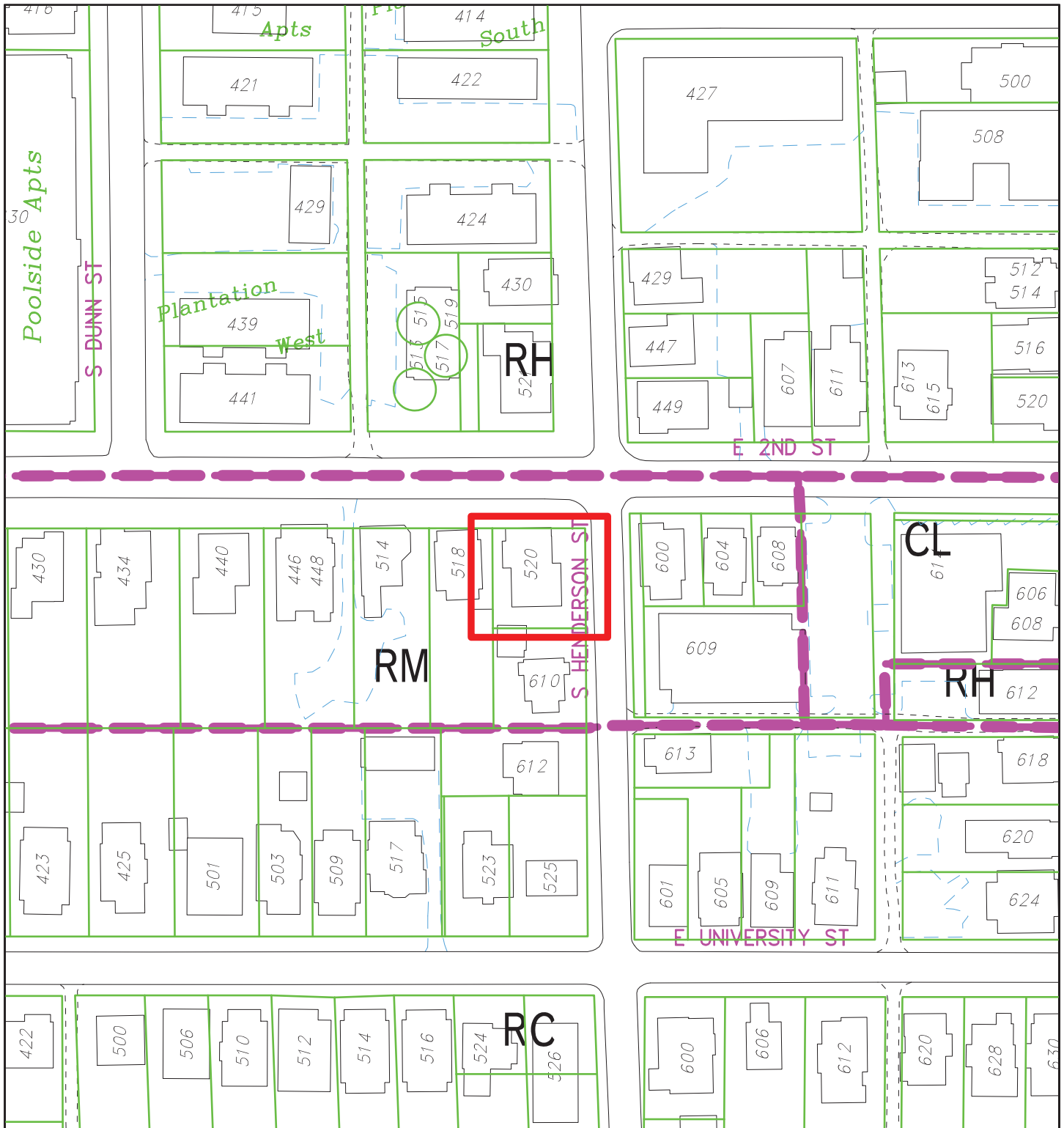
(emphasis added)

On August 13, 2019, Legal Department staff alerted the Planning and Transportation Department (Department) that a complaint was received that the exterior of the building was being altered. The person who registered the complaint then submitted photographs showing the changes that he believed would have required Demolition Delay review. Staff visited the site and concurred that at least the south wall was drastically different. Staff contacted the Monroe County Building Department on August 15, 2019 and requested that they issue a Stop Work Order at the site because work was being done outside of the bounds of the approved CZC. Mr. Khan called the Department and insisted that no changes to any window or door openings had been made. Because he was expecting new tenants on the 21st and trying to finish the work as quickly as possible, and the next Historic Preservation Commission when a Demolition Delay review could be discussed was on September 12th, staff lifted the Stop Work Order to allow the renovation to be completed. On August 16, 2019, staff emailed Mr. Khan with a synopsis of the previous day's conversation.

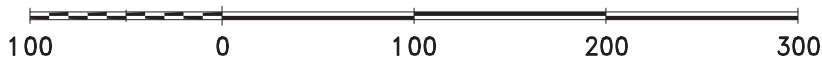
Attached photographs show that the three windows on the south wall were removed, and very likely, the entire wall was removed and replaced. Additionally, siding was removed and replaced.

The owner has requested an appeal of the City's Notice of Violation issued November 8, 2019 that stipulated that alterations were made to the house outside of those allowed by the Certificate of Zoning Compliance issued for remodel of the building. It is clear that at the very least, the exterior south wall is completely different after the remodel, which was not in the approved scope of work.

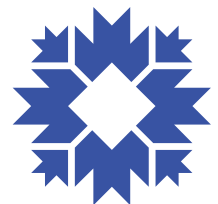
RECOMMENDATION: Based on the findings in this report, the Department recommends denial of Case # AA-35-19.



By: scanlanj
17 Jan 20

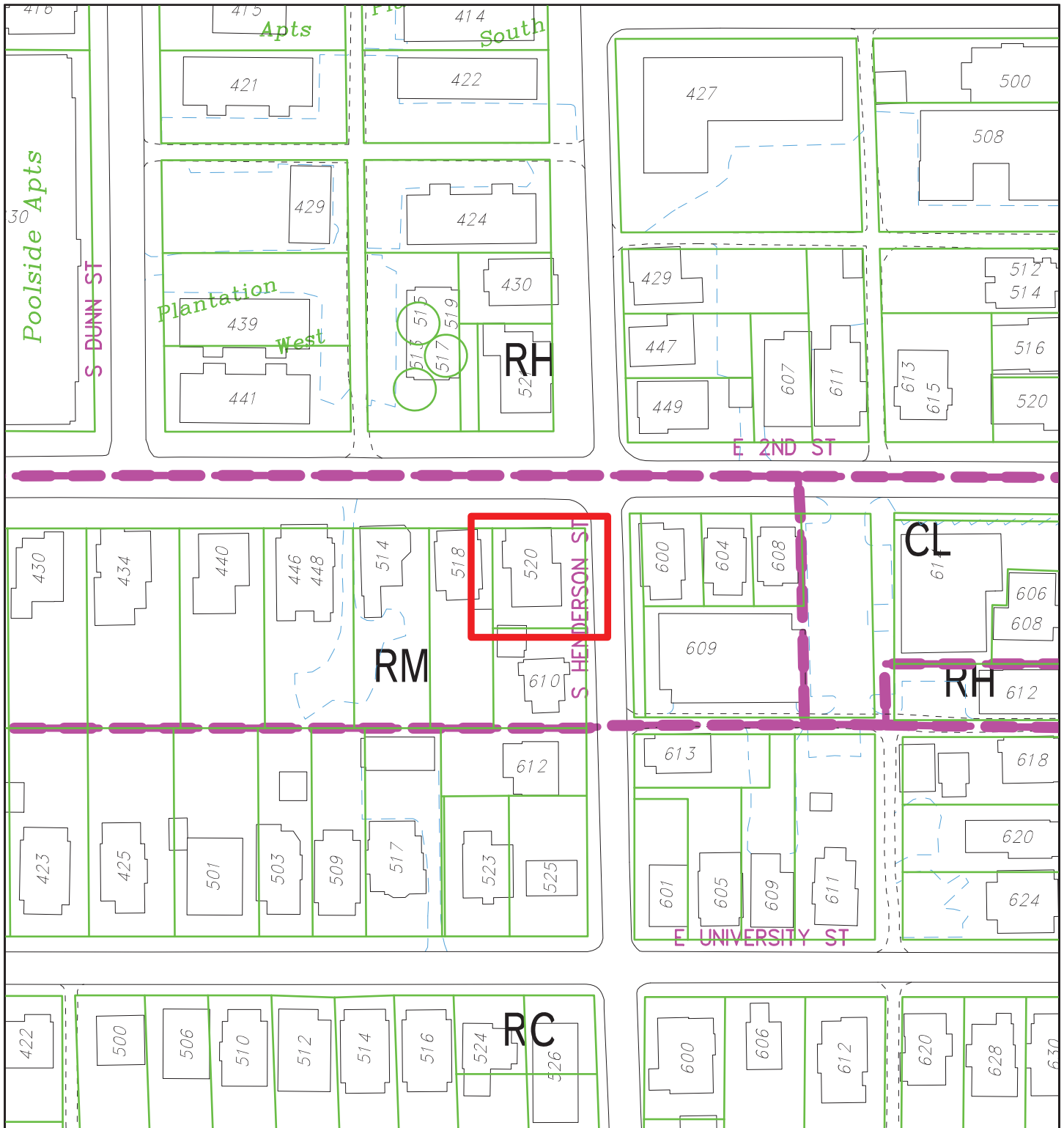


City of Bloomington
Planning & Transportation

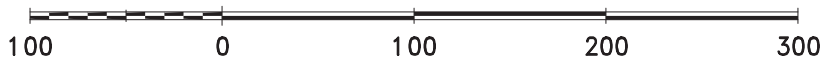


Scale: 1" = 100'

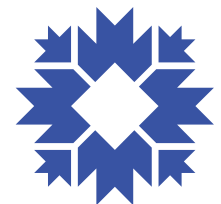
For reference only; map information NOT warranted.



By: scanlanj
17 Jan 20



City of Bloomington
Planning & Transportation



Scale: 1" = 100'



**City of Bloomington
Planning and Transportation Department**

Certificate of Zoning Compliance

Application #:	C18-582	PROPOSED WORK IN FLOODPLAIN <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Date:	November 16, 2018	FEMA MAP PANEL 18105C0142D <small>Effective Date December 17, 2010</small>
Property Address:	520 E 2 nd Street	
Zoning:	RM Residential Multi Family	
Proposed Use:	Interior Remodel & Porch Maintenance	

The attached plans have been reviewed for compliance with applicable provisions of Title 20, Bloomington Unified Development Ordinance, and conformance with the terms of any approvals which have been granted under authority of the Ordinance. The Planning and Transportation Department finds the plans to be in compliance:

- As submitted
- With modifications or conditions as follows:

1. This permit authorizes the interior remodel as shown in the building permit.
2. The only exterior changes permitted to the structure is to the replace existing boards on the porch. This does not permit the expansion of the porch.
3. No new windows or doors are permitted. No changes to the footprint of the house are permitted.
4. No increase in number of bedrooms or additional dwelling units is approved with this permit.
5. Rental unit must be inspected by Housing and Neighborhood Development (HAND) prior to occupancy.
6. This permit does not allow for work in a city right-of-way. An excavation permit is required for any work done within a public right-of-way.

This Certificate of Zoning Compliance pertains only to the attached plans and the specific use proposed, exactly as submitted and reviewed. This Certificate does not constitute the issuance of any additional required permits nor exempt the property from compliance with any requirements of other governmental entities.

Amelia Lewis
 Zoning and Long Range Planner
 City of Bloomington
 Planning and Transportation Department



Jacqueline Scanlan <scanlanj@bloomington.in.gov>

520 E. 2nd Street

1 message

Jacqueline Scanlan <scanlanj@bloomington.in.gov>

Fri, Aug 16, 2019 at 11:44 AM

To: Tariq Khan <northstar156@hotmail.com>, Conor Herterich <herteric@bloomington.in.gov>, Philippa Guthrie <guthriep@bloomington.in.gov>

Mr. Khan,

Thanks for calling in yesterday. Per our conversation, you stated that there have been no changes to any of the window openings on the site. We are sending a Notice of Violation because work that has been completed at the site is out of the bounds of your approved Certificate of Zoning Compliance that accompanied your building permit. As I mentioned on the phone, the Notice of Violation does come with a fine, which you will see described in the Notice.

You need to contact Conor Herterich in the HAND Department today to request to appear on the 9/12 Bloomington Historic Preservation Commission agenda for Demolition Delay review. You need to come to the Planning and Transportation Department today or Monday to pick up and display a Demo Delay request sign on the property. The sign must be placed no later than Monday.

You may continue to work on the property toward your goal of move in on 8/21. You have stated that no exterior changes outside of the approved CZC work has been done. **If it is found that that is not the case, the enforcement action may continue, including the accrual of fines, until a permit for the actual work done is approved. Such a permit cannot be approved until after the 9/12 hearing.** All of this to say.....I hope that you haven't done any work (replacing exterior walls or windows) outside of what we discussed because that could effect your fining timeline.

Feel free to let me know if you have any questions. The sign will be up front with your name on it.

Thank you,
Jackie Scanlan, AICP
Development Services Manager









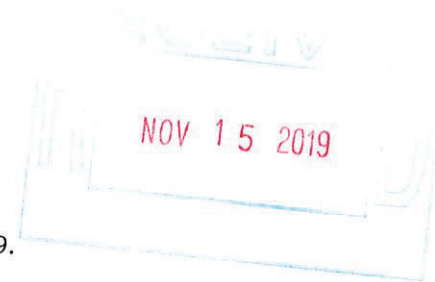








City of Bloomington Board of Zoning Appeals



This is in response to the NOV sent to me on November 8, 2019, by City of Bloomington Planning and Transportation Dept. Most of the details of the violations are covered in this letter, so in the interest of the brevity and in my defense I would say only a couple of things.

1. 520 E. 2nd was in far worse shape than I had anticipated but I did not realise that I needed another permission from Historical Commission since Monroe County inspectors were intimated and visited on a regular basis to monitor the progress.
2. The main reason, as I understand for the NOV from this letter, was removal of windows from the south wall.
The south wall was completely gone and had to be erected completely new. Since the south wall and the windows on it were the main cause of the dererioration of the whole house I decided not put any windows there. Only areas that were affected by this decision would be one bedroom, which already had two windows on the east wall, one bathroom which never had a window orginally, I put one several years ago and then the kitchenthat did not have any windows to the south, which I put in several years ago. Ironically I am being fined for removing them... and for a good reason. From the past, dealing with the city, I understood that front of the house and the areas that could be observed from the side were of the main interest but the rear of the house was not.

In the light of the above misunderstanding I would request a review from City of Bloomington Board of Zoning Appeals.

Sincerely,

Tariq Khan
812 369 1661
3500 E. Homestead Dr.
Bloomington, IN 47401

November 15,2019