CITY OF BLOOMINGTON

BOARD OF ZONING APPEALS

May 26, 2022 @ 5:30 p.m.
City Hall, 401 N. Morton Street
Common Council Chamber, Room #115

https://bloomington.zoom.us/j/87204468859?pwd=M01zKzRZa0J4SjBobDVhTE5VR3h2QT09

Meeting ID: 872 0446 8859
Passcode: 647693
CITY OF BLOOMINGTON
BOARD OF ZONING APPEALS (Hybrid Meeting)

City Hall, 401 N. Morton Street
Common Council Chamber, Room #115

May 26, 2022 at 5:30 p.m.

Virtual Meeting:
https://bloomington.zoom.us/j/87204468859?pwd=M01zKzRZa0J4SJBobDVhTE5VR3h2QT09

Meeting ID: 872 0446 8859
Passcode: 647693

PETITION MAP: https://arcg.is/1ryC9j3

ROLL CALL

APPROVAL OF MINUTES: February 17, 2022

PETITIONS CONTINUED TO: June 23, 2022

AA-17-22 Joe Kemp Construction, LLC & Blackwell Construction, Inc.
Summit Woods (Sudbury Farm Parcel O) W. Ezekiel Dr.
Request: Administrative Appeal of the Notice of Violation (NOV) issued March 25, 2022.
Case Manager: Jackie Scanlan

PETITIONS:

V-04-22 Southern Indiana Medical Park (Staley Signs) - petition continued from 4/21
2810 S. Deborah Dr.
Request: Variance from sign regulation development standards. One request is to allow the installation of one freestanding sign in front of Southern Indiana Medical Park, the other request is to allow the installation of three wayfinding signs within the medical park.
Case Manager: Karina Pazos

V-09-22 Patrick and Rachael McAleer - petition continued from 4/21
935 W. 7th St.
Request: Determinate sidewalk variance from sidewalk requirements for a new single-family development adjacent to existing pedestrian network in the R3 zoning district.
Case Manager: Karina Pazos

V-12-22 City of Bloomington Redevelopment Commission - petition continued from 4/21
617 N Madison St. and 422 W. 10th St.

**Next Meeting: June 23, 2022

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.
Request: Variance from front building setback standards to allow for a plaza in the Mixed-Use Downtown Showers Technology Downtown Character Overlay (MD-ST) zoning district.

Case Manager: Jackie Scanlan

V-14-22 Chris and Betsy Smith (Springpoint Architects) - petition continued from 4/21
600 W. Kirkwood Ave.
Request: Variance from front building setback standards, front parking setback standards, and a determinate sidewalk variance to allow for the construction of a new single-family residence in the Mixed-Use Medium Scale (MM) zoning district.

Case Manager: Eric Greulich

V-16-22 Aspen Heights Partners
703 W. Gourley Pike
Request: Variance from riparian buffer standards to allow an access drive in the Mixed-Use Student Housing (MS) zoning district.

Case Manager: Eric Greulich

**Next Meeting: June 23, 2022**

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BLOOMINGTON BOARD OF ZONING APPEALS

CASE #: V-04-22

STAFF REPORT

DATE: May 26, 2022

Location: 2810 S Deborah Drive, 2800 Rex Grossman Boulevard, 2499 W Cota Drive, and 2920 S McIntire Drive

PETITIONER: Doug Staley, Jr. of Staley Signs, Inc.
PO Box 515
Indianapolis, IN 46206

CONSULTANT: Robert Whitacre of Southern Indiana Medical Park Partnership
8902 N Meridian St
Indianapolis, IN 46260

REQUEST: A variance from sign regulation development standards. One request is to allow the installation of one freestanding sign in front of Southern Indiana Medical Park, the other request is to allow the installation of three wayfinding signs within the medical park.

REPORT: This approximately 20-acre medical park is located in the southeast corner at the intersection of I-69 and W Tapp Road. The property is currently zoned Mixed-Use Employment (ME). The properties to the north, south and east are also zoned ME. The properties to the west on the other side of I-69 are outside of the City’s jurisdiction.

The petitioner is proposing to install one large freestanding sign at the southwest corner of Deborah Drive and Tapp Road, and three freestanding wayfinding signs within the medical park. The UDO defines Multi-tenant Center as “a group of separate buildings with multiple tenants, operating under a common name or management; a single building containing multiple uses where there are specific exterior entrance ways for individual uses; or a group of uses on separate but adjoining properties that request treatment as a multiuse complex.” The UDO states that freestanding signs for multi-tenant nonresidential centers with at least 50,000 square feet of gross floor area shall not exceed 125 square feet, and shall have a maximum height of 15 feet. The UDO also states that lots with more than 30 feet and less than 500 feet of frontage on a public street are permitted one freestanding sign, and lots with 500 feet or more of public street frontage shall be permitted one freestanding sign for each 250 feet of public street frontage.

The medical park meets the definition of a multi-tenant center as a group of uses on separate but adjoining properties that request treatment as a multiuse complex. The medical park previously had a large freestanding sign at the front of the complex but it was removed with the development of I-69. The proposed large freestanding sign is 122 square feet so the size meets the 125 square feet maximum. However, per 20.04.100(j)(3)(B)(ii)(6), the square footage of the buildings on the outlots that have their own freestanding signs cannot be counted toward the total for the multi-tenant center. The outlots in this development each have existing freestanding signs that meet their maximum allowance of number of freestanding signs per lot frontage facing a public street, but cannot be counted toward the square footage for the multi-tenant center sign. Additional freestanding wayfinding signs would not comply with the UDO requirements.

The petitioners are requesting a variance from the standard in the UDO that states “only outlots that are not counted toward center square footages shall be permitted freestanding signage based
on individual nonresidential uses,” such that, the medical park can reinstall one large freestanding sign at the front of the complex and maintain the existing individual freestanding signs on the outlots. In addition to the large freestanding sign, the petitioners are requesting a variance from the maximum square footage requirements for individual nonresidential uses to add three freestanding wayfinding signs within the medical park to direct traffic to the appropriate building.

CRITERIA AND FINDINGS FOR DEVELOPMENT STANDARDS VARIANCE

20.06.080(b)(3)(E)(i)(1) Standards for Granting Variances from Development Standards: Pursuant to Indiana Code 36-7-4-918.5, the Board of Zoning Appeals or Hearing Officer may grant a variance from the development standards of this UDO 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

CENTER SIGN PROPOSED FINDING: No injury is found with the allowance of a freestanding sign. The sign will meet setback and dimensional standards for this type of sign and is also replacing a previous sign for this complex.

WAYFINDING SIGNS PROPOSED FINDING: No injury is found with the allowance of wayfinding signs.

(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; and

CENTER SIGN PROPOSED FINDING: No adverse impacts to the use and value of the surrounding area associated with the proposed variance are found. The variance is not expected to have off-site negative consequences, and is replacing a previously existing sign for this complex.

WAYFINDING SIGNS PROPOSED FINDING: No adverse impacts to the use and value of the surround area associated with the proposed variance are found. The signs would be in the complex only.

(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 questions; that the development standards variance will relieve the practical difficulties; and

CENTER SIGN PROPOSED FINDING: Practical difficulties are found in the use of the property. The medical park contains eight buildings over almost twenty acres of developed land and identification of the medical park entrance and what it contains is necessary for employees and clients to access the medical park. Many of the buildings cannot be seen from the main entrance on Tapp Road. While each property has its own identifying sign on-site, it is common for large complexes that function as one, as is the case here, to have a multitenant center sign at the main entrance. This particular center has the peculiar condition of being quite spread out with a sixty foot drop from Tapp Road to
the rear of the developed area, which contributes to it being difficult to see what is at the site, in addition to the size of the development. Allowing an identifying sign up front along with signs at each location is appropriate for a development with these characteristics.

WAYFINDING SIGNS PROPOSED FINDINGS: No practical difficulties are found in the use of the property that would be relieved with a variance to allow three freestanding wayfinding signs. If the other proposed variance is approved, each site will have identification at the entrance to the center, as well as on-site. The roadways in the development have names, so each location has a very specifically identifiable location, and wayfinding signs are not necessary or allowed.

RECOMMENDATION: Based upon the written report and findings of fact above, the Department recommends that the Board of Zoning Appeals adopts the proposed findings and approves V-04-22 to install one freestanding sign in front of the Southern Indiana Medical Park, but denies a variance to install three wayfinding signs within the medical park with the following conditions.

1. A sign permit is required for the new freestanding sign.
Petitioner’s Statement

Variance for Signs at 2810 S. Deborah Dr.

We are seeking a variance to allow for (1) pylon sign and (3) directional/directory signs at the Southern Indiana Medical Park at 2810 S. Deborah Dr. The Southern Indiana Medical Park is located at the Southeast corner of 37 and Tapp Rd. The medical park consists of eight buildings that include the IU Hospice House, Cancer Center, Wound Center, Sports Medicine, the Medical Office Building, Summit Urology, Eyecare and several others.

The property has recently been re-zoned from its original PUD to ME. The new zoning does not allow for these signs. Since the property is a medical campus with eight separate buildings housing many different healthcare facilities, these signs are vital to identify the healthcare providers, the services that they provide, and to direct the public appropriately through the campus.

Sign #1 (pylon sign) is proposed to be located at the Southwest corner of Tapp Rd and Deborah Dr. This pylon sign is 14’-6” tall by 10’ wide. It will be internally illuminated with LEDs. The sign will consist of a top section that identifies the medical park and lower sections to identify the medical providers and the medical office building. Finally, the sign will have a decorative, brick base as illustrated in our drawings. This sign is the cornerstone identifier for the medical park. Without this sign, the public doesn’t have a clear way to identify that they have located the medical park and the healthcare services provided within the park.

Sign #3 (directional/monument sign) is proposed to be located at the split of Deborah Dr and Cota Dr. It is 4’-3” tall by 7’-6” wide. It is designed to architecturally compliment sign #1. It will have a brick base and sign panels that direct the public towards the various healthcare providers.

Sign #8 (directional/monument sign) is proposed to be located at the Southwest corner of Cota Dr. and McIntyre Dr. It is 4’-3” tall by 7’-6” wide. It is designed to architecturally compliment sign #1 and 3. It will have a brick base and sign panels that direct the public towards the various healthcare providers. It should be noted that there is an existing directional sign in this location that is a legal, non-conforming sign because it was permitted when the property was zoned PUD.

Sign #12 (directory/monument sign) is proposed to be located on McIntyre Dr. at the Northeast end of the medical office building. It is 4’-3” tall by 7’-6” wide. It is designed to architecturally compliment signs #1, 3, and 8. It will have a brick base and sign panels that identify healthcare providers within the medical office building.
Approval of this variance will not be injurious to the public health, safety, morals, and general welfare of the community because the proposed signs identify and direct the public to healthcare providers that are located within the Southern Indiana Medical Park. The signs will be manufactured and installed to meet industry standards and appropriate building codes.

The use and value of the area adjacent to the property included in this development standards variance will not be affected in a substantially adverse manner because the signs are designed to be architecturally and aesthetically pleasing, using high quality materials and fabrication techniques. The size of the signs are appropriate size and location for the use that they are serving. The signs should help traffic flow by minimizing the number of confused and or “lost” patients trying to find their healthcare provider.

The strict application of the terms of the UDO 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 because sign regulations allow for the appropriate identification and wayfinding required for a medical park campus. This property is expansive and contains eight different buildings that house dozens of healthcare providers. It is imperative to the providers and their clients that the healthcare services are properly identified within the park.

Specifically, 20.04.100(j)(3)(A) on page number marked as 202, states that "Lots with greater than 30 feet and less than 500 feet of frontage on a public street are permitted one freestanding sign"
AFFIDAVIT

I, Robert N. Whitacre, certify that I am the agent for the Southern Indiana Medical Park Partnership for the Southern Indiana Medical Park which is comprised of approximately 24 acres, of which the IU Hospice House with an address of 2810 S. Deborah Drive, Bloomington, IN 47403 is included.

I hereby designate authority to act on my behalf for the matter pending before the Board of Zoning Appeals of the City of Bloomington to Doug Staley, Jr. as my authorized agent.

Signed,

[Signature]

Robert N. Whitacre, Agent
Southern Indiana Medical Park Partnership

Dated: February 14, 2022

Notarized,

[Signature]

Dena D. Wilson

Date: 2/14/22

SEAL

Dena D. Wilson
Commission Number: 702063
Hamilton County
Expiration Date: Sept. 11, 2025
AFFIDAVIT

I, _______ Paul Johnson, certify that I am the owner of the property referred to as Southern Indiana Surgery Center Partnership LLC located within the Southern Indiana Medical Park with an address of 2800 Rex Grossman Boulevard, Bloomington, IN 47403 (parcel 53-08-18-200-009.000-009).

I hereby designate authority to act on my behalf for the matter pending before the Board of Zoning Appeals of the City of Bloomington to Doug Staley, Jr. of Staley Signs, Inc. as my authorized agent.

Signed,

[Signature]

Dated: 3/8/2022

Notary,

[Seal]

By: _______ Branna Goodman

Date: 3/8/2022

SEAL
AFFIDAVIT

I, Robert N. Whitacre, certify that I am the agent of the property referred to as Tract B, vacant land totaling 0.13 acres, located within the Southern Indiana Medical Park, parcel 53-08-18-200-004.000-009.

I hereby designate authority to act on my behalf for the matter pending before the Board of Zoning Appeals of the City of Bloomington to Doug Staley, Jr. of Staley Signs, Inc. as my authorized agent.

Signed,

[Signature]

Robert N. Whitacre, Agent
Southern Indiana Medical Park Partnership

Dated: February 28, 2022

Notarized,

[Signature]

Dena D. Wilson

Date: 2/28/22

SEAL

[Notary Seal]
AFFIDAVIT

I, Brian Shockney, certify that I am the owner of the property referred to as Indiana University Health Bloomington, Inc. located within the Southern Indiana Medical Park with an address of 2810 S. Deborah Drive, Bloomington, IN 47403 (parcel 53-08-18-200-010.000-009).

I hereby designate authority to act on my behalf to submit and present the signage package for the Southern Indiana Medical Park before the Board of Zoning Appeals of the City of Bloomington to Doug Staley, Jr. of Staley Signs, Inc. as my authorized agent. It is understood that the style and dimensions of signage renderings submitted are accurate, however, the type on the sign panels is not correct per Indiana University Health’s current standards but can be changed without further need of approval by the City.

Signed,

[Signature]

Dated: April 13, 2022

Notary,

[Signature]

By: KATHLEEN MADISON

Date: April 13, 2022

Kathleen Madison
NOTARY PUBLIC
SEAL
Monroe County, STATE OF INDIANA
MY COMMISSION EXPIRES January 31, 2025
Commission Number 696145
AFFIDAVIT

I, Ronald Jeanneault, certify that I am the owner of the property referred to as GA HC REIT II Bloomington MOB LLC located within the Southern Indiana Medical Park with an address of 2920 S. McIntire Drive, Bloomington, IN 47403 (parcel 53-08-18-201-003.000-009).

I hereby designate authority to act on my behalf for the matter pending before the Board of Zoning Appeals of the City of Bloomington to Doug Staley, Jr. of Staley Signs, Inc. as my authorized agent.

Signed,

Dated: 03/17/2022

Notary,

By:

Date: 03/17/2022

SEAL
Southern Indiana Medical Park

Indiana University Health
Southern Indiana Surgery Center
Rehabilitation & Sports Medicine Center
Cancer Radiation Center • Wound Center
Hospice House • Spine Program

Southern Indiana Medical Office Building

2 Acre Tenant
Summit Urology OSSIP
SurgiCare

1 Acre Tenant

1 Acre Tenant

Grade 24''
14'-6"
12'-0"
10'-10"
15"
10'-0"

© Staley Signs, Inc. for use with stated project. Display, Distribution or Duplication without prior written consent is strictly prohibited.

Customer: Southern Indiana Medical Park
Project: Entry Pylon
Location #1

Option: A

Date: 04-27-2022
Rep: D. Staley Jr.
Rev. 0: 00-00-0000 / Name
Scale: 1/2”=1’-0”

STALEY SIGNS
SINCE 1908
P.O. Box 515 Indianapolis, Indiana 46206
Tel: 317.637.4567 • Fax: 317.221.0123
http://www.staleysigns.com/
Project: Southern Indiana Medical Park
Monument Sign
Location #3

Date: 03-05-2019
Rep: D. Staley Jr.

Scale: 1/2"=1'-0"

Scale: 1/2"=1'-0"

Grade
BLOOMINGTON BOARD OF ZONING APPEALS
STAFF REPORT
Location: 935 W 7th Street

PETITIONER: Patrick and Rachael McAleer
Bloomington, IN 47404

REQUEST: Determinate sidewalk variance from sidewalk requirements for new single-family development adjacent to existing pedestrian network in the R3 zoning district.

UPDATE SINCE LAST HEARING: At the April 2022 hearing, the Board asked staff to prepare alternate findings for a possible approval of the determinate sidewalk variance. The previous report is below, and the Alternate Findings Proposal are attached.

REPORT: This property is located in the southeast corner at the intersection of W 7th Street and N Elm Street. The property is currently zoned Residential Small Lot (R3). The properties to the south, east and west are also zoned Residential Small Lot (R3). The property to the north is zoned Mixed-use Institutional (MI).

The property has been developed with new construction of a detached single-family dwelling that was approved with a Certificate of Zoning Compliance (CZC C18-487) dated September 3, 2019. At the time of approval, this property was zoned Residential Core (RC) and the Unified Development Ordinance (UDO) as amended effective July 20, 2018 states under the development standards that a concrete sidewalk with a minimum width of 5 feet is required in the RC zoning district (20.05.010(b)(3)). In addition, the 2018 UDO states that the location of external sidewalks shall be located one (1) foot inside the public right-of-way or within a pedestrian easement along all abutting street frontages, and shall have a minimum separation of 5 feet from the curb, or edge of pavement where no curb exists. However, in situations where the minimum separation cannot be achieved due to limited right-of-way, mature trees, or topography constraints, the sidewalk location may be designed to avoid such constraints and a pedestrian easement would need to be established if it is within private property and maintains the 5-foot separation. The 2018 UDO also states that if the sidewalk is installed within private property with a pedestrian easement as above, then the impervious surface coverage from the sidewalk shall not be counted towards the maximum impervious surface coverage for the property, and if the Planning and Transportation Department has determined that a pedestrian easement is not feasible, then the department Director may approve a 5-foot wide sidewalk with reduced vegetated plot width or a 6-foot wide monolithic sidewalk and curb (20.05.010(b)(3)).

During review of the site plans provided for CZC C18-487, it was determined that a 6-foot wide monolithic sidewalk and curb would be required for the approval of the new development. The site plan included in the CZC depicts a 6-foot wide sidewalk and curb along the property frontage on Elm Street, but the sidewalk and curb were never installed.

The petitioner is requesting a determinate sidewalk variance from sidewalk requirements for new single-family development adjacent to existing pedestrian network in the R3 zoning district. The current UDO requires that pedestrian facilities are installed on both sides of all streets except for new single-family, duplex, and triplex residences built on existing legal lots of record on non-classified (neighborhood) streets with no adjacent pedestrian facilities (20.04.050(d)(2)).
However, this property is adjacent to existing pedestrian facilities so the exemption does not apply to this site even if the development was being constructed now under current UDO. Additionally, this property is across the street from the Banneker Community Center and one of the Comprehensive Plan goals, Goal 6.5 Protect Neighborhood Streets, is to “protect neighborhood streets that support residential character and provide a range of local transportation options.” More specifically, Policy 6.5.3 under Goal 6.5 calls for continuing to improve connectivity between existing neighborhoods and destinations like the Banneker Community Center. The following Comprehensive Plan goals also support a sidewalk in this location:

- **Goal 6.1 Increase Sustainability: Improve the sustainability of the transportation system.**
- **Goal 6.3 Improve the Bicycle and Pedestrian Network: Maintain, improve, and expand an accessible, safe, and efficient network for pedestrians, and attain platinum status as a Bicycle Friendly Community, as rated by the League of American Bicyclists.**
- **Goal 6.4 Prioritize Non-Automotive Modes: Continue to integrate all modes into the transportation network and to prioritize bicycle, pedestrian, public transit, and other non-automotive modes to make our network equally accessible, safe, and efficient for all users.**

The Transportation Plan also states that, “as illustrated in Figure 18, pedestrians should receive the greatest priority, because they are the most vulnerable and the most space-efficient road user. Conversely, single-occupancy vehicle drivers should be the least prioritized, though safe motor vehicle access should still be provided” (Pg. 32). In cases where there is limited right-of-way, the Transportation Plan states that, “if the elements of the typical cross-section cannot be accommodated within the right-of-way, developments must dedicate easements or right-of-way and provide the improvements for pedestrian and bicycle facilities, as required with redevelopment or new development. Even when the immediate user of the property is not intending to use the pedestrian space, it ensures connectivity and provides space for the pedestrian realm in the long term” (Pg. 23). The Department has worked with the Engineering Department to insure that the existing location is feasible for a sidewalk installation.

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**CRITERIA AND FINDINGS FOR DEVELOPMENT STANDARDS VARIANCE**

**20.06.080(b)(3)(E)(i)(1) Standards for Granting Variances from Development Standards:** Pursuant to Indiana Code 36-7-4-918.5, the Board of Zoning Appeals or Hearing Officer may grant a variance from the development standards of this UDO 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:** Injury to the public health and welfare of the community is found with the allowance to not install a sidewalk in this location because it limits improvement of the connectivity to the community center and possibly future connection to the south.
(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; and

PROPOSED FINDING: Adverse impacts to the use and value of the surrounding area associated with the proposed variance are found. The variance is expected to have off-site negative consequences, as it will continue the existing design that lacks a sidewalk connection to the existing sidewalk on the north side of the lot, and the network north of 7th Street.

(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 questions; that the development standards variance will relieve the practical difficulties; and

PROPOSED FINDING: No practical difficulties are found in the use of the property. A compliant sidewalk could be constructed on this site. The site will continued to be used as a single-family development even if the sidewalk is built. The petitioner has not supplied sufficient data or reasoning indicating that there are practical difficulties in the use of the site and that a variance is necessary for relief.

Determinate Sidewalk:
20.06.080(b)(3)(E)(i)(3): While not to be included as separate findings of fact, items to consider when determining the practical difficulties or peculiar conditions associated with a determinate sidewalk variance include, but are not limited to:

[a] That the topography of the lot or tract together with the topography of the adjacent lots or tract and the nature of the street right-of-way make it impractical for construction of a sidewalk; or
[b] That the pedestrian traffic reasonably to be anticipated over and along the street adjoining such lot or tract upon which new construction is to be erected is not and will not be such as to require sidewalks to be provided for the safety of pedestrians; or
[c] The adjacent lot or tracts are at present developed without sidewalks and there is no reasonable expectation of additional sidewalk connections on the block in the near future; or
[d] The location of the lot or tract is such that a complete pedestrian network is present on the other side of the street on the same block; or
[e] Uniformity of development of the area would best be served by deferring sidewalk construction on the lot or tract until some future date.

Review of Determinate Sidewalk Criteria: The petitioner has not submitted sufficient data or reasoning indicating that the topography is impractical for construction of a sidewalk. Although the street width for Elm Street is narrow, pedestrian traffic is expected because it’s immediately across the street from the Banneker Community Center. This lot has a sidewalk on the north side so it would tie into that network even though the property immediately to south does not have a sidewalk. There is not a complete pedestrian network on the other side of Elm Street. This lot has sidewalk on the north side, which will be connects, and it is not unrealistic to foresee possible development and connection to the south in the future. There is no reason not to extend
the north/south pedestrian network on Elm Street and connect to the sidewalk on the north side of this lot.

**RECOMMENDATION:** Based upon the written report and findings of fact above, the Department recommends that the Board of Zoning Appeals adopts the proposed findings and denies V-09-22. The Department believes this sidewalk will connect with sidewalks on 7th Street and a sidewalk to the north that connects to the Banneker Community Center. Sidewalks are frequently requested throughout the community on any street that was built without sidewalks, and there is value in this sidewalk connection both in short-term and long-term because the sidewalk will provide a connection for people walking to the Banneker Community Center or to other locations on E 7th Street. Additionally, adding a sidewalk in this location will help in providing an edge to this half of the street, which will help reduce non-compliant parking on the lawn. This is one segment in a sidewalk network, and each segment is important to creating connectivity.
ALTERNATE FINDINGS

20.06.080(b)(3)(E)(i)(1) Standards for Granting Variances from Development Standards:
Pursuant to Indiana Code 36-7-4-918.5, the Board of Zoning Appeals or Hearing Officer may grant a variance from the development standards of this UDO 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 allowance to not install a sidewalk in this location is not ideal because it limits improvement of the connectivity to the community center and possibly future connection to the south. However, it is believed that the Banneker Center often depends on on-street parking and installing a sidewalk in this location would make on-street parking more difficult in this location because of the small street right-of-way width. While both sidewalk extension and existing on-street parking provide benefit to the community, the Board thinks that in this case the existing on-street parking adds value to the community by providing public parking for the Banneker Community Center and possibly providing traffic calming benefits

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; and

PROPOSED FINDING: The variance is expected to have off-site negative consequences, in that it will continue the existing design that lacks a sidewalk connection to the existing sidewalk on the north side of the lot, and the network north of 7th Street, while also not improving the ramp at the corner. However, the Board believes that installation of a sidewalk would increase the impervious surface in the public right-of-way along this block and may negatively impact stormwater drainage for the adjacent lot to the south of the property.

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; and

PROPOSED FINDING: A compliant sidewalk could be constructed on this site. The site will continued to be used as a single-family development even if the sidewalk is built. However, the petitioner submitted testimony that it is possible that the installation of a sidewalk and retaining wall may interfere with existing utilities that are located approximately 8’ from the edge of pavement. Practical difficulty is found by the Board in the combination of the limited right-of-way width and potential retention wall and its relationship to utility location.
Determinate Sidewalk:

20.06.080(b)(3)(E)(i)(3): While not to be included as separate findings of fact, items to consider when determining the practical difficulties or peculiar conditions associated with a determinate sidewalk variance include, but are not limited to:

[a] That the topography of the lot or tract together with the topography of the adjacent lots or tract and the nature of the street right-of-way make it impractical for construction of a sidewalk; or
[b] That the pedestrian traffic reasonably to be anticipated over and along the street adjoining such lot or tract upon which new construction is to be erected is not and will not be such as to require sidewalks to be provided for the safety of pedestrians; or
[c] The adjacent lot or tracts are at present developed without sidewalks and there is no reasonable expectation of additional sidewalk connections on the block in the near future; or
[d] The location of the lot or tract is such that a complete pedestrian network is present on the other side of the street on the same block; or
[e] Uniformity of development of the area would best be served by deferring sidewalk construction on the lot or tract until some future date.

The Board believes that [e], uniformity of development of the area would best be served by deferring sidewalk construction on the lot or tract until some future date, applies here and that there is a practical difficulty presented by the narrowness of the street, although the installation of a sidewalk would not make the street narrower because there is approximately 8’ of right-of-way from the edge of pavement where the sidewalk could potentially be installed. Additionally, the location of existing utilities may impede the construction of a retaining wall that would likely need to be in the ground a depth that interferes with utilities. The Board heard support of the variance from adjacent neighbors and members of the community and also considers historical context of the neighborhood, which lacks north/south sidewalk connections on other smaller streets, to be important considerations in favor of approval for this variance.
**Petitioner's Statement**

The Certificate of Zoning Compliance, Application Number C18-487, was issued by City of Bloomington Zoning Planner Ryan Robling. This Petitioner's Statement is a response to the Notice of Violation, dated January 28, 2022, from Zoning Compliance Planner Gabriel Holbrow, which references failure to comply with the 2018 Unified Development Ordinance (UDO), which contains the same Determinate Sidewalk Variance Considerations as does the updated UDO effective since April 18, 2020.

It is the responsibility of the Zoning Planner to inform citizens, in this case, building permit applicants of allowable variances before issuance of the Certificate of Zoning Compliance. Doing so would have allowed for an approved variance at the time of application, as it will now, detailed in our following statement.

As the homeowners of 935 W 7th Street, we request being granted a variance for a sidewalk, curb, and the necessary retaining wall along our newly constructed home's east side of N Elm Street, as shown in the included site plan.

Property 935 W 7th Street, which began construction on July 22, 2021, meets, not one, but four of the five approved variances found in the 2018 & 2020 Unified Development Ordinance (UDO). The 2020 UDO Chapter 20.06: Administration (3) Determinate Sidewalk Variance Approval Criteria Sections a, b, c & e are all applicable to 935 W. 7th Street. (See Appendix A)

Below we will provide details related to each of the four variant approvals and give context to consider in granting the variance.

During the permitting process, the city changed our sidewalk requirement four times while deciding to purchase the lot; initially not requiring a sidewalk, to a 5' greenspace and curb, to a 5’ sidewalk with a 5' greenspace and curb, and finally, a 6' sidewalk / monolithic curb. The requested sidewalk is to run 147 feet along the home's east side of N Elm Street, then terminate, providing no connection to another sidewalk. The requested construction of the sidewalk will also require a retaining wall, resulting in more than seven feet of impervious surface (over 1,100 square feet total).

By the very definition, constructing a sidewalk down a portion of Elm Street, as we are being required to do, fails to "connect" any two parts of our community.
CRITERIA AND FINDINGS FOR DEVELOPMENT STANDARDS VARIANCE

(1) 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; and

Proposed Findings Determinate Sidewalk: The granting of the determinate variance will not be injurious to the public health, safety, morals, or general welfare of the community since the sidewalk cannot be safely constructed to connect to a sidewalk system to the south. Conversely, the act of constructing a sidewalk could very well be injurious.

(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; and

Proposed Finding Determinate Sidewalk: The use and value of the area adjacent to the property included in the development standards variance will not be substantially affected since there is not currently a sidewalk system on their property to provide connection.

(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; and

Proposed Finding Determinate Sidewalk: The strict application will result in practical difficulties because requiring the sidewalk to be constructed along only this property without incorporating a plan that includes an entire sidewalk passage would seem very peculiar, and dangerous, to a user.
Determinate Sidewalk: 20.06.080(b)(3)(E)(i)(3): While not to be included as separate findings of fact, items to consider when determining the practical difficulties or peculiar conditions associated with a determinate sidewalk variance include, but are not limited to:

[a] That the topography of the lot or tract together with the topography of the adjacent lots or tract and the nature of the street right-of-way make it impractical for construction of a sidewalk; or

[b] That the pedestrian traffic reasonably to be anticipated over and along the street adjoining such lot or tract upon which new construction is to be erected is not and will not be such as to require sidewalks to be provided for the safety of pedestrians; or

[c] The adjacent lot or tracts are at present developed without sidewalks and there is no reasonable expectation of additional sidewalk connections on the block in the near future; or

[d] The location of the lot or tract is such that a complete pedestrian network is present on the other of the street on the same block; or

[e] Uniformity of development of the area would best be served by deferring sidewalk construction on the lot or tract until some future date.

Determinate Sidewalk Variance (a) That the topography of the lot or tract together with the topography of the adjacent lots or tract and the nature of the street right-of-way make it impractical for construction of a sidewalk; (See Appendix A)

Proposed Finding Determinate Sidewalk: The requested sidewalk would terminate in an unmaintained alley adjacent to our neighbor to the south's historical limestone retention wall and garden. Continuing south on Elm, the remaining properties do not have room to continue a future sidewalk that would connect 6th and 7th Streets. These homes are well-maintained and/or newly renovated, and there is no foreseeable request that they would be required to construct sidewalks, even if doing so was possible, which it is not.

We have improved the berm, so cars parking on the east side of N Elm Street can safely pull 1-5 feet off Elm Street to ensure traffic flow can continue. The pull-off allows community members, specifically the congregation of Mercy Mission Apostolic Faith Church and patrons of the Banneker Center, to access their destinations safely while allowing safe passage of vehicles on Elm Street. The church congregation has expressed gratitude for our improvements and their ability to park in our berm and pullout, directly adjacent to the accessibility ramp leading into their church, as many members have mobility restrictions.

Lastly, adding a sidewalk will not allow our neighbors at 1001 W 7th Street to pull out of their driveway if a car were parked adjacent to their driveway. (See Appendix B)

Because of our improvements, we can pull our cars entirely off the road, like similar homes on the north/south streets of the Near West Side (NWS). These streets are not designed to have sidewalks, and putting sidewalks in diminishes the historical aesthetic of the neighborhood. (Photos Referenced in Figure 1)
Determinate Sidewalk Variance (b) That the pedestrian traffic reasonably to be anticipated over and along the street adjoining such lot or tract upon which new construction is to be erected is not and will not be such as to require sidewalks to be provided for the safety of pedestrians (See Appendix A)

Proposed Finding Determinate Sidewalk: Transportation Plan
Neighborhood Residential (NR) is the typography of Elm Street. Page 25 of the Transportation Plan states the following. "Many existing Neighborhood Residential Streets are quite narrow in width. In order to preserve neighborhood fabric, existing streets shall not be required to conform to these cross-section standards. Priority for Neighborhood Residential Streets is on maintaining calm streets that create a safe and comfortable environment for walking, even if there are no sidewalks." (See Appendix C)

The Transportation Plan describes our street perfectly. All pedestrians use the road, not sidewalks, when moving about north/south streets in NWS. The Transportation Plan map shows this block of Elm Street as Neighborhood Residential.

Determinate Sidewalk Variance (c) The adjacent lot or tracts are at present developed without sidewalks and there is no reasonable expectation of additional sidewalk connections on the block in the near future. (See Appendix A and Figure 1)

Proposed Finding Determinate Sidewalk: All homes south of the proposed sidewalk on Elm Street do not have, and would not be able to construct, sidewalks in the future based on their proximity to the road. As stated above, these homes are well-maintained/established, and there is no reason to believe they would be required to construct sidewalks even if doing so was possible, which is not. There is no reason to think that any new homes will be built to connect the proposed sidewalk from 7th to 6th Street (or beyond) along the east side of Elm Street, as no vacant lots remain.

Determinate Sidewalk Variance (e) Uniformity of development of the area would best be served by deferring sidewalk construction on the lot or tract until some future date. (See Appendix A)

Proposed Finding Determinate Sidewalk: To provide a uniform and safe development, the Sidewalk Commission would need to fund the construction of sidewalks on all north/south streets on the NWS to meet connectivity objectives, as they have done on the southeast side of town and other areas of the city where connectivity has been prioritized through investment by the city.
**Additional reasoning**

It is reasonable to believe a pedestrian would presume a sidewalk would be connected to other sidewalks and not end in an unimproved alley. Expectations for injury and suffering from accessibility limitations such as wheelchair confinement or sight impairments/blindness will be the city's responsibility, not the homeowner's, including responsibility for all lawsuits brought on by injured pedestrians.

Additionally, we believe that many utilities run under the area for the proposed sidewalk, including the fiberoptic line to the Banneker Community Center to the north. To construct a level sidewalk, it is likely that these utilities would be damaged if not relocated. The retention wall necessary to support the hillside would need to be at least 30 inches below ground to provide the required load burden from the hillside and resist above frostline exposure. This obligation should not fall to the homeowner. Additionally, street and intersection signs would need to be moved at least 8 ft to the southeast.

The environmental impact of creating more than 1,100 square foot of impervious surface, close to the size as our home, should not be overlooked. Unnecessary impervious surfaces, especially those made of concrete materials, are detrimental to the environment and negatively impact the effects of stormwater.

The November 2020 PSCI/Princeton "Cement and Concrete: The Environmental Impact" report states: "As a material that creates the majority of the world's bridges, roads, dams, and construction, concrete releases an extreme amount CO2 each year."

As referred to in the Inspection and Acceptance section of the UDO; **prior to the recommendation of issuance of a final certificate of occupancy, all transportation facilities located within the adjoining public right-of-way or dedicated easements shall be inspected for compliance with standards adopted by the City of Bloomington, the Bloomington Public Transportation Corporation, and/or AASHTO standards.**

The occupancy permit for 935 W 7th Street was granted on February 12, 2021, without reference to a sidewalk, further supporting the acceptance of determinate sidewalk variances found in the UDO and expressed in this Petitioner's Statement.
Figure 1

Corner of 6th/Elm facing north – 3rd House South

Elm facing north towards 7th Street – 2nd House South

Elm facing north towards 7th Street – Neighbors to the south (sidewalk termination point)
Figure 1 – Cont.

Elm facing north towards 7th Street – Neighbor's drive and alley

Proposed Sidewalk Area – 147 feet
Appendix A

UDO Effective April 2020

Chapter 20.06: Administration & Procedures
20.06.080 Flexibility and Relief Procedures

3. Determinate Sidewalk Variance Approval Criteria
While not to be included as separate findings of fact, items to consider when determining the practical difficulties or peculiar conditions associated with a determinate sidewalk variance include, but are not limited to:

[a] That the topography of the lot or tract together with the topography of the adjacent lots or tract and the nature of the street right-of-way make it impractical for construction of a sidewalk; or

[b] That the pedestrian traffic reasonably to be anticipated over and along the street adjoining such lot or tract upon which new construction is to be erected is not and will not be such as to require sidewalks to be provided for the safety of pedestrians; or

[c] The adjacent lot or tracts are at present developed without sidewalks and there is no reasonable expectation of additional sidewalk connections on the block in the near future; or

[d] The location of the lot or tract is such that a complete pedestrian network is present on the other of the street on the same block; or

[e] Uniformity of development of the area would best be served by deferring sidewalk construction on the lot or tract until some future date.

Websites:
https://bloomington.in.gov/planning/udo
https://bloomington.in.gov/sites/default/files/2021-09/Final_UDO_July_2021.pdf
UDO Effective July 2018

(f) Determinate Sidewalk Variance Considerations: While not to be included as separate findings of fact, items to consider when determining the practical difficulties or peculiar conditions associated with a determinate sidewalk variance include, but are not limited to:

(1) That the topography of the lot or tract together with the topography of the adjacent lots or tract and the nature of the street right-of-way make it impractical for construction of a sidewalk; or
(2) That the pedestrian traffic reasonably to be anticipated over and along the street adjoining such lot or tract upon which new construction is to be erected is not and will not be such as to require sidewalks to be provided for the safety of pedestrians; or
(3) The adjacent lot or tracts are at present developed without sidewalks and there is no reasonable expectation of additional sidewalk connections on the block in the near future; or
(4) The location of the lot or tract is such that a complete pedestrian network is present on the other of the street on the same block; or
(5) Uniformity of development of the area would best be served by deferring sidewalk construction on the lot or tract until some future date.

(g) Commitment for Determinate Sidewalk Variance: Upon approval of a determinate sidewalk variance, the Planning and Transportation Department staff shall prepare a Zoning Commitment pursuant to 20.09.110 Commitments - Variance and Conditional Use indicating that the determinate sidewalk variance was approved and that future installation of sidewalk may be required. The petitioner shall record the Zoning Commitment in the Monroe County Recorder's Office.

As Amended / Effective July 20, 2018

https://bloomington.in.gov/sites/default/files/2019-06/UDO%20Complete%20Document%20%287.20.18%29.pdf
Appendix B

3/11/22

Tim Clougher
1001 W 7th St
Bloomington, IN 47404
timclougher@gmail.com

Gabriel Holbrow-Zoning Compliance
Karina Pazos-Zoning Planner
City of Bloomington
Bloomington, IN 47404

RE: Zoning Variance 935 W 7th St.

Karina & Gabriel,

I am contacting you to express my concern and disappointment that the Planning & Transportation Department has decided against supporting a variance for sidewalk construction along Elm St at 935 W 7th. My wife and I have resided at 1001 W 7th St, just West of 935 W 7th with Elm street running parallel to our property for over 20 years. Our driveway enters/exits onto Elm St. At no point has anyone from the Planning & Transportation Dept. contacted us or other adjoining property owners and inquired as to the impact this new sidewalk construction would have on us.

There has not been a sidewalk from Elm to Kirkwood since the neighborhood was created. Up until the recent construction of the home at 935 W 7th, people parking along this section of Elm St would park into the previously empty lots buffer area along Elm St. This is similar to the parking along Waldron St, Oak St, Pine St and John St. Attachment 1 shows Elm St prior to the construction of the home at 935 W 7th St. As you can clearly see, cars are parked into the buffer area along the lot to allow space for traffic and for us to get out. As you can clearly see, cars are parked into the buffer area along the lot to allow space for traffic and for us to get out.

The creation of the sidewalk and curb along Elm St will make it very difficult, if not impossible at times, to pull out of our driveway. This creates a safety hazard for us.

In addition, the sidewalk created will end at the South edge of 935 W 7th's property line. This sidewalk will never be extended in the foreseeable future. The property directly South of 935 W 7th St, 210 N Elm St, has an old limestone wall that sits approx. 2ft from the street edge. The wall would be destroyed by any future extension. This will not create "connectivity"..

Elm Street is much wider along the Banneker Property, 28 ft from curb to curb. Elm Street narrows to 20 ft wide from street edge to street edge along Elm between 7th & 6th St. Our vehicles are approx. 15-16' long, which means with a sidewalk and curb created at the street edge and a car parked along Elm St behind my drive will make it impossible to get out. This has happened in the past and I have had to find the driver to ask them to move. In addition, if 2
vehicles were attempting to navigate Elm St between 6\textsuperscript{th} & 7\textsuperscript{th} at the same time, one would have to reverse back onto 6\textsuperscript{th} or 7\textsuperscript{th} to allow the other vehicle to proceed. 6\textsuperscript{th} or 7\textsuperscript{th} to allow the other vehicle to proceed.

Attachment 2 & 3 show nearby N. John St, where two new construction infill properties were subject to this code. The property at 922 W 8\textsuperscript{th} St and 1003 W 9\textsuperscript{th} St were both required to put in sidewalks on opposite sides along this narrow and crooked street. As you can see, each is at a different angle and follow the crooked street edge. Not only does it look ridiculous, nobody utilizes either sidewalk. This is a perfect example why this code doesn't always work and variances are an important way of making an exception for infill construction in an old historic neighborhood compared to a new development. It always work and variances are an important way of making an exception for infill construction in an old historic neighborhood compared to a new development.

We plan to submit our support for approval of a variance based on conditions a, b & c under the "Determinate Sidewalk Variance Approval Criteria" of the UDO Chapter 20.06.080. We will also be including a petition from adjoining and nearby property owners in support of the variance. of the UDO Chapter 20.06.080. We will also be including a petition from adjoining and nearby property owners in support of the variance.

Sincerely,

Tim Clougher
Appendix C

*Neighborhood Residential Streets*

Bloomington has several local residential streets that provide access to single and multifamily homes and are not intended to be used for regional or cross-town commuting. Neighborhood residential streets have slow speeds and low vehicular volumes with general priority given to pedestrians. Other characteristics of the street are provided in Table 3. Figure 11 shows the typical cross-section of neighborhood residential street with on-street parking on both sides of the street. Because of the low-speed and low-volume nature of neighborhood residential streets, the City may decide to reduce the width of parking lanes or travel lanes. On-street parking could be consolidated to one side or removed altogether.

Many existing Neighborhood Residential Streets are quite narrow in width. In order to preserve neighborhood fabric, existing streets shall not be required to conform to these cross-section standards. Priority for Neighborhood Residential Streets is on maintaining calm streets that create a safe and comfortable environment for walking, even if there are no sidewalks.

*Figure 11. Neighborhood residential street typical cross-section*
Figure 19. New Connections and Street Typologies

Street Typology
- Neighborhood Residential (NR)
- Main Street (MS)
- Shared Street (SS)
- General Urban (GU)
- Neighborhood Connector (NC)
- Suburban Connector (SC)
Website:
https://bloomington.in.gov/transportation/plan
https://bloomington.in.gov/sites/default/files/2020-02/Transportation%20Plan%20Online%20Complete%20Draft%20with%20Appendices%20Reduced.pdf

Pg 46

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ROW Widths Updated
07.08.2019

https://bloomington.in.gov/planning/comprehensive-plan Comprehensive Plan
Sidewalk Variance
in the Near West Side Neighborhood

- Background
- UDO - Determinate Sidewalk Variance
- Transportation Plan
- Environmental Effects
- Negative Impacts on our Neighborhood
- Neighborhood Support
Connect

1: to join or fasten together usually by something intervening

A highway connects the two towns.
City of Bloomington Unified Ordinance (UDO)

2021 UDO

While not to be included as separate findings of fact, items to consider when determining the practical difficulties or peculiar conditions associated with a determinate sidewalk variance include, but are not limited to:

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[e] Uniformity of development of the area would best be served by deferring sidewalk construction on the lot or tract until some future date.

N/A

N/A

N/A

N/A

2018 UDO

20.09.135 Sidewalk and Determinate Sidewalk Variances

(a) Intent: The purposes of this section are:

(1) To outline the process by which petitions for a sidewalk variance and a determinate sidewalk variance are considered;

(2) To provide a mechanism to approve these petitions that will not be contrary to the public interest, where, owing to special conditions, literal enforcement of Section 20.05.010(b)(3) will result in practical difficulties, and so that the spirit of Section 20.05.010(b)(3) shall be observed and substantial justice done.

(b) Applicability: The board of zoning appeals or hearing officer, in accordance with the procedures and standards set out in Chapter 20.09: Processes, Permits and Fees, may grant sidewalk variances and determinate sidewalk variances.

(c) Findings of Fact for Sidewalk Variance: Pursuant to Indiana Code 35-7-4-918.5, the board of zoning appeals or the hearing officer may grant a variance from Section 20.05.010(b)(3) of the Unified Development Ordinance 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

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; and

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.

4. That the topography of the lot or tract together with the topography of the adjacent lots or tract and the nature of the street right-of-way make it impractical for construction of a sidewalk as required by Section 20.05.010(b)(3); and

5. That the pedestrian traffic reasonably to be anticipated over and along the street adjoining such lot or tract upon which the new construction is to be erected is not and will not be such as to require sidewalks to be provided for the safety of pedestrians.

(d) Findings of Fact for Determinate Sidewalk Variance: Pursuant to Indiana Code 35-7-4-918.5, the board of zoning appeals or the hearing officer may grant a variance from Section 20.05.010(b)(3) of the Unified Development Ordinance 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

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; and

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; and

4. The adjacent lot or tracts are at present undeveloped, but it appears that at some future date these lots or tracts will be developed, increasing the need for sidewalks for the protection and convenience of pedestrians; and

5. The location of the lot or tract is such that the present pedestrian traffic does not warrant the construction of sidewalks, but it appears that in the future the pedestrian traffic may increase; and

6. Uniformity of development of the area would best be served by deferring sidewalk construction on the lot or tract until some future date.
City of Bloomington Transportation Plan

N Elm Street is classified as Neighborhood Residential (NR)

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Bloomington has several local residential streets that provide access to single and multifamily homes and are not intended to be used for regional or cross-town commuting. Neighborhood residential streets have slow speeds and low vehicular volumes with general priority given to pedestrians. Other characteristics of the street are provided in Table 3. Figure 11 shows the typical cross-section of neighborhood residential street with on-street parking on both sides of the street. Because of the low-speed and low-volume nature of neighborhood residential streets, the City may decide to reduce the width of parking lanes or travel lanes. On-street parking could be consolidated to one side or removed altogether.

Many existing Neighborhood Residential Streets are quite narrow in width. In order to preserve neighborhood fabric, existing streets shall not be required to conform to these cross-section standards. **Priority for Neighborhood Residential Streets is on maintaining calm streets that create a safe and comfortable environment for walking, even if there are no sidewalks.**
2002 Master Thoroughfare Plan

Waldron St = 20 ft.
Elm St = 20 ft.

Existing Core Neighborhood Streets

The core neighborhood streets in Bloomington represent a high percentage of the total road mileage in the area surrounding the downtown. Many of these streets are quite narrow in width in comparison to the neighborhood streets that were constructed in the past few decades. The cross-sections of the existing core neighborhood streets are considered an important element of the residents’ living environment and often serve as a meeting place for residents. It should be noted that many of these streets feature cross-sections different from what is outlined in the following pages. In order to preserve neighborhood fabric, existing core neighborhood streets shall not be required to conform to the cross section standards that are being proposed for more suburban environments.

Typical Characteristics of an Existing Core Neighborhood Street:
- Total right-of-way – varies
- Travel lane widths – typically 8 to 10 feet
- On-Street parking included
- Bike lanes – no lanes are included because of lower traffic volumes and speed
- Sidewalks and street trees vary; often there is not enough room for both elements

Priority for the Right-of-Way:
- Primary Priority Elements
  - On-Street parking
  - Residential access
  - Neighborhood preservation
- Secondary Priority Elements
  - Width of travel lanes
  - Sidewalks

Examples of Traffic Management Features
- On-street parking
- Street trees
- Narrower travel lanes
- Reduced pedestrian crossing distances at intersections (using curb extensions and other measures if necessary)
- Traffic circles
Environmental Effects

Impervious Surface

Any surface in the landscape that cannot effectively absorb or infiltrate rainfall.

Impervious Surface Coverage (Maximum) for R3 is 45%

Lot: 4,356 sf.
House: 1,500 sf.
Sidewalk: 1,200 sf.

62% Impervious Surface
6th & Elm - looking North to 7th

No Connectivity to Proposed Sidewalk

Ending in our Neighbors Limestone Wall

"Where the Sidewalk Ends"
aka
"Sidewalk to Nowhere"
Burms + pull-offs for safety
When Sidewalks are Present
Negative Impacts on Our Neighborhood & Neighborhood Support
Variance support for 935 W 7th St

Tim Clougher <timclougher@gmail.com>  
To: Karina Pazos <karina.pazos@bloomington.in.gov>, gabriel.holbrow@bloomington.in.gov  
Cc: Kate Rosenbarger <kate.rosenbarger@bloomington.in.gov>  

Tim Clougher  
1001 W 7th St  
Bloomington, IN 47404  
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In addition, the sidewalk created will end at the South edge of 935 W 7th's property line. This sidewalk will never be extended in the foreseeable future. The property directly South of 935 W 7th St, 210 N Elm St, has an old limestone wall that sits approx. 2ft from the street edge. The wall would be destroyed by any future extension. This will not create "connectivity".

Elm Street is much wider along the Banneker Property, 28 ft from curb to curb. Elm Street narrows to 20 ft wide from street edge to street edge along Elm between 7th & 6th St. Our vehicles are approx. 15-16' long, which means with a sidewalk and curb created at the street edge and a car parked along Elm St behind my drive will make it impossible to get out. This has happened in the past and I have had to find the driver to ask them to move. In addition, if 2 vehicles were attempting to navigate Elm St between 6th & 7th at the same time, one would have to reverse back onto 6th or 7th to allow the other vehicle to proceed.
Attachment 2 & 3 show nearby N. John St, where two new construction infill properties were subject to this code. The property at 922 W 8th St and 1003 W 9th St were both required to put in sidewalks on opposite sides along this narrow and crooked street. As you can see, each is at a different angle and follow the crooked street edge. Not only does it look ridiculous, nobody utilizes either sidewalk. This is a perfect example why this code doesn’t always work and variances are an important way of making an exception for infill construction in an old historic neighborhood compared to a new development.

We plan to submit our support for approval of a variance based on conditions a, b & c under the “Determinate Sidewalk Variance Approval Criteria” of the UDO Chapter 20.06.080. We will also be including a petition from adjoining and nearby property owners in support of the variance.

Sincerely,

Tim Clougher
Hi Tim,

Thank you for sending. What do you think if parking is not allowed along this part of the street?

Best,
Kate

--

Kate Rosenbarger
City Council Member, District 1
City of Bloomington, IN
kate.rosenbarger@bloomington.in.gov
812-219-4074
bloomington.in.gov
Variance support for 935 W 7th St

Tim Clougher <timclougher@gmail.com>  
To: Kate Rosenbarger <kate.rosenbarger@bloomington.in.gov>  
Cc: Karina Pazos <karina.pazos@bloomington.in.gov>, gabriel.holbrow@bloomington.in.gov

Thanks Kate, I had considered that and the challenge is that it would alleviate two spaces from an area with already limited parking. The Mercy Mission church attendees are mostly elderly and like to park as close as possible to the ramp they have near my drive. Incidentally, they are also against the proposed sidewalk as it would put them further out into the street when exiting/entering their vehicles. It would also be left up to me to monitor the no parking zone so I could get out. Parents that pick-up kids from Banneker are notorious for already parking in the no parking zone along Elm from 7th alongside our property and have even parked across the end of our driveway.

As you may know, my house was moved to 1001 W 7th St, from W 1st street in 2000 by Bloomington Restoration. I inquired as to why BRI didn’t have to build a sidewalk along Elm and a former BRI Board Member told me it was due to the "Historic District" and they argued that historically there were not sidewalks on Elm. Our neighborhood is not only a conservation district (soon to be historic), but also a National Historic District. I’m looking in to this as well.

I do appreciate your input! I just don’t understand why the Planning Dept would ignore several known variances that apply to this scenario, but I guess that’s how the process must work. We plan to attend the BZA hearing and hope for the best.

Thanks again,
Tim

[Quoted text hidden]
Beth Ellis and Tamera Theodore
823 W 8th Street
Bloomington, IN 47404
812.345.2041
Beth@TimEllisRealtors.com

April 8, 2022

Board of Zoning Appeals
401 N Morton Street, Suite 130
Bloomington, IN 47404

Dear BZA,

We are writing in absolute opposition to the installation of a curb, sidewalk, and retaining wall on Elm Street along the western edge of the home located at 935 W 7th Street.

The huge concrete area would not fit in with the aesthetic of our neighborhood. There are several examples of nearby streets that have no sidewalks including:
- Williams between 8th Street and 9th Street
- Waldron between 8th Street and Kirkwood
- Oak between 7th Street and Kirkwood

In fact, looking at Elm Street, there are currently no sidewalks at all between 7th Street and Kirkwood.

The proposed section of sidewalk on Elm makes no sense. The southern edge of it would run into the neighbors' retaining wall. Not only would that look really ugly, it would also make the sidewalk unsafe to use. We walk our neighborhood daily and find that the streets without sidewalks are safe and easy to navigate as they are currently configured.

We also have concerns about possible drainage issues caused by the creation of this huge impervious area. Lastly, it seems that street access and parking would also be negatively affected by this project.

Please feel free to reach out to us with any questions. We hope our comments are taken into consideration and would be happy to provide more detail if that would be helpful.

Sincerely,

Beth Ellis and Tamera Theodore
817 W. Eighth Street  
Bloomington, Indiana 47404  
April 11, 2022

Board of Zoning Appeals  
401 N. Morton Street  
Bloomington, Indiana 47404

We are writing to express our opposition to the installation of a curb, sidewalk, and retaining wall on Elm Street, along the western edge of the home located at 935 W. 7th Street, owned by Rachael and Patrick McAleer. We are in complete support with the McAleers' petition for a variance.

A number of nearby streets have no sidewalks, including Williams between 8th and 9th, Waldron between 8th and Kirkwood, and Oak between 7th and Kirkwood. Presently, no sidewalks exist on Elm Street between 7th and Kirkwood, and we are at a loss to figure out why these sidewalks on Elm Street are even under consideration.

The McAleer home at 935 W. 7th Street is new construction. Why didn’t the BZA or the appropriate city board specify the sidewalk installation at the time building permits were issued? Our neighborhood’s east/west oriented street have sidewalks, as do a handful of the north/south running streets. We, personally, walk daily in the neighborhood and feel perfectly safe on all the streets, with or without sidewalks. People who live in the Near West Side Neighborhood place a high value on its unique look and feel, its character, which are priceless intangibles, enhancing the quality and charm of where we live.

We wonder why the BZA demands that homeowners pay for sidewalks which only the BZA desires. We wonder why the Board wants to “fix” a problem which doesn’t exist, in the eyes of the actually residents of the Near West Side Neighborhood.

Respectfully,

[Signature]

Karlyn and Robert Grise
The street is a whole lot of that said. I do not support thinking need is more useful meaningful than

This is not the question of changing course. The lot

And would want the need to be any navigation and modling on the street. Like in chemistry my mind

Even many things and have never had any trouble

Be the way, if thinks that no stupid and makes me

Even Michael has been called to build a successful

Don't know about the people, my neighbors. Packed out
Put in a sidewalk on Elm.

Thank you,

Wally Grant
PETITIONER: City of Bloomington Redevelopment Commission  
401 N Morton Street  
Bloomington, IN

CONSULTANT: Ashley Thornberry, Axis Architecture and Interiors  
618 E Market Street  
Indianapolis, IN

REQUEST: A variance from the maximum front building setback to allow for a plaza in the Mixed-Use Downtown Showers Technology Downtown Character Overlay (MD-ST) zoning district.

REPORT: The property is located at 617 N. Madison Street / 422 W. 10th Street, on the west side of Madison Street, running from Maker Way to 10th Street, and is currently zoned Mixed-Use Downtown (MD), in the Showers Technology Park Character Area (ST). The proposed development is to occur at the southwest corner of Maker Way and Madison Street. All surrounding properties are also zoned MD-ST. The property is currently vacant, but has received conditional site plan approval from the Plan Commission for one new 3-story, 21,000 square foot office building.

The MD-ST district requires that buildings be built with a front building setback maximum of 15 feet. The petitioner is meeting that requirement on the bulk of the Maker Way frontage and about 40 percent of the Madison Street frontage. However, the petitioner has designed a plaza at the corner, northeast of the building. The plaza serves multiple purposes. From a design standpoint, the plaza reflects the historic plaza and outside space at The Mill, which is to the northeast of the site and in the Showers Brothers Furniture Factory Local Historic District. Functionally, the plaza area will house on-site stormwater detention that is needed for the development.

The petitioner is requesting a variance to allow a building to be built where portions of two front building walls will not meet the front building setback maximum. The petitioner is requesting to allow a roughly 63 foot setback on the Maker Way frontage and a roughly 35 foot setback on the Madison Street frontage.

CRITERIA AND FINDINGS FOR DEVELOPMENT STANDARDS VARIANCE

20.06.080(b)(3)(E)(i)(1) Standards for Granting Variances from Development Standards: Pursuant to Indiana Code 36-7-4-918.5, the Board of Zoning Appeals or Hearing Officer may grant a variance from the development standards of this UDO 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: No injury is found with the allowance of increasing the distance of the front building setback. The majority of the facades will be set within the front
building setback range, so the benefits of the building-forward design will still be created.

(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; and

PROPOSED FINDING: No adverse impacts to the use and value of the surrounding area associated with the proposed variance are found. The variance would allow interesting architecture that reflects the historic interplay of building and outside space that is present in this district at The Mill.

(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 questions; that the development standards variance will relieve the practical difficulties; and

PROPOSED FINDING: Practical difficulties are found in the combination of the proposed size of the parcel, as well as the need for on-site detention and the interest in design that is reflective of the historic structure to the northeast. Additionally, the right-of-way and associated infrastructure already exists in the district, and also encourages outdoor usable space as a characteristic of this district. The parcel is being sized in order that the southern remainder of the lot can be developed, as well. Locating the detention under the pedestrian plaza is a good use of space that improves the pedestrian experience, while conserving developable and green space. The need to reflect the historic plaza feel is peculiar to this area, as it is located in the Showers Brothers Furniture Factory Historic District, so special consideration should be given to compatibility with the existing surrounding design.

RECOMMENDATION: Based upon the report and written findings of fact above, the Department recommends that the Board of Zoning Appeals adopts the proposed findings and approves V-12-22 with the following conditions:

1. The variance is approved for the building setback design as submitted with this petition.
March 24, 2022

City of Bloomington Board of Zoning Appeals
401 North Morton Street
Suite 130
Bloomington, Indiana 47404

RE: City of Bloomington Board of Zoning Appeals – Requested Variance for the Trades District Technology Center

Dear City of Bloomington Board of Zoning Appeals,

Axis Architecture + Interiors, on behalf of the City of Bloomington Redevelopment Commission (the Owner) is requesting a variance for Trades District Technology Center (TDTC). This variance request is to have a setback greater than the 15'-0" maximum allowed in the Mixed-Use Downtown Showers Technology Character Area (MD-ST) along North Madison Street for the use of an outdoor entry plaza.

The TDTC building is located southwest of the intersection of Maker Way and Madison Street within the Bloomington Trades District, a 12-acre Technology Park envisioned as a place for innovation, attraction, and job-creation for the City of Bloomington. The site is located within walking distance southeast of Downtown Bloomington D, the B-line trail to the south, and residential and commercial development to the north and west. The current lot will be subdivided so future development can occur south of the TDTC building.

The central location of the TDTC offers several advantages to the Trades District. Being directly adjacent to the Dimension Mill Building, a start-up incubator space, a synergy is created between the Mill and Tech Center providing physical, social, and economic advantages to tenants. It allows the Tech Center Building to become a hub of activity for the Trades District and sets the building precedent for scale, architectural style, and outdoor collaboration space.

The building is organized into two program “bars” separated by an atrium and lobby space that serves as the “social core” of the building. The north program bar and atrium space are set back from Madison Street to create an East Entry Plaza and a courtyard which becomes an amenity and potential gathering space for both the tenants of the Tech Center, Dimension Mill, and the public. The project does require underground detention on site, as has been communicated by the City of Bloomington Utilities. This is unable to be located under the building footprint and will be placed under the outdoor atrium space in the northeast corner of the site.

Thank you for your consideration for this requested variance.

Ashley Thornberry, Project Architect
Axis Architecture + Interiors
BLOOMINGTON BOARD OF ZONING APPEALS

PETITIONER: Chris and Betsey Smith
3702 E. Devonshire Ln, Bloomington

CONSULTANT: Dawn Gray (Springpoint Architects)
213 S. Rogers Street, Bloomington

REQUEST: Variance from front building setback standards, front parking setback standards, and a determinate sidewalk variance to allow for the construction of a new single-family residence in the Mixed-Use Neighborhood Scale (MN) zoning district.

REPORT: This 0.20 acre property is zoned Mixed-Use Neighborhood Scale (MN) and is located at the northwest corner of W. Kirkwood Ave. and N. Jackson Street. The site is also located in the Near West Side Conservation District. The properties to the north are zoned Residential Small Lot (R3), to the east are zoned Mixed-Use Medium Scale (MM), and to the south and west are zoned Mixed-Use Neighborhood Scale (MN). The site recently had a garage on it, but that has been removed and currently sits vacant.

The petitioner is proposing to construct a new single family residence on the lot. The residence would have a driveway off of the alley along the north side of the site that accesses an attached garage. The petitioner has also received a Certificate of Appropriateness (COA-22-32) from the Historic Preservation Commission for the proposed residence.

Within the Mixed-Use Neighborhood Scale (MN) zoning district, the Unified Development Ordinance has a 15’ to 25’ front build-to-range. The petitioner is requesting a variance from that standard to allow a 10’ setback from the Kirkwood Avenue frontage and a 7’ setback from the Jackson Street frontage. This is being requested to match the existing historic setback of the adjacent residences. This is also something supported within the Plan for West Kirkwood to maintain existing historic block faces.

The MN district also requires any areas used for parking to be located 20' behind the front building wall. The 20’ setback requirement is designed for commercial uses to ensure parking is not between a building and a street and to promote pedestrian accessibility and those aspects are not applicable to a single family residence. The UDO does not have standards for single family residences specifically in the MN district to better match that use. The petitioner is requesting a variance from the 20’ front parking setback standard to allow a 3’ setback for the driveway to the attached garage. The driveway is proposed to be 20’ wide and have a 15’ setback from the alley and meets the standards for a typical driveway. The petitioner is also requesting a determinate sidewalk variance to not require a sidewalk to be constructed on the Jackson Street frontage.
CRITERIA AND FINDINGS FOR DEVELOPMENT STANDARDS VARIANCE

20.06.080(b)(3)(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:**

**Front building setback:** The granting of the variance to allow the building within the front building setback will not be injurious to the public health, safety, morals, or general welfare of the community as it will match the setback of the existing adjacent residences.

**Front parking setback:** The granting of the variance to allow the proposed driveway in the parking setback area will not be injurious to the public health, safety, morals, or general welfare of the community as the driveway will meet all of the standards for a typical single family driveway. The driveway will not be between the building and the street and is accessed from the alley.

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:**

**Front building setback:** No adverse impacts are found to the use and value of surrounding properties as a result of the building being located within the front build-to-range, conversely the granting of the variance would allow for the residence to match the existing historic setback of the adjacent buildings and create a uniform block face as encouraged by the Plan for West Kirkwood. In addition, a Certificate of Appropriateness was approved that specifically evaluated the overall design and location of the residence and found to be appropriate.

**Front parking setback:** No adverse impacts to the use and value of the area adjacent to the property are found as a result of allowing the driveway within the required front parking setback as it is not located between the residence and the street and is accessed directly from the alley. The driveway is designed as a typical single family driveway and meets the standards if this was zoned as a primarily single family district.

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:

**Front building setback:** The Department finds that the strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property as they would not allow for the residence to be constructed at a location that is appropriate to the area. The practical difficulties are peculiar to the property in question because the location of adjacent residences and existing block face are closer to the street than what the build-to-range would allow. The petitioner has designed the site to be compatible with the adjacent residences, fit the historic pattern of the Conservation District, and fit within the design guidelines of the Plan for West Kirkwood. The granting of the variance allows for the residence to be constructed at a location that is appropriate for the neighborhood.

**Front parking setback:** The Department finds that the strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property as they would not allow for a typical driveway to be constructed that is appropriate to the use. The practical difficulties are peculiar to the property in question because although the property is zoned for a range of commercial uses, because it is being developed with a single family residence, the standards do not match the proposed use. The proposed driveway has been designed as a typical residential driveway and meets the driveway standards for a single family use. The granting of the variance allows for a driveway to be installed that is typical to a single family residence and is appropriate for the neighborhood.

**CRITERIA AND FINDINGS FOR DEVELOPMENT STANDARDS VARIANCE**

20.06.080(b)(3)(E)(i)(1) Standards for Granting Variances from Development Standards: Pursuant to Indiana Code 36-7-4-918.5, the Board of Zoning Appeals or Hearing Officer may grant a variance from the development standards of this UDO 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:** A sidewalk connection on this site would certainly improve pedestrian safety by providing a defined, protected place for pedestrians and would connect to an existing sidewalk on Kirkwood.

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; and

   **PROPOSED FINDING:** Adverse impacts to the use and value of the surrounding area associated with the proposed variance are found. The granting of the variance is expected to have off-site negative consequences, as it will continue the existing design that lacks a sidewalk connection to the network north of Kirkwood Avenue.
(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; and

PROPOSED FINDING: No practical difficulties are found in the use of the property. A compliant sidewalk could be constructed on this site. The site will continued to be used as a single-family development even if the sidewalk is built. The petitioner has not supplied sufficient data or reasoning indicating that there are practical difficulties in the use of the site and that a variance is necessary for relief.

Determinate Sidewalk:

20.06.080(b)(3)(E)(i)(3): While not to be included as separate findings of fact, items to consider when determining the practical difficulties or peculiar conditions associated with a determinate sidewalk variance include, but are not limited to:

[a] That the topography of the lot or tract together with the topography of the adjacent lots or tract and the nature of the street right-of-way make it impractical for construction of a sidewalk; or

[b] That the pedestrian traffic reasonably to be anticipated over and along the street adjoining such lot or tract upon which new construction is to be erected is not and will not be such as to require sidewalks to be provided for the safety of pedestrians; or

[c] The adjacent lot or tracts are at present developed without sidewalks and there is no reasonable expectation of additional sidewalk connections on the block in the near future; or

[d] The location of the lot or tract is such that a complete pedestrian network is present on the other side of the street on the same block; or

[e] Uniformity of development of the area would best be served by deferring sidewalk construction on the lot or tract until some future date.

Review of Determinate Sidewalk Criteria: The topography of the lot or tract does not make it impractical to construct a sidewalk. Although a sidewalk would improve pedestrian safety, Jackson Street is also a very low volume street with less than 500 ADT’s. The Transportation Plan states that it can be appropriate for neighborhood residential streets with an existing or expected ADT of less than 500 vehicles a day and an expected operating speed of less than 20 mph or less to not have sidewalks. The adjacent lots to the north are presently developed without sidewalks and there is no reasonable expectation of additional sidewalk connection opportunities on the block in the near future. There is not a pedestrian network on the other side of Jackson Street. There does not seem to be a compelling reason to not require a sidewalk along the Jackson Street frontage at the time of development.
RECOMMENDATION: The Department recommends that the Board of Zoning Appeals adopt the proposed findings for V-14-22 and approve the variances for building setback and parking setback and deny the sidewalk variance with the following condition:

1. This variance is for the driveway location as submitted. Any new driveway design or placement will require a new variance.
2. A zoning commitment for the determinate sidewalk variance must be recorded and submitted prior to approval of a building permit.
3. A minimum 6’ wide concrete sidewalk is required along the property frontage.
March 24, 2022

Eric Greulich  
Senior Zoning Planner  
City of Bloomington  
401 N Morton St, Ste 130  
Bloomington, IN 47404

RE: 600 W. Kirkwood, variance request

Dear Eric,

The owners of the property at 600 W. Kirkwood would like to respectfully request variances from the following two (2) development standards:

1. The front building setback standard along Jackson Street to allow a proposed setback of 7 feet.
2. The front parking setback standard along Jackson Street to allow proposed setback of 7 feet.

The proposed project is a two-story, single-family residence with a full basement and an attached garage situated on the northwest corner of W. Kirkwood and Jackson Street in the Near West Side Conservation District. The site-design of the new home is intended to closely reflect the patterns of the historic neighborhood.

The practical difficulties of this site are due to the UDO standards for corner lots which require compliance with two (2) front yard setbacks. These front yard setback standards do not reflect the established neighborhood patterns. The UDO allows for the front yard setbacks to be adjusted along W. Kirkwood because the neighboring property to the west is a designated as an outstanding historic structure. However, no such concession is made for the setback on the Jackson Street side.

Historical Sanborn maps from 1898 show the original structure on the site created a defined edged along Jackson. Our proposed site design including the garage location aligns with this historic configuration. Our intention is to create a contextual project that integrates well with the Near West Side Conservation District.

Sincerely,

Dawn M Gray, AIA  
SPRINGPOINT ARCHITECTS, pc
SMITH RESIDENCE
BLOOMINGTON, INDIANA

APRIL 4, 2021
SURVEYOR'S REPORT

In accordance with Title 865, IAC, 1-12 sections 1-30 of the Indiana Administrative Code, the following observations and opinions are submitted regarding the various uncertainties in the location lines and corners established on this survey as a result of:

A). Variations in the reference monuments
B). Discrepancies in the record description and plats
C). Inconsistencies in lines of occupation and
D). Relative Positional Accuracy “RPA”

The relative positional accuracy (due to random errors in measurement) of this survey is within the limits that are allowable for a Suburban class survey (0.17 ft plus 100 ppm) as defined I.A.C. Title 865 “relative positional accuracy” means five feet expressed in feet or meters that represents the uncertainty due to random errors in measurements in the location of any point on a survey relative to any other point on the same survey at the 95 percent confidence level”.

SUBJECT PROPERTY:
A boundary survey was performed on the property now or formerly owned by Moehn Investments LLC as found in Instrument Number 2021009627 in the Office of the Monroe County Recorder. The purpose of this survey is to retrace the boundary lines of the subject property as located in Carmichael’s Addition to the City of Bloomington, Monroe County, Indiana.

REFERENCES SURVEYS:
1). Reference is made to the plat of Carmichael’s Addition to the City of Bloomington, Indiana prepared by Dillon Talbot dated March 15th, 1887 as found in Plat Cabinet B, Envelope 15 in the Office of the Monroe County Recorder.

REFERENCES MONUMENTS:
A). A 5/8 inch diameter rebar was found marking the Northeast corner of Lot 1 in Carmichael’s and Chron
B). A 5/8” diameter rebar was found marking the Southeast corner Lot 12 in Carmichael’s Addition. The origin of this rebar is unknown, however was found to be the best evidence available marking the west right of way of Fairview Street.
C). A 5/8” diameter rebar was found marking the Southwest corner Lot 14 in Carmichael’s Addition. The origin of this rebar is unknown, however was the best found evidence and was used to calculate the northeast and southwest corners of the subject property.

ESTABLISHMENT OF LINES AND CORNERS:
1). The Northeast and southwest corners of the subject property was established by record distance measuring from the monuments referenced in lines “B” to the west.
2). The Northeast and Northwest corners of the subject property were established at record distance measuring from southeast and southwest corner respectively and measuring north.

CERTIFICATION
The within survey was performed without the benefit of source of title and is subject to any statement of facts revealed by the same.

Eric L. Deckard
Registered Surveyor LS 2990081
State of Indiana

DATE:
March 22, 2022

NOTE:
1). Property surveyed under Plat of Indiana Wire.
2). Fieldwork completed March 12, 2022.
3). This survey was not complete without the accompanying surveyor’s report.
4). I affirm, under penalty for perjury, that I have taken responsible care to redact each Social Security Number in this document, which is required by law.

SOURCE OF TITLE:
New or Partially owned by Moehn Investments LLC as found in Instrument Number 2021009627 in the Office of the Monroe County Recorder.
PETITIONER: Aspen Heights Partners  
8008 Corporate Center Drive, Charlotte, NC

CONSULTANTS: Smith Design Group, Inc.  
2755 E. Canada Dr. Ste. 101 Bloomington

REQUEST: The petitioner is requesting a variance from riparian buffer standards.

REPORT: The property is located at 703 W. Gourley Pike and is currently zoned Mixed-Use Student Housing (MS). The property was most recently developed with a “dwelling, multifamily” use known as “The Arch” apartments, however those buildings have been removed. Surrounding properties to the east are zoned Mixed-Use Student Housing (MS), the properties to the south are zoned Residential High-Density Multifamily (RH), the properties to the north are Mixed-Use Commercial (MC), and the properties to the west are zoned Manufactured/Mobile Home Park (RMH) and Residential Multifamily (RM). There is a stream that runs along the south side of the site and crosses through the eastern portion of the site that is subject to the riparian buffer standards.

This property received major site plan approval under case #SP-26-21 to allow for the construction of three “student housing or dormitory” buildings and one “dwelling, multi-family” building. Buildings #1 and #3 were approved with a total of 174 beds and 43 units in each building. The inclusion of four and five bedroom units within these buildings classifies them as “student housing or dormitory.” Building #2 were approved to be a 5-story building with a total of 303 beds and 151 units. Since there are no 4 or 5-bedroom units within this building and less than 30% of the units within this building are 3-bedroom units, this building is classified as “dwelling, multi-family”. Building #4 was approved to be a 2-story building and is proposed to contain 4 five-bedroom units. Since all of the units within this building will be 5-bedroom units, this building is also classified as “student housing or dormitory”. In total, there will be 241 units and 671 bedrooms. Surface parking will be provided throughout the site by the construction of 495 on-site parking spaces. The site will be accessed by one drivecut on Gourley Pike to the north and a proposed drivecut on Kinser Pike. The site currently has two drivecuts on Gourley and one drivecut on Kinser. The proposed drivecut on Kinser would be in the same location as the current drivecut.

There is a creek that crosses through the eastern portion of the site and is subject to the riparian buffer standards. Since the development petition for this site involved the complete removal of all structures and new construction, full compliance with the UDO is required. The riparian buffer zone standards do not allow for any disturbance (including driveways) within the buffer zone, so the petitioner must request a variance to allow for the current drive to remain and update it. The location of the creek does not allow for any opportunity to connect to Kinser Pike without a variance since the creek parallels Kinser Pike and an encroachment into all three riparian buffer zones is required. The connection through the site was desired by Emergency Services and Bloomington Transit as part of their transit route.
CRITERIA AND FINDINGS FOR DEVELOPMENT STANDARDS VARIANCE

20.06.080(b)(3)(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:**
The granting of the variance to allow disturbance within the riparian buffer area will allow for a through connection of the site by the driveway which greatly increases public health and safety. Since the location of the proposed driveway is in the same location as the existing driveway, no additional disturbance is proposed within the riparian buffer.

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 surrounding properties as a result of the requested variance are found. In contrast, the granting of the variance would allow for better access for emergency services and Bloomington Transit users and thereby increasing use of public transit. This would improve the use and value of the areas adjacent to the property.

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:**
The Department finds that the strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property as they would not allow for the driveway to connect through the property to connect to the adjacent road frontage. The practical difficulties are peculiar to the property in question because the location of the creek bisects the property and does not allow for any connection through that area to be able to meet the riparian buffer standards, and the connection is common and desired. The petitioner has designed the road profile and location to minimize the amount of disturbance required to what is already disturbed on the site currently for the existing drive. The construction of the road through the site greatly increases accessibility to public transit services to the area as well as improves access to the site by emergency services. The granting of the variance allows for the road to be constructed through the site, which benefits both the residents of this site as well as residents to the south and the community as a whole.
RECOMMENDATION: The Department recommends that the Board of Zoning Appeals adopt the proposed findings and approve V-16-22 with the following condition:

1. This variance is for the driveway location and cross section as submitted. Any new road design or placement will require a new variance.
April 28, 2022

Board of Zoning Appeals / Hearing Officer
City of Bloomington Planning & Transportation Department
Showers Building Suite 130
401 N Morton St
Bloomington, Indiana 47404

RE: Aspen Heights Bloomington – Riparian Buffer Variance Request

Dear Eric and Members of the Board of Zoning Appeals or Hearing Officer,

Aspen Heights Partners is requesting a variance from Unified Development Ordinance (UDO) sections 20.04.030(f)(5)(D), 20.04.030(f)(6)(D), and 20.04.030(f)(7)(D) – Disturbance Activities permitted in the three zones of the Riparian Buffer (Streamside, Intermediate, and Fringe). These UDO sections restrict the disturbance activities that are permitted within the riparian buffer zones. This variance request is to allow for the construction of a private access drive within all three zones of the riparian buffer. Private drives are not one of the listed disturbance activities that are permitted by the UDO.

Below are the reasons this variance is being requested and rationale for approval:

1. The drive currently exists and has been actively used to serve the existing Arch Apartments development as well as Bloomington Transit buses. If this variance request is approved, the drive will be reconstructed in almost exactly the same location and the existing culvert across the stream will be reused – minimizing disturbance within the riparian buffer.

2. Bloomington Transit (BT) – The existing drive is currently part of the regular route of the BT Route 6 – Campus Shuttle. The site is currently the western terminus of that route. The developer on this project has worked closely with BT to continue the relationship by providing two new bus stop structures, a formalized access easement through the site, and driver restrooms during their layovers.
3. Fire Access – This drive provides better fire and emergency services access to the project site which will contain 241 units within four buildings. If this variance is not granted, a large fire truck turnaround will have to be constructed just west of the riparian buffer area.

4. Connectivity – One such activity that is permitted within riparian buffers is “Street crossings, where necessary to achieve connectivity”. While this drive is not a public street, if this variance is granted it will certainly serve the public as it is within public access easements for Bloomington Transit and pedestrians. This allows for pedestrians, cyclists, transit users, and buses to utilize the roadway as an alternative to N Kinser Pk and W Gourley Pk.

Below are our responses to the General Approval Criteria given in 20.06.080 (b)(3)(E)(i)(1):

[a] The approval will not be injurious to the public health, safety, morals, and general welfare of the community;

An approval of this variance will continue the status quo – the drive will continue to exist where it has since the late 1960s. The drive has not been injurious to the public health, safety, morals, and general welfare of the community during the past several decades. The reconstructed drive will include a larger pedestrian path and bus stop location that should provide additional public benefit.
[b] 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;

The drive will continue to exist almost exactly where it has been so it should not impact the use and values of adjacent areas in any way.

c] The strict application of the terms of this UDO 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.

The strict application of the terms of the UDO will result in two entrance drives off of W Gourley Pike. This results in practical difficulties for the reasons detailed above: 1) The drive currently exists 2) Bloomington Transit utilizes the drive and desires to continue to do so 3) Fire Access is improved by this drive and 4) Connectivity is improved by this drive.

These practical difficulties are peculiar to the property in question because the property has a unique long, narrow shape and has a “flag pole” type connection to N Kinser Pk which crosses through a riparian buffer and that already has an existing drive on it.

The development standards variance will relieve the practical difficulties listed above by allowing the existing drive to remain in use, allow Bloomington Transit to maintain its Route 6 turnaround, allow improved fire access to the site, and allow for improved connectivity in the local area.

Thank you for your consideration of this request.

Sincerely,

Kendall Knoke
Smith Design Group, Inc.
812-336-6536 Ext. 3
kknoke@smithdginc.com