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The Board of Zoning Appeals (BZA) met in a virtual (Zoom) meeting at 5:30 p.m. Members present: Barre Klapper, Flavia Burrell, and Susan Sandberg (Jo Throckmorton absent).

APPROVAL OF MINUTES: None at this time.

REPORTS, RESOLUTIONS, COMMUNICATIONS: None at this time.

PETITION WITHDRAWN:

V-10-21 **Laurie Eynon**
1300 S. Grant St.
Request: Variance from entrance and drive standards to allow a driveway on Driscoll Dr.
Case Manager: Eric Greulich

PETITION CONTINUED TO: August 19, 2021

CUV-19-20 **Robert Iatarola**
1504 W. Arlington Rd.
Request: Conditional Use approval for a Home Occupation in the R2 zoning district. Also requested are variances to allow a Home Occupation to be located within an accessory structure and to allow deliveries (of pallets) to the property.
Case Manager: Jackie Scanlan

PETITIONS:

V-05-21 **Nancy Armstrong**
619 W. Fess Ave.
Request: Variance from rear yard setback requirements for a detached Accessory Dwelling Unit (ADU).
Case Manager: Jackie Scanlan

Jackie Scanlan presented the staff report. The subject property is approximately 6,500 square feet in size and located at 619 S Fess Ave., and is zoned (R3) Residential Small Lot. The property has been developed with a single family dwelling and previously also contained a detached garage. All of the surrounding properties are also zoned R3. The property fronts along S. Fess Ave. to the west and abuts an alley to the east. The requested accessory dwelling unit (ADU) location is on the east (rear) side of the property. The property is listed as Contributing in the Bloomington Historic Sites and Structures Survey. The petitioner received approval from the Bloomington Historic

Preservation Commission (HPC) to remove the 1930s era garage on site, and also received verbal support from multiple members of the Commission for reuse of the same development site for the planned ADU. The petitioner is proposing to construct a two-story ADU with a 480 square foot footprint in the location of the previous detached garage. The detached garage did not meet the 5-foot setback requirement from the rear and side yard property lines. However, the existence of large trees and a parking space on the petition site make the previous development site ideal for the new project. The petitioner is requesting to place the proposed ADU approximately three (3) feet away from the north (side) and east (rear) property lines. The UDO requires a 5-foot setback from both the rear and side property lines. The petitioner is requesting a variance from the required 5-foot side and rear setbacks for a 3-foot setback from each property line. No injury is found with the requested variance from the rear and side setback for a proposed detached ADU. The requested footprint is identical in size and location to the accessory structure that was previously on the site without incident. The variance seeks to legitimize the location so that it can be used again without disturbing the development and environment surrounding it. No adverse impacts to the use and value of the surrounding properties are found as a result of the requested variance from the rear setback. The requested location has worked in concert with the other structure on the site and those on surrounding sites for many years. The variance would allow a new structure to be built in the same location. Practical difficulty is found in the existing conditions of the lot. The previous detached structure was located in the proposed location, and as a result, the rest of the developable area in the rear of the property has been designed around that location. The site contains a pad for parking in the southeast corner, as well as large trees along the southern property line. Peculiar condition is found in the historic nature of the layout of the previous detached structure. The detached garage location was established prior to the standards of the UDO and is a common historic pattern, as can be seen in other properties in the immediate area, with accessory structures built close to or at the property line with the intent to maximize the usable space of the backyard. The petitioner is not requesting to increase the historic setback, only to be able to utilize the historic pattern for the ADU location. Staff recommends approval of V-05-21 based on the written findings outlined in the staff report, including the following conditions:

1. The petitioner must apply for the creation of an ADU with the Planning and Transportation Department within 90-days of the approval of the requested variances.
2. This variance applies to the location of the ADU structure as shown in the submitted site plan only. Any subsequent developments that do not meet UDO requirements will require an additional variance.

Nancy Armstrong doesn't believe putting the ADU in the same place where the demolished garage used to be would cause harm to the neighborhood. There have been no issues with visibility, safety or aesthetics in the past. She also owns the property adjacent to this site (to the north) at 617 S. Fess Ave., her mother currently lives at this address.

BZA Discussion:

The consensus of the Board is that the requested setback variance is very straight forward. Board members had no further questions.

No public comments.

****Sandberg moved to approve V-05-21 based on the written findings including the two conditions outlined in the staff report. Burrell seconded. Motion carried 3:0— Approved.**

V-08-21 **Starbucks Coffee Company**
S. Liberty Dr. (North of Bloomfield Road)
Request: Variance to allow vehicle parking in excess of the Maximum Vehicle Parking Allowance for a ‘restaurant’.
Case Manager: Jackie Scanlan

Jackie Scanlan presented the staff report. This petition was heard at the June 2021 Board of Zoning Appeals hearing. The Department recommended continuance of the petition until the petitioner provided information about typical need for the use that demonstrated support for the variance request. The petitioner did not submit anything before the Final Revision Deadline, but when contacted by Staff, did produce a document indicating the number of parking spaces at area Starbucks locations. The data requested was related to how many of the spaces were actually used on a regular basis. The Department finds that listing the number of spaces with no indication of their typical use does not address the request for three times the allowed parking at this site. However, based on the conversations had at the previous hearing, the BZA may find that this is enough information to act on the petition. This 1.05 acre property is located northeast of the intersection of S. Liberty Dr. and W. State Road 45 and was zoned Planned Unit Development (PUD) at the time of filing. The properties to the north, east, and west were within PUD 26 at the time of filing and have been developed with commercial uses. The property to the south was a part of PUD 83 at the time of filing and has been developed with commercial uses. The petitioners are proposing to construct a ‘restaurant’ at this location, with a total of 33 parking spaces. PUD 26’s District Ordinance does not create standards for parking and loading. The UDO limits “restaurant” uses to a maximum vehicle parking allowance of 10 spaces per 1,000 sq. ft. Gross Floor Area (GFA) of indoor seating, and 5 spaces per 1,000 sq. ft. GFA of outdoor seating. The proposed site design would allow for a maximum of 11 spaces. The petitioners are proposing to include a total of 33 vehicle parking spaces on the site. The 22 spaces over the limit are proposed to utilize permeable pavers. The petitioners are requesting a variance to allow 22 parking spaces over their maximum vehicle parking allowance. While it seems likely that practical difficulty can be found in the use of the property based on expected use, the need for a triple increase of parking allowance has not been demonstrated. The Department requested additional information related to similar store locations, but has only received information about the total number of spaces at area locations, with no indication of their use. The information requested about other locations is intended to demonstrate that if other locations with similar characteristics as this site typically need the number of spaces requested, this site will as well. The requested information has not been provided and therefore Staff recommends that the BZA continue this petition to the August 2021 hearing.

Mike Timko is present on behalf of the petitioner. Several Starbucks in this region of Indiana were analyzed by CC Roberts, Store Development Manager, in order to gather average parking count information. All facilities are similar in nature in that they are freestanding stores with isolated parking lots. Any Starbucks that are a part of a multi-tenant retail building or a shared parking lot facility were not included in the study. On average, the stores reviewed had a parking count of 33 parking spaces. On a typical day between 7 am and 9 am, Starbucks has on average 125 transactions within that 2-hour window of time inside the store, which doesn't include transactions that occur at the drive-through window. Starbucks believes it's in everyone's best interest to make sure they are providing adequate space for their customers to park so that cars don't backup on to Liberty Drive.

BZA Discussion:

Barre Klapper asked for further clarification pertaining to the transaction data that Mike Timko mentioned in his presentation. Timko gave an overview of transactions per day in the State of Indiana – 750 tickets per day; on average 260 of those tickets are from inside the building and 125 of those 260 transactions happen in the store during the 2-hour window (peak hours) from 7 am to 9 am. He said it sheds a little more light on the number of people that are actually coming into the store during peak hours. Susan Sandberg asked Staff to clarify the number of parking spaces at the six (6) additional stores that were provided by the petitioner. Scanlan responded that the parking count ranges from 14 at the Bedford store to 48 at the Martinsville store. A store in Terre Haute has 45 spaces. Scanlan said parking counts were provided for two stores in Bloomington, Martinsville, Bedford, Columbus and Terre Haute for a total of six. Flavia Burrell asked about parking numbers for the two Bloomington locations the petitioner provided – Walnut Street and Tupelo Drive. Scanlan said the Starbucks on Tupelo Drive is actually located in Ellettsville and not Bloomington as stated in the petitioner's information. Scanlan added it's helpful to look at similar uses and do the parking comparisons. Burrell said every time she drives by the Ellettsville Starbucks all of the parking spots are full. Klapper asked when the store was built on S. Walnut St. Scanlan replied it was built in 2004, which means it was built under another code. We are probably moving more towards less parking; some of those stores were built "pre" those code requirements. Sandberg said we're now getting more of a handle on the pandemic so there is more of a probability that people will want to park and go into a store. Timko agreed the "going in" trend will be coming back as time progresses. Also, when drive-through lines start to get longer people realize it's quicker to park and go inside the store rather than wait in a long line. This site is unique because it's very close to the interstate which means there will be other customers in addition to local commuters. Timko added there is a patio space being provided as part of this restaurant so that's a sign that Starbucks believes people will continue to park and go inside. Starbucks isn't decreasing the amount of dining space inside stores despite how Covid has influenced what's going on. Sandberg suggested a possible parking compromise of 20-25; allowed by code 11-- being requested 33. Klapper believes there should be more parking; however, the Board needs the data that was originally requested by the Department to figure out the appropriate number and not have excess parking. Klapper thinks the data is necessary in order for the Board to feel comfortable about the parking count. There is a huge range of spaces between the different stores from 14 to 48. David Kamen (Owner of property) added to comments already made by Timko, saying that Board member Burrell stated

the obvious with the Ellettsville store and that is the “parking lot is full”. Also, the site plan has been amended several times to accommodate what the City wanted to accomplish on this site. Kamen said he would like to get this store built in nice weather as opposed to the winter so construction really needs to start next month. Burrell said one important thing to consider is location. This store is by an interstate (Interstate 69), a major arterial, and surrounded by businesses. There is no doubt there is a need for additional parking. Klapper commented that the new code is aggressive in terms of trying to minimize parking; it’s a characteristic of our code, and that does not exist in a lot of places outside of Bloomington. Sandberg said part of the duty of the BZA is being mindful of the code and trends in the community; however, we are the body that can make an exception to the rule if we feel enough evidence has been brought forward to negotiate a parking number. I’m less concerned about being a strict interpreter with respect to parking given the location, where it is, and no opportunity for shared parking. So I’m somewhat compelled to go ahead and grant the variance without delay. The petitioner has also expressed that he would like to begin construction soon due to impending weather. Scanlan said the petitioner hasn’t shown the Department any stores that have shown the need for this much parking even one day a year, or once a week. All stores are different and the petitioner is taking all of the stores in Indiana (in strips, in a Mall, and freestanding), and lumping them together and giving us the average number of transactions for peak hours at those stores but they’re wildly different. Scanlan thinks what would be more helpful is if the petitioner could give us three stores that have similar characteristics to what they are trying to build here. Can you give us any data about how many people are actually going into those stores? Scanlan added we try to be mindful of petitioners’ timelines but it’s also our responsibility to help development go in well. The site plan hasn’t been amended ten times. The site plan the petitioner initially submitted didn’t meet code so we had to talk to them and have them update it which they did. Scanlan said we want to be expedient but we also want to be fair to the petitioner and to other restaurants coming forward that have provided the requested data, and made the case that they need additional spaces, and not on the assumption that they need space because we know their business is busy. For those reasons, Staff recommended a continuance until next month in order to get slightly more information from the petitioner. Sandberg added that Starbucks seems to be busy all the time and not just around holidays. Sandberg said clarification might be needed for the petitioner in terms of the type of data the City is requesting in order for a decision to be made next month (August 2021). Scanlan responded for example, Culver’s (located on W. 3rd Street) had their employees in the store pop out of the store for a week (at peak times) and write down how many people were in the parking lot. They did this for a week at three (3) different locations; stores that were similar to the one in Bloomington and that data was given to the Department. Scanlan said it’s that type of data we’re looking for because Starbucks is asking for three times the number of parking spaces that is allowed by code (the Unified Development Ordinance or UDO). Klapper said the BZA is looking for data (parked cars) from two similar stores at their busiest peak times. The variance isn’t in question, it’s the magnitude of the variance at this point.

No public comments.

****Klapper moved to continue V-08-21 to the August 2021 hearing pending additional parking information from the petitioner. Sandberg seconded. Motion carried 3:0—petition continued.**

Meeting adjourned.