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The Board of Zoning Appeals (BZA) met in a virtual (Zoom) meeting at 5:30 pm. Members present: Barre Klapper, Flavia Burrell, Jo Throckmorton, and Erik Coyne. Jessica Sonneborn, BZA alternate, joined the Board before petition CU-18-21 to sit in for Barre Klapper who recused herself on that particular petition.

APPROVAL OF MINUTES: June 24, 2021 and September 23, 2021

****Throckmorton moved to approve the 6/24 minutes as distributed. Coyne seconded. Motion carried unanimously 4:0.**

****Throckmorton moved to approve the 9/23 minutes as distributed. Coyne seconded. Motion carried unanimously 4:0.**

REPORTS, RESOLUTIONS, COMMUNICATIONS: None this time.

PETITION CONTINUED TO: October 21, 2021

CU-18-21 **Shawn Eurton**
412 E. 4th St.
Request: Conditional Use approval to allow the use “Student Housing or Dormitory” in the University Village Downtown Character Overlay in the Mixed-Use Downtown (MD-UR) zoning district to allow for one new building containing two, four-bedroom apartments.
Case Manager: Eric Greulich

PETITIONS:

V-16-21 **Michael Coradro (Johnson Creamery)**
335 W. 8th St.
Request: Variance from front building setbacks, upper floor facade setback, ground floor void-to-solid ratio, and required pedestrian entrance along the B-Line Trail.
Case Manager: Eric Greulich

Eric Greulich presented the staff report. The property is located on the north side of 7th St. and extends north to 8th St., and is within the Downtown Core Character Overlay of the Mixed-use Downtown (MD) zoning district. Surrounding land uses are offices and the B-Line Trail to the east. The property contains the Johnson Creamery office building and a surface parking area to the north of the building that is used by commercial office tenants. There is a 12-foot wide platted alley along the west side of this property that runs north/south and connects 7th St. to 8th St. There is an underground culvert and a 15-

foot wide easement that runs diagonal through the northeast corner of this property which contains a 48” storm water pipe that serves the overall storm water drainage system for the portions of the City upstream of this area. The Plan Commission approved a site plan (SP-11-20) for this site in 2020; however, due to difficulties encountered regarding the relocation of the existing box culvert (which necessitated substantial off-site improvements) and concerns about impacts to the stability of the historic smokestack, the petitioner had to redesign the proposed project. A new site plan has been applied for and is being reviewed by the Plan Commission at their October 18, 2021 hearing under (SP-27-21). The proposal consists of removing the surface parking lot on the north side of the site and construct a new 5-story, residential building with 60 dwelling units, 74 bedrooms, and an interior parking area with 18 spaces. There are also 8 existing surface parking spaces that will be for three-bedroom units. The garage would be accessed from a drive cut on the alley on the west side and by an entrance on the south side of the building. Also proposed, is a 1,000 sq. ft. fitness area along the ground floor of the 8th St. frontage. In addition, the petitioner is proposing a large outdoor plaza area, two dwelling units, and lobby along the ground floor facing the B-Line. The proposed building is being designed to meet the Sustainable Development Incentives outlined in Option #1 of the UDO, whereby creating a more environmentally sustainable building design and overall site. The petitioner is requesting a Variance from the front building setback standards to allow 2% of the building to be at the build-to-line rather than the required 70%. Staff recommends approval of V-16-21 based on the written findings outlined in the staff report including the following conditions:

1. Approved per terms and conditions of Plan Commission case #SP-27-21.
2. Elevations and renderings for the building permit must be consistent with submitted documents.
3. This Variance is approved for the proposed site plan and elevations as submitted only. Any future site plans must meet all UDO requirements.

Joseph Patrick, Director of Development at Peerless, is representing the petitioner who was unable to attend. He explained how the Variance hinges upon the existence of a storm water box cover. Relocating the box would be challenging and cumbersome. It impacted so many utilities in the area along 8th St. and the B-Line Trail. It wouldn't be worth the effort to relocate it so they shifted gears (working within their restrictions) and created a new design for the existing site that is vibrant and productive.

BZA Discussion:

Barre Klapper wondered about the existing parking lot and whether or not it serves the Johnson Creamery Building. If so, what happens to the parking needs of that building? Eric Greulich said the parking lot serves the existing building but within the downtown there is not a parking minimum for commercial parking. It's only residential uses that have a parking minimum so there will be some spaces on the site—approximately eight spaces will remain. The petitioner will need to come up with a plan for how those eight

spaces will be used for the various tenants within the building. Greulich believes the petitioner has made some arrangements for off-site parking at a nearby church. In addition, there is a recently constructed City garage in the Trades District that has available parking for users of the area as well. The petitioner's representative, J. Patrick, said they already have an agreement with the adjacent church to utilize a number of their spaces during the workday hours through the week. He said their tenants are aware of that fact and they have relayed that same information to all of their commercial tenants in the office building. Future tenants will be given that same information. Patrick said they have also been in conversations with someone from the Trades District parking garage about leasing spaces for their commercial tenants as well.

No public comments.

****Throckmorton moved to approve V-16-21 based on the written findings including the three conditions outlined in the staff report. Burrell seconded. Motion carried 4:0—Approved.**

~Let the record reflect that Barre Klapper will not participate in the discussion and vote for the next petition (CU-18-21) and that Jo Throckmorton will now chair the meeting from this point forward. Jessica Sonneborn is joining the Board at this time.

CU-18-21 **Shawn Eurton**
412 E. 4th St.

Request: Conditional Use approval to allow the use “Student Housing or Dormitory” in the University Village Downtown Character Overlay in the Mixed-Use Downtown (MD-UR) zoning district to allow for one new building containing two, four-bedroom apartments.

Case Manager: Eric Greulich

Eric Greulich presented the staff report. The property is currently zoned Mixed-Use Downtown and is located in the University Village Downtown Character Overlay (MD-UV). Surrounding properties are also zoned MD-UV. The property is currently developed with a mixed-use structure with multifamily dwellings and commercial space on the first floor. The existing building has one two-bedroom unit, one four-bedroom unit, and 560 sq. ft. of commercial space. Greulich noted the site is within the University Village Historic District and therefore a COA (Certificate of Appropriateness) is required prior to the issuance of a building permit. Proposed is the construction of a new three-story structure in the rear of the property with ground floor parking with 8 spaces and two, four-bedroom dwelling units on the upper floors. Since the two proposed units will each contain four bedrooms, they are classified as student housing. Student housing is listed as a Conditional Use in the Mixed-Use Downtown zoning district. Therefore, the petitioner is requesting Conditional Use approval to allow for this new construction. The site plan for this petition is being reviewed separately under a Staff-level minor site plan approval. No issues have been identified in meeting site plan requirements. The creation of two dwelling units for student housing is not expected to have any adverse impacts on surrounding properties. No additional lighting is being proposed outside of

what is typical of a residential unit. Greulich stated that Staff did receive one letter of remonstrance that was included in packet of information. Staff recommends approval of CU-18-21 based on the written findings in the staff report, including the following conditions:

1. The Conditional Use is limited to the proposed use and site plan as submitted, no other use is approved.
2. The building height must be reduced to be no more than 30' tall as required by the UDO.
3. A *Certificate of Appropriateness* is required prior to issuance of a building permit.

Doug Bruce, petitioner's representative, said they received unanimous approval for the proposed project from the HPC (Historic Preservation Commission) last week. They are working on a few details on the exterior of the building. There are also some issues with the height of the building relative to grade changes on-site that are also being worked. This project is a perfect example of infill housing, where you take a pervious parking lot and place a small scale building on it. It's also a great place to house students since its one block from campus. Shawn Eurton, petitioner, had no additional comments

BZA Discussion:

Erik Coyne referred Dave Harstad's email (in the packet) opposing this petition due to the likelihood of 4-bedroom units becoming party houses. Coyne asked if there are any other 4-bedroom units in this same area. Greulich responded that Staff did not identify any other 4 or 5-bedroom units within 300-400 feet of this area. Greulich said that you probably see more impacts from that when you have multiple units within a development that have 4 or 5-bedrooms on the same hallway. In this situation, there are only two units and each unit is separated by a different floor. Further, the low unit count on this property is one of the main limiting factors in this situation.

No public comments.

Back to the petitioner:

Bruce added that a lot of those "problem" houses are where you have a big porch or balcony facing the street. We don't have a balcony or a big porch that people are going to congregate. It problems were to arise, my clients would take care of it quickly as to not affect nearby neighbors.

BZA:

****Burrell moved to approve CU-18-21 based on the written findings, including the three conditions outlined in the staff report. Coyne seconded. Motion carried 4:0—Approved.**

- V-19-21 **Wayne and Daniel Poole**
916 S. Morton St.
Request: Variance from rear yard building setback standards to allow for an addition to an existing residence in the Mixed-Use Medium Scale (MM) zoning district.
Case Manager: Eric Greulich

Eric Greulich presented the staff report. The property is located on the west side of S. Morton St. and is zoned Mixed-Use Medium Scale (MM). Surrounding land uses include single family residences to the west, north, and east with a bar/restaurant to the south (Cardinal Spirits). There is a 12' wide platted alley along the north, west, and south sides of this property. The property is also located within the McDoel Gardens Historic District; therefore, a *Certificate of Appropriateness (COA)* may be required for the proposed addition. If required, the COA must be received prior to the issuance of a building permit. The petitioner is proposing to construct an addition to the west side of the residence for a new attached two-car garage and covered breezeway. The additions is proposed to be 5 feet from the rear (west) property line. The rear yard building setback in the MM zoning district is 7 feet. The petitioner is requesting a Variance from rear building setback standards to allow a 5-foot setback rather than the required 7-foot setback. Staff finds that the strict application of the terms of the UDO (Unified Development Ordinance) do not appear to place a practical difficulty in the use of the property. There is sufficient buildable area between the house and the rear setback line to accommodate the proposed garage. Reducing the size of the proposed patio and breezeway would allow the garage to be constructed and meet setback requirements. There are no unique environmental constraints that prohibit meeting the required setback. No peculiar condition is found with regard to the property that prevents the use of the property or from constructing an addition to the residence. For detailed reasons, Staff recommends denial of V-19-21. Greulich noted that Staff received several letters and emails from adjacent property owners supporting this petition; however, those came in after the packet had been distributed so Staff wasn't able to pass them along to the BZA.

Wayne Poole, petitioner, he and his wife (Dee Dee) and others in their family moved to Bloomington six months ago. The home is a 106 years old property and it's comprised of two parcels; one parcel is developed with the home and the other parcel is vacant. There are unconstructed alleyways on both sides—north, south, and west. The property is pretty unique because it's a very public location with minimal privacy in the front half of the home. The house is also part of the McDoel Gardens Historic Neighborhood, and as such, it's recommended that any additions to the home be located in the back third or two thirds of the home, away from the view from the front of the street. This is one of the primary reasons we have to put the garage in the back of the property. There has also been a recent zoning change to MM. And as such, an accessory building must be 15% of the home. The garage is obviously bigger than that so it requires you to attach the garage to the home so we are going to be putting a breezeway in between there to connect those two together. Poole said they also have future plans to add the master bedroom suite to the north part of the existing home. Again, the garage has to be in the

location proposed because of the Historic Preservation guidelines. Overall, the ultimate goal is to try and create private space from the foot traffic and being so close to the B-Line. He wished the Board had more of an opportunity to review some of the supporting letters from neighbors as well as McDoel Gardens. He also added that Jack Baker wrote a really nice letter that explained how the 1916 house is peculiar, it's situated on the Lot far from the Morton St. property line and close to the property line of the alley. This was apparently done at that time to lace it as far as possible away from the railroad and smoke. In this particular departure from the traditional development pattern of the surrounding neighborhood the improvements requested are constrained to a small working space and present practical difficulties.

BZA Discussion:

Flavia Burrell asked whether or not the petitioners received the actual *Certificate of Appropriateness*. Dee Dee Poole said they received the COA and it was completed December 14, 2021. Throckmorton asked Staff about fencing this particular site—what is allowed or not allowed in order to establish additional privacy against the Morton Street approach. Greulich responded they would be allowed to have an 8-foot tall fence that is even with the front of the house, and then forward of that between the house and Morton would be restricted to 4 feet in height. Throckmorton added so it would be possible to establish privacy on the property that's not directly behind the house. Greulich agreed. The petitioners could fence off their entire backyard with an 8-foot tall fence. Greulich explained that the HPC and zoning guidelines are separate. Jackie Scanlan, Development Services Manager, said it's very unlikely that the McDoel Garden Historic District guidelines don't allow for that garage to meet a 7-foot setback on the back of the property. Discussion ensued regarding historic guidelines and placement of the addition, including whether or not there is any peculiar circumstance that is preventing the petitioners from using their available space.

Public Comments:

The following members of the public spoke in favor of the petition: Elizabeth Cox-Ash said the Poole's came to the Oct 7th HPC meeting and 14 members were present for that meeting. The HPC unanimously approved their addition including the garage and breezeway. There will be minimal effects on neighboring properties since the Poole's own the Lot next to the Lot in question. She didn't see any issue with approving their variance request; it's a 2-foot variance. She urged the BZA to approve it. Tina Lubarsky lives directly across the street from the petitioners. She spoke in favor of approving the variance and is looking forward to their continued improvements to the property. Shauna Burton lives near the alleyway and, she too, is in favor of granting the variance.

Back to the petitioner:

Dee Dee Poole said they diligently worked with the HPC and neighborhood association. She said a fence in the area north of the garage would just not be feasible as suggested by Throckmorton as a possible alternative.

BZA:

Coyne asked if people are wandering into their yard, and if so, how often does it occur?

Wayne Poole said he was at work and his wife sent him a text with a picture of someone walking through their backyard. Dee Dee Poole acknowledged people constantly walking through their yard and they've had to call the police at least three times. They cannot leave the door unlocked for any given period of time. She and her husband wanted that small amount of space from the garage to the house so they can pull in and be safe. The proposed fence is from the back northwest corner of the house to the garage; there would be a gate there with a lock, and then there would be a small area (the breezeway) to walk in safely and securely. Scanlan added that the petitioner could construct a detached structure of this size per the UDO, with a 5-foot setback, but the petitioners are choosing not to because they want it to be attached.

Coyne: Basically the petitioners could have this structure where it is as long as it didn't include the attached breezeway? Scanlan said that is correct.

The Board continued their discussion with Staff regarding placement of the garage on the Lot including the 5-foot required setback versus the 7-foot setback being requested, because the petitioners wish to have an attached breezeway between the house and the garage rather than a detached garage that would meet code with a 5-foot setback.

****Coyne moved to deny V-19-21 based on the written findings and recommendation outlined in the staff report. Sonneborn seconded. Motion carried 4:0—Denied.**

Throckmorton said he believes there are a lot of solutions in this case that don't necessarily require BZA action.

Meeting adjourned.