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The Board of Zoning Appeals (BZA) met on May 26, 2022 at 5:30 pm; a hybrid meeting was held both in the Council Chambers, located in Room 115, at 401 N. Morton Street, City Hall – Bloomington, IN 47404 and remotely via Zoom. Members present in the Council Chambers: Barre Klapper, Flavia Burrell, and Tim Ballard. Erik Coyne present via Zoom (Jo Throckmorton absent).

**APPROVAL OF MINUTES:** February 17, 2022

***A correction by Klapper involved the voting record for CU-24-21 (WS Property Group). She stated the voting record should be 3:2 rather than 5:0 for approval.***

**\*\*Burrell moved to approve the minutes from February 17, 2022 as amended by Klapper. Ballard seconded. Motion carried unanimously.**

**PETITION 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*

**REPORTS, RESOLUTIONS, COMMUNICATIONS:** None at this time.

**PETITIONS:**

V-04-22      **Southern Indiana Medical Park (Staley Signs)**  
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*

Pazos presented the staff report. The property is located at the southeast corner of I-69 and Tapp Road in the Southern Indiana Medical Park. The medical park is approximately 20 acres and the parcels are zoned Mixed-Use Employment (ME). Surrounding uses include automotive repair to the north, vacant land to the south and east, and residential to the west of I-69. The Comprehensive Plan designates this area as *Employment Center*. The petitioner is requesting a variance from sign regulation development standards. The first request is to allow the installation of one freestanding

sign in front of Southern Indiana Medical Park. The second request is for a variance to allow a variance to allow the installation of three wayfinding signs within the medical park. The petitioner is proposing to install one large freestanding sign at the southwest corner of Deborah Dr. and Tapp Road (shown as sign #1 on the map), and three freestanding signs within the medical park (those are shown as signs #3, #8 and #12 on the map). The UDO (Unified Development Ordinance) defines a multi-tenant center as "A group of separate buildings with them or with multiple tenants operating under a common name or management. A single building containing multiple uses where their specific exterior entrance ways for individual uses or a group of uses on separate but adjoining properties that request treatment as a multi-use complex." The UDO states that "freestanding signs for multi-tenant, non-residential centers with at least 50,000 sq. ft. of gross floor area should not exceed 125 sq. ft. and shall have a maximum height of 15 feet. 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." Therefore the Southern Indiana Medical Park meets the definition of a multi-tenant center. 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. Proposed is a large freestanding sign measuring 122 sq. ft. so the size meets the maximum allotment; however per code, the square footage of the buildings on outlots that have their own freestanding sign cannot be counted toward the total for the multi-tenant center sign. Pazos went on to say that the outlots in this development each have existing freestanding signs that meet their maximum allowance for the 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 UDO requirements. Again, the petitioner is requesting a variance from the maximum square footage requirements for individual non-residential uses to add there wayfinding signs within the medical park. The purpose of this is to direct traffic to the appropriate building within the complex. This variance request will not be injurious to the public health, safety, morals, and general welfare of the community. The proposed sign will meet setback and dimensional standards for this type of sign, and it's also replacing a previous sign for this complex. Staff found no adverse impacts to the use and value of the surrounding area adjacent to the property included in the development standards variance. The variance is not expected to have off-site negative consequences and is also replacing an existing sign for this complex. Practical difficulties are found in the use of the property. The medical park contains eight buildings over approximately 20 acres of developed land and identification of the medical park entrance including 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's common for large complexes that function as one (as is the case here), to have a multi-tenant center sign at the main entrance. This particular center has the peculiar condition of being spread out with a 60-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 overall size of the development. Allowing an identifying sign up front along with signs at each location is appropriate for a development with these types of characteristics. Pazos stated that 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 and Staff finds this to be unnecessary. Staff recommends approval of 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 based on the written findings in the staff report including the following conditions:

1. A sign permit is required for the new freestanding sign.

Doug Staley, Staley Signs, said Staff is recommending approval for the one large sign being proposed for the corner of Tapp and Deborah. Obviously, what we're trying to do is identify the medical park itself and a majority of tenants within the medical park. It's probably impossible to get everybody identified, but you can see we're drawing attention to IU's various services; the medical office building as well as several of the tenants that have two to one acre lots. He explained that once you pull into the park the road kind of Y's off at Cota. Staff is not recommending a positive consideration for the wayfinding signs. This medical campus is similar to a hospital campus. You have patients coming in for the first time, elderly patients, and patients with kids screaming, and you have people who are nervous about what they might be going to the doctor for so it's good to have visual cues along with the address to get people going in the right direction. We're trying to find another place to put an IU logo. The proposed sign cabinet is only 36 inches by 6 feet wide. This is a small but tasteful sign. Sign #1 is proposed at the north end of the property along Tapp. Sign #3 is where Cota splits off from Deborah. Sign #8 is a directional sign pointing people south and west. Sign #12 is the medical office sign. The signs are high quality in terms of materials and design with brick masonry bases. The client is spending a good amount of money to have a consistent look. Regarding the wayfinding signs; just labeling the building as a medical office building isn't enough because there is a significant grade change from Tapp Road all the way down to where the medical office building is located. We want people to be able to see this building and realize they're at the medical office building with parking just beyond that. Again, we're just trying to pull patients in the right direction with the wayfinding signs. We don't deny those outlots have their own signage, but again, these signs are not located in close proximity to the other outlots.

**BZA Discussion:**

Flavia Burrell asked why the petitioner's sign is non-compliant. Pazos said the large sign would be compliant at 122 sq. ft., but the three wayfinding signs would not meet code because those interior lots already have their own signage. Jackie Scanlan, Development Services Manager, further explained the options for a multi-tenant center and the reason why the petitioner needs a variance to also have the proposed large sign out front. Scanlan said the reason they need the variance for the sign out front is because they already have individual identification signs on each property and code is like an either/or situation. The wayfinding signs are just additional signage that is just not allowed—it's off premise signage. The wayfinding signs being requested are just extra.

Burrell asked if a medical park has different standards in terms of the number of signs directing you because it is confusing. Bloomington doesn't have a separate code for a medical multi-tenant center, it's just the same as a multi-tenant center. Erik Coyne asked for clarification of the existing signs. Scanlan said each business that is located on a separate lot in this center has a sign for the business on the lot. These buildings already have that. There are also existing non-conforming wayfinding signs that we haven't said need to come down. Right now those can stay up. The existing signs that identify each particular building on their own lot and some older wayfinding signs that were put in at some point. Klapper asked Staff to talk about the history of the property. Scanlan provided some history and confirmed that the property was a PUD. Klapper said so our current UDO doesn't have a provision for wayfinding signs in any situation? Scanlan: Not off-premise wayfinding signs. Scanlan added that Staff thinks it's appropriate to allow the petitioner to have another sign on Tapp due to the site itself and the fact that it's spread out and lower than Tapp Road. Scanlan reiterated that our current code doesn't allow off-premise signage. Ballard said the rationale behind the wayfinding signs is the fact that this is a medical facility consisting of 24 acres, so the signs are to help put the patient's mind at ease so you know exactly where you're going. Staley agreed; the goal is to get people moving in the right direction and to the correct building. Discussion ensued regarding the challenges that people face when attempting to locate the correct building within the medical park versus other larger medical campuses. Ann-Marie Bowling, IU Health, didn't have specific feedback but from a personal perspective she, too, had challenges finding her way around the office park when she first started working for IU Health. She added the variance request has the support of other tenant's within the office park because they are contributing to the funding of these signs. Scanlan added these streets are City maintained public roads, which Staff thinks is a little bit different. But we have businesses of all kinds all over town who would love to have identifications on the major roads, but it isn't something the code allows. Staff is trying to be more consistent in saying this isn't the kind of center where there aren't other ways to figure out where you're going. If you were to type Cota's address into your GPS, it's a real address and it's going to take you right there. Staley, the petitioners' representative, acknowledged they are public streets but you're coming down into a low line area. I don't think you would be setting a dangerous precedent all over town. The signs are down into the campus off of Tapp Road. The people coming off Tapp Road have a reason to be there, so we're not trying to pull patients off the street, we're trying to get them where they need to go for consistency. Burrell asked if any of the proposed signs would replace existing signage. Staley said sign #8 would replace an existing (green) directional tenant sign with proposed sign #8. There is also a small green sign that will be removed if you approve proposed sign #12. Sign #3 at Deborah and Cota is a new proposed location. Coyne said he would like to approve all of the signs. Scanlan proposed the following language for the motion, "Move to approve V-04-22 for both the large sign on Tapp Road as well as the three wayfinding signs within the park."

**\*\*Coyne moved to approve V-04-22 for both the large sign on Tapp Road as well as the three wayfinding signs within the park. A sign permit is required. Ballard seconded.**

Klapper said we need to discuss and come up with alternative findings in terms of practical difficulties—the 3<sup>rd</sup> criteria, and then replace those findings with our new Findings of Fact.

Scanlan said there hasn't been a public comment period. Klapper apologized and asked Mike Rouker, City Attorney, for guidance. Rouker advised that it's okay to postpone the motion and ask for public comment at this time.

**Public Comment:**

Ross Goyer is representing the ownership of the medical office building located at 2920 S. McIntyre Dr. We conduct a verbal tenant survey each year and one of the consistent issues within the park is wayfinding. The entrance is on the south side of the building and it's very difficult to find. There is also a surgery center within this park that is expanding that will create additional traffic on-site making it more difficult to navigate.

**Back to the BZA: Crafting alternative findings:**

Coyne said it's peculiar to the property in question. It's difficult to find your way around. They are trying to get people to where they need to go for medical appointments. Peculiar to this particular property is the layout of the property as well as the use within the property. Klapper reiterated that practical difficulty is found in the medical nature of the development, the amount of topography, and the overall layout and number of dead-ends that creates disorientation if you take a wrong turn.

Scanlan created alternative findings to say, *“Practical difficulty is found in the use of the site because it's designed as a medical center, it has issues based on topography and its large size, as well as its layout and number of dead-ends that necessitate a variance from sign standards to allow additional wayfinding signs.”* Does that sound okay, Mike? Do you want me to write it out? Mike: I think it would be helpful since I cannot hear very well (via Zoom).

Tim Ballard added that not everyone has a GPS system so it's very important to have this type of signage.

Scanlan restated the alternative findings, particularly related to wayfinding signs for criteria #3 for a development standards variance by stating the following: **“Practical difficulty is found in the design of the property as a medical center, the existing topography and size, and the layout of the streets and parcels that create a number of dead ends. These peculiar characteristics combine to necessitate a variance from the sign requirements of the UDO in order to allow for three additional wayfinding signs for navigation of the site.”**

Scanlan asked the Board if they wanted to make a condition of approval that the existing wayfinding signs be removed. Klapper said yes and Coyne agreed to amend his motion

to add condition #2 stating that, **“The existing wayfinding signs on the site must be removed.”**

**ROLL CALL: 4:0—Approved.**

V-09-22      **Patrick and Rachael McAleer**  
935 W. 7<sup>th</sup> 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

*Note: Barre Klapper announced that Erik Coyne was not present to hear V-09-22 at the April hearing and therefore cannot vote on this case, which leaves only three board members so you would need a positive vote from all three for approval.*

Jackie Scanlan, Development Services Manager, reported this petition was heard at the April 2022 hearing and the Department recommended denial at that time. The Board asked the Department to prepare alternative findings for a possible approval of the determinate sidewalk variance. Alternative findings were prepared and distributed to the Board, and were in your packet as well. The alternative findings will be displayed tonight and discussed. The initial hearing for this petition was opened last month and we took public comment at that time. We also took comments from the petitioner at that time and those portions of the hearing are over. We are now at the portion where the Board discusses the motion and the prepared findings and that’s what is left to do tonight. It will require a unanimous vote of all three members for approval. Pazos presented a brief summary of the case since the staff report was given last month. The petitioner is requesting a variance from sidewalk requirements for a new single-family development adjacent to existing pedestrian network in the R3 zoning district. The property is approximately 0.16 acres in size. Current zoning is Residential Small Lot (R3). The Comprehensive Plan designation is Mixed Urban Residential. Existing land use is Single-family dwelling (detached). Surrounding uses include Community Center to the north, Single-family dwelling (detached) to the south and east, and Single-family dwelling (detached) and Place of Worship to the west. 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 UDO (Unified Development Ordinance) 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)).”** Pazos went through the alternative findings for the determinate sidewalk variance. 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’s believed that the Banneker Center often depends on the on-street parking, and installing a sidewalk in this location would make on-street parking more difficult because of the small street right-of-way width. While both sidewalk extension and existing on-street parking

provide benefits 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 Community Center and possibly providing traffic calming benefits. The second part of the criteria: The proposed finding is that the variance is expected to have off site negative consequences, and 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 7<sup>th</sup> St., 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 storm water drainage for the adjacent lot to the south, which is south of the property. The last part of the criteria: The proposed finding is a compliant sidewalk could be constructed on the site. The site will continue to be used as a single-family development even if the sidewalk is built. However, the petitioner submitted testimony that it's possible that the installation of a sidewalk and retaining wall may interfere with existing utilities that are allowed approximately 8 feet 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. The Board believes that uniformity of the area would best be served by deferring sidewalk construction on the lot or tract until a future date. 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. Scanlan said typically a determinate sidewalk variance we would also include a condition that a zoning commitment be recorded that a determinate sidewalk variance has been issued, so that if sometime in the future if the City were to do a sidewalk project here, the owner of the property at that time would be responsible for putting in the sidewalk. Staff recommends denial of V-09-22 based on the written findings outlined in the staff report. Staff believes this sidewalk will connect with sidewalks on 7<sup>th</sup> St. 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 for people walking to the Banneker Community Center or to other locations on E. 7<sup>th</sup> St. Additionally, adding a sidewalk here will help to provide an edge to this half street, which will help reduce non-compliant parking on the lawn.

Determinate Sidewalk - Alternative Findings of Fact as detailed in the staff report:

- (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.

**\*\*Burrell moved to approve V-09-22 to approve the petition with the alternative Findings of Fact, with the condition that the petitioner will record a zoning commitment indicating that a determinate sidewalk variance has been issued for this property. Ballard seconded.**

**BZA Discussion:**

Klapper said she would like to see under the **Determinate Sidewalk Section** in the staff report; I'd like to add (c), before (e), "The Board believes that the adjacent lot or tracks are at present developed without sidewalks and there is no reasonable expectation of additional sidewalk connections on the block in the near future. Also, add the following sentence to the end of paragraph (e) – "The lots to the south of this property have houses located within a few feet of the right-of-way, and due to their historic nature are unlikely to be removed in the future."

**Amended Alternative Findings of Fact:**

(c)The Board believes that 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. (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 lots to the south of this property have houses located within a few feet of the right-of-way, and due to their historic nature are unlikely to be removed in the future."

Scanlan said I'm going to recommend that we make reference to (c) as well as the sentence you just said at the end of #3 (pg. 25 of staff report) under "Alternative Findings" because the determinate sidewalk criteria isn't actually a finding it's just a list of things for you to consider when you're doing the findings, but I think it's important enough that we should list it in the findings. We will append that to Finding #3 under peculiar condition.

**ROLL CALL: 3:0—Approved.**

V-12-22

**City of Bloomington Redevelopment Commission**

617 N Madison St. and 422 W. 10<sup>th</sup> St.

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



Scanlan presented the staff report. The property is located at 617 N. Madison Street and 422 W. 10<sup>th</sup> St. The property runs north/south from Maker Way to 10<sup>th</sup> with Madison to the east. The current zoning is Mixed-Use Downtown Showers Technology. The Comprehensive Plan designates this area as Downtown. The site is currently vacant. The proposed land use is office. Surrounding uses include vacant land to the north and west, office to the south, and a parking lot to the east. The petitioner is requesting a 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. The MD-ST district requires that buildings be built with a front building setback maximum of 15 feet. The petitioner meets that requirement on the bulk of the Maker Way frontage and approximately 40 percent of the Madison St. 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. Additionally, this allows for onsite detention to take place underneath the Plaza so it functions both as a pedestrian facility as well as an area for detention to take place. The parcel is quite large and the petitioners will be subdividing it off because they can do the detention underneath the Plaza. They don't need to add a bunch of additional square footage to the lot that is otherwise not needed and that can be used for green space or development on the parcel to the south once it's developed. The property is peculiar because it's located in a Local Historic District with the existing Showers Brothers buildings so the petitioners have taken care to try to reflect some of those outside designs that exist now, as well as allowing for onsite detention without creating more unusable space on the site. 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. Staff found no adverse impacts to the use and value of the surrounding area associated with the proposed variance. The variance would allow interesting architecture that reflects the historic interplay of the building and outside space that is present in this district at The Mill. 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. Staff recommends approval of V-12-22 based on the written findings in the staff report, including the following condition:

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

Jane Kupersmith, Assistant Director for small business development in the Economic and Sustainable Development, said I'm supporting this project on behalf of the City. I'd like to introduce our project manager, Ashley Thornberry, who can speak to the details of the project.

Ashley Thornberry, Axis Architecture and Interiors, said they are seeking a setback variance for a couple of reasons for the outdoor Plaza. They would like to have a connection back to The Mill and welcome others within the area to utilize the space. The second reason is the underground detention for the site is required to be on-site and

cannot be underneath the building footprint, so this will be occupied under the outdoor Plaza. This also helps us reach our landscape openness minimum requirements.

No public comment.

**\*\*Ballard moved to approve V-12-22 based on the written findings including the one condition outlined in the staff report. Coyne seconded. Motion carried 4:0— Approved.**

*\*\*Let the record reflect that Barre Klapper recused herself from the next petition, V-14-22. She said Flavia Burrell would chair the meeting from this point forward. Jackie Scanlan, Development Services Manager, interjected and stated the following: The petition V-14-22 is automatically continued to the June 23, 2022 hearing due to a lack of 50% of board members being present in-person in the Council Chambers. She said Jo Throckmorton is absent and Erik Coyne is present virtually via Zoom, leaving only two board members in the Council Chambers. Scanlan apologized for the inconvenience.*

V-14-22      **Chris and Betsy Smith (Springpoint Architects)**  
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

*\*\*Let the record reflect that Barre Klapper has rejoined the Board.*

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

Greulich presented the staff report. The petitioners are requesting a variance from riparian buffer standards to allow for an access drive (driveway) to connect through the site and connect out to Kinser Pike. This is where the Aspen Heights development is located on the northwest side of town on the west side of Kinser, south of Gourley Pike. This mixed-use student housing project received a site plan approval from the Plan Commission in order to redevelop the site from the existing apartments that are there now with a new multi-family development. The proposed site plan featured one driveway that moves through the site from Gourley Pike on the north side connected through the site and then connected also to Kinser on the east side of the property. There is a stream that moves along the south portion of the property and then goes north and moves under an existing driveway, and then further to the northeast. With the site plan approval they are required to come into full compliance with the zoning code. The Unified Development Ordinance (UDO) does not allow for a private driveway in the

riparian buffer. Because the creek crosses the property at almost a 90/45 degree angle, there is literally no way to connect through this site to Kinser Pike. The through connection is something that emergency services need. Also, Bloomington Transit (BT) will have a bus stop along this private drive, just before Kinser Pike, so BT needs to be able to move through the site as well. Therefore the desired driveway connection cannot happen without a variance from the riparian buffer standards. The location of the proposed drive is essentially very similar and in the exact location as the existing one, so there is no additional disturbance that is required. Minor grading will occur for the new driveway. Staff finds that the strict application of the terms of the UDO will result in practical difficulties in the use of the property as they would not allow for the driveway to connect through the property in order 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. The connection is common and desired. The granting of the variance allows for the road to be constructed through the site, which benefits the residents of this site as well as residents to the south and the community as a whole. Staff recommends approval of V-16-22 based on the written findings, including the following conditions:

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

Kendall Knoke, Smith Design Group, said the drive is awkwardly curving back into the road. We are attempting to acquire additional properties south of the existing property line. There is a “D” gap there, and what we have worked out with the neighbors to the south is a pretty close to becoming official. They are going to require some additional property to put the 10-foot buffer yard inside what you see on the site plan, and once they do that they are going to be straightening out the drive. Now with that condition of approval, we would have to come back before the BZA again to request the drive be placed in the riparian buffer. We would be happy to do that but if you would like to strike that condition or reword it in a way that allows for Staff approval then we would have to come back.

*No public comment.*

Greulich responded to the said he would rather modify the condition of approval.

Discussion ensued regarding the modified motion between the Board and Planning staff.

Greulich modified the condition by saying, “This variance is to allow for a driveway to encroach into the riparian buffer at the approximate location as submitted. The exact location and cross section of the road will be determined by Staff.”

**\*\*Burrell moved to adopt the proposed findings and approve V-16-22 including amended condition #1, “This variance is to allow for a driveway to encroach into**

**the riparian buffer at the approximate location as submitted. The exact location and cross section of the road will be determined by Staff.”**

**Comments from petitioner’s representative (on Zoom):**

David Helfrich, President of Aspen Heights Development, said it’s important for us to be able to get the grading permit. As soon as this variance is approved, we want to be sure the way the revised condition is worded, that it does not impede us from picking up our permit and starting construction. We don’t anticipate changing the road because the deed gap will take some time for us to obtain. The goal would be to leave the road as-is, pick up our permit and start work on the rest of the site, then come back Staff once we get the “D” gap adjudicated with our neighbor.

**Coyne seconded the motion.**

**ROLL CALL: 4:0—Approved.**

Meeting adjourned @ 7:00 p.m.