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The Board of Zoning Appeals (BZA) met on March 27, 2025 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: Tim Ballard, Flavia Burrell, John Fernandez, Leslie Kutsenkow and Jo Throckmorton.

APPROVAL OF MINUTES: February 20, 2025

Ballard made a motion to approve the meeting minutes. Burrell seconded. Motion passes 5-0.

PETITIONS CONTINUED TO: April 24, 2025

- AA-17-22 **Joe Kemp Construction, LLC & Blackwell Construction, Inc.**
Summit Woods (Sudbury Farm Parcel O) W. Ezekiel Dr.
Parcel(s): 53-08-07-400-008.002-009, 53-08-07-400-008.004-009...
Request: Administrative Appeal of the Notice of Violation (NOV) issued March 25, 2022. Case Manager: Jackie Scanlan
- V-27-22 **Cutters Kirkwood 123, LLC**
113 E. Kirkwood Ave.
Parcel: 53-05-33-310-062.000-005
Request: Variances from Downtown Character Overlay standards to allow less non-residential area and less large display windows; and a variance from the requirement to align with the front setback of an adjacent historic structure in the Mixed-Use Downtown zoning district with the Courthouse Square Character Overlay (MD-CS). Case Manager: Jackie Scanlan
- CU-33-24/ USE2024-11-0068 **Hat Rentals, LLC**
202 N. Walnut Street
Parcel: 53-05-33-310-028.000-005
Request: Request for conditional use approval of “student housing or dormitory” to allow one four-bedroom unit in the Mixed-Use Downtown (MD) zoning district. Case Manager: Jackie Scanlan
- AA-06-25/ APPL2025-02-003 **Porter Lan**
1704 E. Maxwell Lane
Parcel: 53-08-03-302-008.000-009
Request: Administrative Appeal of the issuance of an NOV for over-occupancy. Case Manager: Joy Brown

AA-07-25/ APPL2025-02-0004

Eli Brown

909 S. Eastside Drive

Parcel: 53-08-03-302-002.000-009

Request: Administrative Appeal of the issuance of an NOV for over-occupancy. Case Manager: Joy Brown

CU-08-25/ USE2025-02-0073

Qamar Zaidi

1432 S. Winfield Road

Parcel: 53-08-03-410-020.000-009

Request: Conditional Use approval to allow for a duplex in the Residential Medium Lot (R2) zoning district. Case Manager: David Brantez

V-10-25 / VAR2025-03-0064

Tabor Bruce Architecture & Design

228 W Kirkwood Avenue

Parcel: 53-05-33-310-258.000-005

Request: Variance from architectural requirements, minimum 50% required ground floor nonresidential uses, parking standards to allow back-out parking on a public street, minimum 20' setback for parking within a building, maximum building height, and from requirement to access an improved alley for parking to allow for the construction of a "dwelling, multifamily" use in the Mixed-Use Downtown (MD) within the Courthouse Square Overlay (CSO) district. Case Manager: Eric Greulich

V-13-25/ VAR2025-03-0063

Carolina Lopes

4216 E. Penn Court

Parcel: 53-05-36-302-045.000-005

Request: Variance from Fence Height standards to allow a six-foot tall fence along the front east side of the property located in the Residential Medium Lot (R2) zoning district. Case Manager: Joe Patterson

PETITIONS:

V-02-25/ VAR2025-01-0059

Patrick Riggs

2415 W. Fountain Drive

Parcel: 53-05-31-100-018.000-005

Request: Variances from accessory dwelling unit (ADU) front setback standard and karst geology standards to allow construction of a new single-family dwelling and conversion of an existing residential structure to an ADU in the Mixed-Use Employment (ME) zoning district.

Case Manager: Gabriel Holbrow

Gabriel Holbrow, case manager, presented V-02-25. See meeting packet for more details. The Department recommends that the Board of Zoning Appeals adopts the proposed findings and approve the requested setback variance and karst geology variance related to the Accessory Dwelling Unit, and deny the karst geology variance related to the septic system with the following conditions:

1. The front setback variance is for the existing 760-square-foot residential structure in its current location only. If the existing structure is moved, the new location must comply with applicable setback standards. Any new additions, new structures, or replacement structures on the property must comply with applicable setback standards.
2. Prior to issuance of a certificate of zoning compliance for any building construction on the property, the property owner shall record a karst conservancy easement in a form approved by the Planning and Transportation Department and in accordance with UDO section 20.04.030(f) with the following modifications regarding the easement location. The easement shall cover all land on the lot that is both (a) five feet beyond the outer dimensions of the septic field as shown on the submitted site plan, and (b) either less than 866 feet in elevation or within 25 feet horizontally from the 866-foot contour line.

Patrick Riggs, petitioner, presented his request for the karst variance.

Burrell asked the hydrologist if he saw any concerns with the existing septic system in the existing location. Jason Krothe, Hydrologist, didn't observe any concern. Krothe stated his biggest concern would be moving the septic or putting in a new one.

Fernandez made a motion to approve the requested setback variance and karst geology variance related to the new primary structure, and approve the karst geology variance related to the septic system with *Adopted Alternate Findings of Fact* with the following amended conditions:

1. The front setback variance is for the existing 760-square-foot residential structure in its current location only. If the existing structure is moved, the new location must comply with applicable setback standards. Any new additions, new structures, or replacement structures on the property must comply with applicable setback standards.
2. Prior to issuance of a certificate of zoning compliance for any building construction on the property, the property owner shall record a karst conservancy easement in a form approved by the Planning and Transportation Department and in accordance with UDO section 20.04.030(f) with the following modifications regarding the easement location. The easement shall cover all land on the lot that is both (a) five feet beyond the outer dimensions of the septic field as shown on the submitted site plan, and (b) either less than 866 feet in elevation or within 25 feet horizontally from the 866-foot contour line.

Ballard seconded. Motion passes by roll call – 5:0.

*Adopted and amended Alternate Findings of Fact for criteria #1 for Karst geology:

Constructing a house within the required buffer from a karst feature will not be injurious to the public health, safety, and general welfare of the community. The large size of the compound karst feature means that the proposed development is relatively far from the parts of the karst feature experiencing subsidence and water infiltration. As shown in the provided karst survey report, there are no signs of soil piping or subsidence in the proposed footprint of the new house and no impacts to existing drainage volume to the sinkhole are expected. However, location of a septic field in a karst feature may be injurious to the public health, safety, and general welfare of the community. The Monroe County Health Department reviewed plans for the proposed septic system and gave permit renewal for existing septic system. However, City of Bloomington karst regulations are not a part of that review.

*Adopted and amended Alternate Findings of Fact for criteria #2 for Karst geology:

Constructing a house within the required buffer from a karst feature will not affect adjacent properties in a substantially adverse manner. The proposed house development will not significantly increase the risk of water contamination or the potential drainage flow through the karst feature.

*Adopted and amended Alternate Findings of Fact for criteria #3 for Karst geology:

Even compared to other properties adjacent to karst features, the karst standards as applied to this property are peculiar. The distance between the individual sinkholes in the compound karst feature results in a peculiarly large karst buffer. The centers of the individual sinkholes in the compound karst feature are more than 300 feet from each other, and not on the petition property. The UDO's required easement distance from the karst feature renders a significant portion of the property unbuildable, and the size and shape of the remaining buildable area outside required setbacks from karst and property lines further restricts what can be built to a peculiar degree. The buildable area is roughly triangular, making it difficult to locate features in the corners of the area. The lack of sewer service to the property is another peculiar feature. These peculiar features result in practical difficulties to find room for the existing ADU and new house. Granting a variance for the proposed location of the house and septic field will relieve the obvious practical difficulty.

CU-09-25/ USE2025-02-0074

Jared Taylor

655 N. Meadowlark Lane

Parcel: 53-05-35-400-033.000-005

Request: Conditional use approval to allow an increase in the number of bedrooms within the existing structure of a lawfully existing "Dwelling, Duplex" in the Residential Medium Lot (R2) zoning district. Case Manager: Gabriel Holbrow

Holbrow presented CU-09-25. See meeting packet for more details. The Department recommends that the Board of Zoning Appeals adopt the proposed findings and approve the conditional use with the following condition:

1. This conditional use approval is limited to the exterior design and interior floor plans shown and discussed in the packet.

Jared Taylor, petitioner, presented his request for a conditional use.

Ballard made a motion to approve CU-09-25 and adopt the *Proposed Findings of Fact* and with the condition listed in the staff report. Fernandez seconded. Motion passes by roll call – 5:0.

V-11-25/ VAR2025-03-0065

Smith and Hays Properties, LLC

300 W. 6th Street

Parcel: 53-05-33-310-263.000-005

Request: Variance from use specific standards to allow ground floor dwelling units within 20' of the first floor façade within the Mixed-Use Downtown in the Downtown Core Overlay (MD-DCO). Case Manager: Eric Greulich

Eric Gruelich, case manager, presented V-11-25. See meeting packet for more detail. The Department recommends that the Board of Zoning Appeals adopt the proposed findings and deny the requested variance.

Bill Beggs, Counsel, provided information about the difference in the petition heard tonight versus what was heard previously in 2023.

Fernandez made a motion to hear V-11-25 since this petition was previously denied. Ballard seconded. Motion passes by roll call – 5:0.

Beggs presented the request for a variance on behalf of the petitioner.

David Hays, owner of Smith and Hays Properties, LLC, presented the history of the building which was owned by his family.

Doug Bruce, Architect, presented the peculiarity of the building architecturally.

Krista Huttenlocker, Property Manager for Hoosier Choice Properties, introduced a written statement and submitted a letter of support from Cummings Dental.

The petitioner handed out petitioner suggested findings to the board members

Burrell made a motion to adopt the *Proposed Findings of Fact* and deny V-11-25. Fernandez seconded. Motion fails by roll call – 2:3.

Fernandez made a motion to continue V-11-25 to the April 24, 2025 meeting. Ballard seconded. Motion passes by roll call – 5:0.

V-12-25/ VAR2025-03-0066

Don Cowden Foundation, Inc. (Chick-fil-A)
2500 W. 3rd Street
Parcel: 53-05-31-301-019.000-005
Request: Variance from parking maximums, parking setback to allow parking between the building and the street, entrance and drive standards to allow a drive aisle between a building and the street, maximum impervious surface coverage, minimum landscape area, and Loading, Service, and Refuse standards to allow a refuse area to be located in the front to allow for a new "Restaurant" use in the Mixed-Use Corridor (MC) zoning district. Case Manager: Eric Greulich

Greulich presented V-12-25. See meeting packet for more detail. The Department recommends that the Board of Zoning Appeals adopt the proposed findings and approve the variance for maximum parking spaces and deny all other requested variances with the following conditions:

1. This variance approves 39 parking spaces for this use at this location only.
2. All parking spaces over the 15 maximum allowed must be constructed of permeable pavers.
3. Site plan approval is required prior to issuance of any permits.

Brian Kizer, Consultant, presented the request for variances on behalf of the petitioner.

Tom Orman, Petitioner, stated the current restaurant at this location will not be closing, but relocating to a different location.

Shaun Walker, Principal Development lead for Chick-fil-A, spoke about the differences in density and uses between the location on East 3rd Street and the new proposed location on West 3rd Street.

Fernandez made a motion continue the meeting past the 9:00 P.M. cutoff time. Burrell seconded. Motion passes by roll call – 5:0.

Discussion ensued to find a compromise on the front parking setback variance. The board is requesting the petitioner come back with a site plan that the board can work with to help get this petition approved.

Burrell made a motion to continue V-02-25 to the April 24, 2025 meeting. Kutsenkow seconded. Motion passes by roll call – 5:0.

Meeting adjourned at 9:32 p.m.