

**HEARING OFFICER –Kelly Conference Room #155  
May 31, 2017 @ 2:00 p.m. – Record of Meeting**

The Hearing Officer meeting was held on Wednesday, May 31, 2017 in the Kelly Conference Room #155. Hearing Officer present: Beth Rosenbarger.

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

**PETITIONS:**

- V-13-17      **Stasny & Horn IGP**  
725 N. Woodlawn Ave. & 822 E. 11<sup>th</sup> St.  
Request: Variance from development standards for impervious surface coverage and maximum drive width in the Residential Core (RC) zoning district.  
*Case Manager: Jackie Scanlan*

Jackie Scanlan, Senior Zoning Planner, presented the staff report.

Beth Rosenbarger, Hearing Officer, asked if the petitioner was present.

Nick Carter, Horn Properties, said that he was present.

Rosenbarger asked him if he had anything to add.

Carter said that Scanlan covered everything in great detail and he would be happy to answer any questions.

Rosenbarger said that the driveway with access to 11<sup>th</sup> Street is gravel. She asked if the driveway will remain gravel.

Carter stated that the petitioner planned to keep the driveway a gravel driveway.

Scanlan added that the gravel driveway would have to have edging; it would have to meet code like a new gravel driveway would.

Carter stated that either timbers or edging would be acceptable materials.

Scanlan agreed.

Rosenbarger stated that the petitioner just had to be sure the driveway was contained.

Carter said that the impervious percentage should go up because of the curb cut and the new green.

Rosenbarger asked him what he meant.

Carter said he was referring to the curb cut apron. He said that there is a section that is all concrete that will have a new apron. There will be grass where there is currently concrete.

Scanlan clarified that there will not be grass where the driveway will be.

Carter said there would not be grass in the driveway. He indicated concrete that would become grass because the concrete did not need to be there. He said there is not an apron where he indicated, but there is a 3-inch ledge. He indicated where the apron would go and said it gains room for grass.

Rosenbarger stated that if the property line is where she indicated, the impervious surface coverage will not really change. She said he was fine on that.

Carter asked if it was a factor in the public right of way.

Rosenbarger said that the driveway would have to meet code standards and the petitioner would have to get permits, but the impervious surface numbers would not really change. She said she looked at the site plan and visited the site. The drive cut onto Woodlawn used to have a tree near it, but it is gone. She wondered whether it was part of the street project, and she was curious how many trees would be removed in conjunction with putting in the parking lot.

Carter said the petitioner did not plan to remove any trees. He said the petitioner has only had the property for 5 years.

Rosenbarger said that the Google Street views that show the tree would be from 2015 or 2016.

Carter said he has only worked for Horn Properties for about a year, did not remember the tree being removed, and had no plans to remove any other trees. He said IU is removing trees in the right of way that are along the sidewalk. The petitioner does not plan on removing any trees.

Rosenbarger said that removing the curb cut onto Woodlawn improves safety and pedestrian aesthetics. However, having 3 cars parked between the houses, the tree would be useful for screening.

Carter said that the petitioner had talked about putting in a privacy fence or vegetation. He said that he would personally prefer trees. He said that, in terms of aesthetics, the sidewalk, Alumni Walk, was supposed to be as nice as possible.

Rosenbarger said she was disappointed that the tree had been removed.

Carter stated that he understood her disappointment, but that he did not remember it being removed.

Rosenbarger said that the tree was not a zoning issue, but it was related to the impervious surface coverage. If a tree is over an impervious area, the tree can catch up to 30% of water before the water hits the ground. This could make a tree a mitigating factor for an increased impervious surface area. She said the variance, as written, would only apply to the proposed configuration and site plan. She did not know if the petitioner had thought ahead to what would happen if the properties were separated.

Carter said that if one took a look at the area as a wide range, one would see that Indiana University owns everything surrounding the petitioner's property. He asserted that it was probably that IU would end up owning the property at some point as part of their master plan. The petitioner felt they were making reasonable changes in respect to the area and the neighborhood.

Scanlan asked what the plan for the shared driveway would be if the petitioner sold one lot or the other.

Rosenbarger asked about the access to one property in the case that the Woodlawn property were to be sold. She said there was an alley to the south.

Carter stated that Scanlan has worked with the petitioner long enough to know that the petitioner does not usually sell any properties in their portfolio. The petitioner has not even thought about selling the property.

Rosenbarger stated that his answer was fine.

Carter said that the petitioner does not get rid of property.

Rosenbarger said that an easement would be needed or a new variance.

Carter said that there is an alleyway. He said he was not sure how IU would handle that. He said the property to the south had major encroachments into the alleyway public right of way by almost 6 feet. There are also major utilities that run through the alleyway. The petitioner felt that the alleyway would eventually be opened up. The petitioner had hoped to put a parking pad back by the alleyway.

Scanlan stated that staff would like to add a condition. The petitioner could not be able to access the alley and keep the other access open.

Carter said that the alley was not currently open.

Rosenbarger said that, because of the condition is only for the site plan as shown, and the site plan is already over on the impervious surface percentage. The site plan would have to come back for review if the alley was opened up.

Scanlan asked if the petitioner would have to get a right of way permit from the City Engineering Department to put a driveway on an alley.

Rosenbarger said she believed the petitioner would have to apply for a right of way permit.

Scanlan said that that process would bring the site plan back for review. She informed the petitioner that he would not be able to add any impervious surfaces beyond what is in the site plan drawing without getting another variance.

Carter said that was fair.

Rosenbarger said that the petition seemed reasonable. She said that she knew the petitioner did not have a landscape plan. However, she thought there was a connection between seeing landscaping that was a visual buffer or, preferable, a tree that would be mitigating the impervious surface increase and still holding up the idea that the petition is improving the streetscape. That improvement is one reason that the City would allow the expanded drive cut. She was not sure that if a tree had recently been removed it would be feasible to plant a new one in its place.

Carter said that the tree may have been removed due to age and the root system could have been too close to the house. He said he was not sure, but was guessing.

Rosenbarger asked the petitioner if he would be amenable to a condition to work with the senior environmental planner to install a tree or a few landscaping elements that would mitigate some of the storm water.

Carter said he was fully willing to work with staff. He said he did not think the suggestion to meet with the environmental planner should be a condition of the variance, but he said he would do it. He said he liked the idea of mitigating the increase in impervious surface. He said he would inform the partners who own the business that some landscaping or a tree would need to be planted.

Rosenbarger said she would include the planting as Condition #4, worded as “petitioner will work with staff to add minor landscaping between Woodlawn and the parking area to mitigate the increased impervious surface coverage either with a tree or other landscaping.”

Carter said he did not think the requirement should be a condition because staff present were not sure what kind of landscaping could be planted between Woodlawn and the parking area.

Rosenbarger said that the landscaping was included as a condition so that it has to happen. She said the wording of the condition was flexible as to what kind of landscaping the petitioner could add. The petitioner would work directly with Linda Thompson, senior environmental planner, to figure out what kind of landscaping would fit in the space.

Scanlan said that if the argument is that the petitioner is improving the pedestrian landscape by getting rid of the cut, the Hearing Officer may not agree that having 3 parked cars does not improve it enough to justify a variance. The parked cars need to be screened to meet the staff findings.

Rosenbarger agreed with Scanlan.

Scanlan said that the request is not injurious if the petitioner mitigates the impervious surface coverage.

Carter stated that staff was then arguing that the property was better as is.

Rosenbarger said that there it is not binary.

Carter said that he understood why staff was making a condition. He said he was sure that some people do not follow through. He said it was a character cut.

Rosenbarger said that she is happy that the petitioner would follow through, but staff must operate from the standpoint that petitioners will not follow through. She said she did not think she needed to specifically state that only plants listed in the code would be acceptable.

Scanlan said she would not need to specify only plants from the code.

*There were no members of the public wishing to comment.*

**\*\*Rosenbarger approved the variances based on the findings in the staff report with the three conditions listed in the staff report as well as the fourth condition to add landscaping screening.**

Meeting adjourned.