

# CITY OF BLOOMINGTON



February 21, 2019 @ 5:30 p.m.  
COUNCIL CHAMBERS #115  
CITY HALL

**CITY OF BLOOMINGTON  
BOARD OF ZONING APPEALS  
February 21, 2019 at 5:30 p.m.**

**◆Council Chambers - Room #115**

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**ROLL CALL**

**APPROVAL OF MINUTES:** November 15, 2018  
December 20, 2018

**REPORTS, RESOLUTIONS, AND COMMUNICATIONS:**

**ELECTION OF OFFICERS:**

- Current President: Barre Klapper
- Current Vice-President: Jo Throckmorton

**PETITIONS CONTINUED TO:** March 28, 2019

V-01-19      **Malcolm Dalglish**  
1111 E. Wylie St.  
Request: Variance from side yard setback standards to allow for the construction of an attached carport. Also requested is a variance from architectural standards to allow for a polycarbonate roof.  
*Case Manager: Eric Greulich*

**PETITIONS WITHDRAWN:**

UV/V-42-18      **James and Diana Goodman**  
712 W. 10<sup>th</sup> St.  
Request: Use variance to allow the expansion of a vehicle repair use in the Commercial General (CG) zoning district. Also requested is a variance from sidewalk requirements.  
*Case Manager: Eric Greulich*

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**PETITIONS:**

UV-45-18      **Donna Lafferty (Spaah)**  
502 W. 2<sup>nd</sup> St.  
Request: Use variance to allow a health spa in the Medical (MD) zoning district.  
*Case Manager: Eric Greulich*

**\*\*Next Meeting: March 28, 2019**

*Auxiliary aids for people with disabilities are available upon request with adequate notice. Please call [812-349-3429](tel:812-349-3429) or e-mail [human.rights@bloomington.in.gov](mailto:human.rights@bloomington.in.gov).*

**BLOOMINGTON BOARD OF ZONING APPEALS**  
**STAFF REPORT**  
Location: 502 W. 2nd Street

**CASE #: UV-45-18**  
**DATE: February 21, 2019**

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**PETITIONER:** Donna Lafferty (Spaah)  
502 W. 2<sup>nd</sup> Street, Bloomington

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**REQUEST:** The petitioner is requesting a use variance to allow a health spa in the Medical (MD) zoning district.

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**REPORT:** The property is zoned Medical (MD) and is located at the northwest corner of W. 2<sup>nd</sup> Street and S. Rogers Street. The property has been developed with a multi-tenant commercial building and a surface parking lot. Surrounding properties to the north are used for single family residences, properties to the west, south, and east are used for commercial and medical uses.

The petitioner is proposing to relocate their current health spa business into a tenant space within the building. As part of the proposed use, the petitioner would be providing a massage therapy service as well as offering other personal services such as manicures and pedicures. The UDO allows a massage therapy business, but the personal service aspect of manicures and pedicures requires the use to be classified as a “health spa” and this use is not a permitted use in the Medical zoning district

The petitioner is requesting a use variance to allow a health spa within the multi-tenant building. There would be no changes to the building as part of this request. The property is in compliance with the UDO and no site improvements are required. The property is not over the maximum parking number and has a bike rack along the front of the building.

The petitioner presented this petition to the Prospect Hill Neighborhood Association at their neighborhood meeting and received a letter of support from the neighborhood. That letter has been included in the packet.

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**PLAN COMMISSION RECOMMENDATION:** The Plan Commission reviewed the use variance request at their February 11th meeting. The Plan Commission voted 8-0 to forward the use variance request to the BZA with a positive recommendation. The Plan Commission found that the proposed use variance does not interfere with the Comprehensive Plan.

**Comprehensive Plan:** The Comprehensive Plan designates this property as Mixed Urban Residential. The Mixed Urban Residential district was intended to protect the existing built-out core neighborhoods while encouraging small scale redevelopment opportunities. This petition involves the reuse of an existing tenant space within a multi-tenant center that is located on the edges of the adjacent single family neighborhood. The inclusion of commercial space with this petition provides a neighborhood serving commercial use immediately adjacent to a core residential neighborhood as desired with the Comprehensive Plan.

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**20.09.140 CRITERIA AND FINDINGS FOR USE VARIANCE:**

**Findings of Fact:** Pursuant to IC 36-7-4-918.4. the Board of Zoning Appeals or the Hearing Officer may grant a variance from use if, after a public hearing, it makes findings of fact in writing, that:

- (1) *The approval will not be injurious to the public health, safety, morals, and general welfare of the community; and*

**Proposed Finding:** The Department finds no injury with the use variance request for a health spa in this multi-tenant building. A health spa use is appropriate next to other medical uses and is similar to other permitted uses in this district. The main use of the building for massage therapy is a permitted use.

- (2) *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and*

**Proposed Finding:** The Department finds no adverse impacts associated with the proposed use variance. The surrounding uses are medical in nature and a health spa would compliment the services of surrounding medical uses. The health spa use is also a neighborhood serving use that is appropriate next to the single family neighborhood directly to the north. A letter of support from the neighborhood reaffirms that no negative impacts are identified from this use.

- (3) *The need for the variance arises from some condition peculiar to the property involved; and*

**Proposed Finding:** The property is zoned for a list of medical uses based on proximity to the Bloomington Hospital, which is under plans to relocate away from this area, which detracts from medical uses moving to this area. The Department finds that this location provides an ideal opportunity adjacent to the neighborhood for a use such as this to locate.

- (4) *The strict application of the terms of the Unified Development Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and*

**Proposed Finding:** The Department finds the strict application of the Unified Development Ordinance will place an unnecessary hardship in that the proposed uses incorporate a mix of both a permitted use and a non-permitted use which are similar in nature. The Department finds the proposed use is appropriate at this location and only occupies one tenant space within a multi-tenant building.

- (5) *The approval does not interfere substantially with the Growth Policies Plan.*

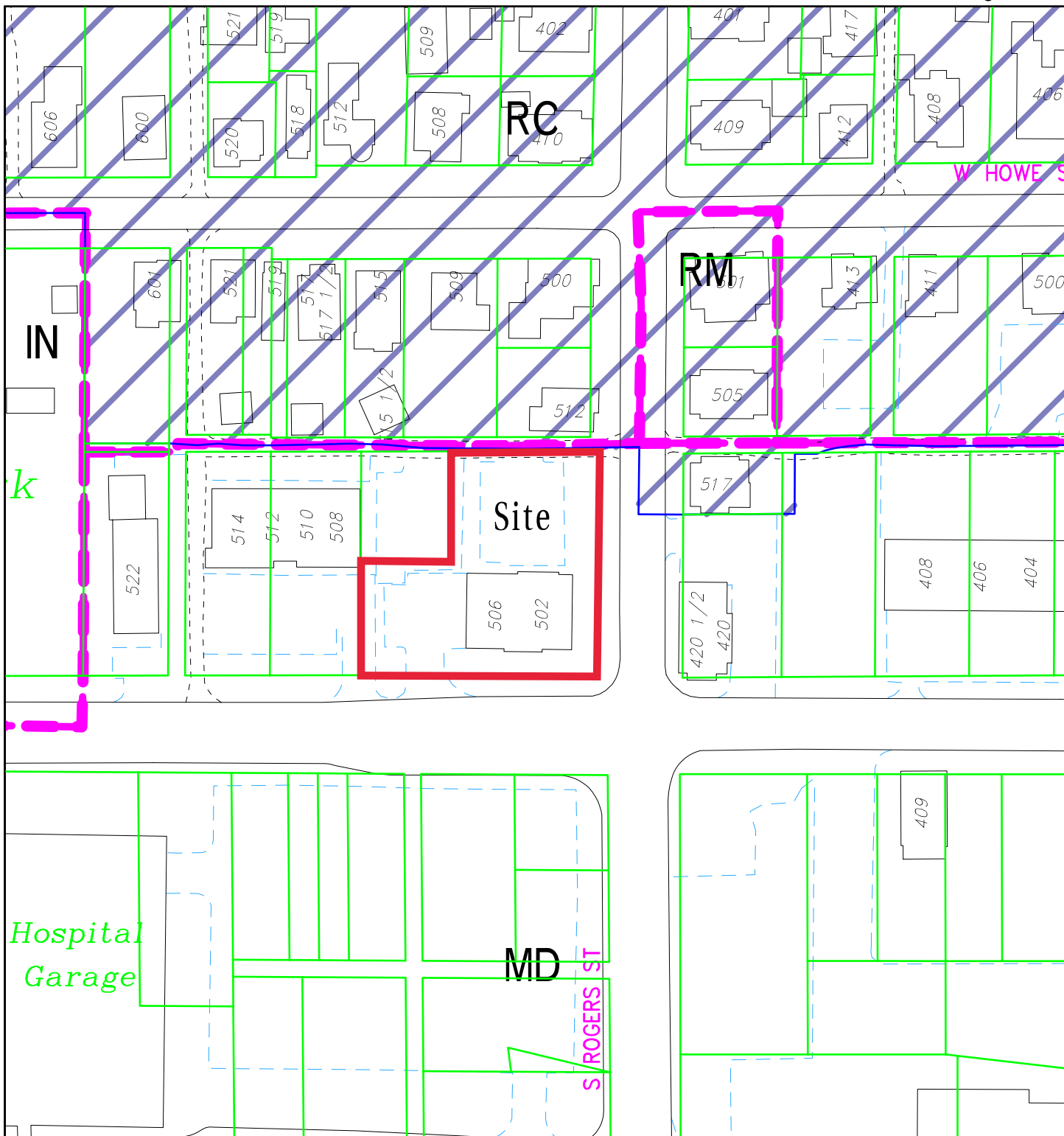
**Proposed Finding:** The Plan Commission found that this proposal does not substantially interfere with the Comprehensive Plan. The Comprehensive Plan designates this property as Mixed Urban Residential. The Comprehensive plan calls out for neighborhood serving mixed-use development along the edges of neighborhoods and along arterial roads, which this proposal meets.

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**CONCLUSION:** The Plan Commission found that the proposed use does not substantially interfere with the goals of the Comprehensive Plan. The Department finds that the proposed use does not substantially interfere with the intents of the Comprehensive Plan. The proposal allows for a neighborhood serving use within an existing building. The petition will allow for the reuse of an existing tenant space. The Prospect Hill Neighborhood Association also found that this use was appropriate and would not be detrimental to the neighborhood.

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**RECOMMENDATION:** The Department recommends that the Board of Zoning Appeals adopt the proposed findings and approve the use variance with no conditions.



**UV-45-18** Donna Laferty (Spaah)

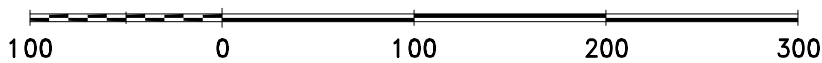
502 W 2nd Street

**Board of Zoning Appeals**

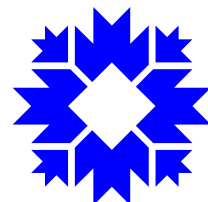
Site Location, Zoning, Parcels

By: greulice

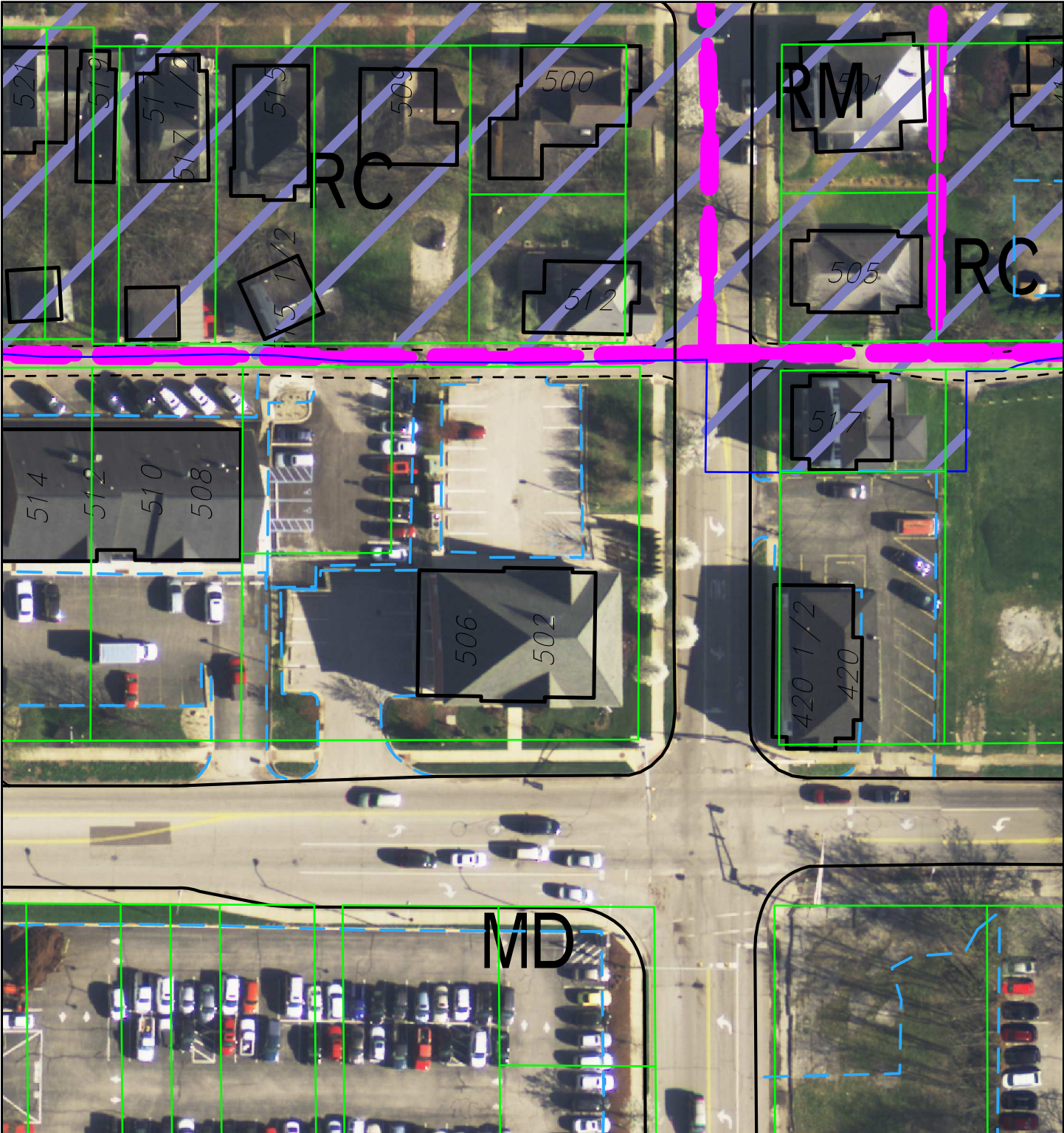
7 Feb 19



City of Bloomington  
Planning & Transportation



Scale: 1" = 100'



**UV-45-18** Donna Laferty (Spaah)

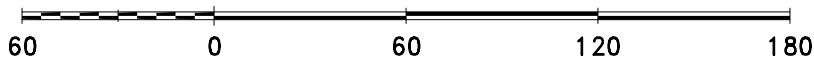
502 W 2nd Street

**Board of Zoning Appeals**

Site Location, Zoning, Parcels

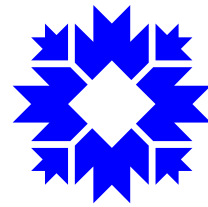
By: greulice

7 Feb 19



For reference only; map information NOT warranted.

City of Bloomington  
Planning & Transportation



Scale: 1" = 60'



565 North Walnut  
Bloomington, IN 47404  
812.339.8881  
www.spaah.net  
donna@spaah.net

City of Bloomington  
Planning and Transportation Department  
Board of Zoning Appeals  
401 N. Morton Street  
Bloomington, IN 47404

Wednesday, November 28, 2018

To Whom It May Concern:

Spaah, Incorporated (Tax ID#35-1954712) respectfully requests a Use Variance to allow the transfer of its operations to the second floor of the building currently located at the northwest corner of 2<sup>nd</sup> and Rogers (502 W. Second Street, Bloomington, Indiana, 47403).

Spaah, which first opened for business in September, 1995, is considered a Health Spa. Our primary area of business is therapeutic massage, as provided for under the Indiana Professional Licensing Agency's State Board of Massage Therapy. We also provide other services, including hydrotherapy tubs, a sauna, skincare, depilatory waxing, and manicures/pedicures. All of our estheticians, cosmetologists, and massage therapists maintain professional liability insurance and are licensed with the State of Indiana.

The building in question is zoned for Medical use. While we are not a medical facility, we feel that our proposed use of the space is in keeping with the City and the Prospect Hill neighborhood's long-term best interests, based on the following criteria:

- 1) Spaah has been in continuous operation for over 23 years. The nature of our work is not disruptive. We have received no complaints from nearby residents or businesses, and maintain good relationships with our neighbors. Spaah is a positive influence on the surrounding community, providing good, stable employment and valuable services to local residents.
- 2) The property in question has been vacant for several years. An addictions counseling service moved into the ground floor of the subject property in December, 2017, but the second floor remains unoccupied. Bloomington Hospital currently occupies space across 2<sup>nd</sup> Street from this location. However, the construction of the new hospital on the east side of Bloomington has already resulted in a significant change to the nature of the Prospect Hill neighborhood. Other similar properties (former doctor's offices, clinics, and more) are now vacant, and are likely to remain so, given the hospital's pending



Dear Mayor Hamilton,

Thank you for taking some time from your busy day.

My name is Dr. James Bradley Ray. My wife and I own the property at the corner of Second and Rogers Streets. I practiced surgery in Bloomington for eighteen years. Like you, I am a Bloomington native. My father was a family physician in Bloomington for thirty-five years. His office was also on Second Street. Most of the doctors had their office in that neighborhood in order to be close to the hospital. It was my hope to build a clinic building that would last a career and perhaps, be passed down to a new generation of doctors.

When Bloomington Hospital merged with IU Health, a new reality set in. They made two decisions that profoundly altered the future for my family and me. The first was the decision to consolidate the majority of the medical practices under the employment of IU Health. I attempted to stay independent, as my father had done. As a non-IU employed physician, I was eventually cut off from referrals. Ultimately, my practice became non-viable and I was forced to close my practice and relocate.

The second decision involved moving the hospital. Because IU Health now employs a critical mass of medical providers, they have effectively eliminated any competition. Therefore, the odds of an independent practice moving in began to approach zero. The area, as you know, is still zoned medical. We approached IU Health about using our office and leaving a medical footprint on the west side of town but they were not interested.

This scenario has led to a hardship for a number of medical offices in that area. To illustrate this, while Bloomington has an estimated need of 30,000 square feet of new office space per year and a 95% occupancy rate, our building has been vacant for almost three years. This despite the fact that our building is relatively new, attractive and efficient. I think we can all agree that vacant buildings are not good for anyone.

I have had several conversations over the years with Andy Ruff, Bryan Payne and Chris Sturbaum. They have been supportive. It is my understanding that while the zoning laws will eventually be changed to reflect the new nature of this neighborhood, they need to be done in a deliberate and thoughtful manner. In the meantime, it was explained to me, that in order to relieve the obvious hardship on these properties, that variances would be handled on a case-by-case basis.

We were recently approached by a local business who needed to move out of their current space. They needed more affordable space and better parking. They are family owned. They are looking for a long-term commitment. Furthermore, they live in Prospect Hill and have received a letter of endorsement by the neighborhood. I have been following the City's plans to redevelop this neighborhood. It is nothing short of thrilling to think what this could become. This would seem to fit perfectly into the vision as outlined on the City of Bloomington website. We hope the city will support this variance.

It seems as if there is a light at the end of a very long tunnel. Although we no longer have the privilege of living and working in Bloomington, it will always be a part of us. We are very excited to be part of its future. So many times, what seems like tragedy can become opportunity. Thank you again for taking the time to listen and for all you are doing to rebuild this vibrant part of town.

Sincerely,

James B. Ray MD


move. Having an active, successful business in that location will provide a much-needed boost to the Prospect Hill neighborhood.

- 3) As the space in question has its own private parking lot (22 spaces, which is more than sufficient for Spaah's requirements), neither our employees nor our clients will have a negative impact on available on-street parking in the neighborhood.
- 4) The Unified Development Ordinance Section 20.02.540 - Medical (MD) zoning currently allows for businesses (fitness center/gym, fitness/training studio) that offer similar services to those of Spaah. Therefore the proposed use does not differ significantly from already approved uses.
- 5) We have been in contact with the building's owner. He is supportive of our goals, and agrees that Spaah would be a suitable tenant for the space. If approved, Spaah will work with an architectural firm (Tabor Bruce) that is already involved in nearby projects. While this will not affect the exterior appearance of the building, we want to ensure that our interior renovations are well thought-out and appropriate to our needs.
- 6) The near term shut down of the IU Health Hospital has created a significant hardship on the property as a Medical Building. As a result this property has been on the market for several years and real estate professionals have determined it cannot sustain a medical only uses zoning. The City's plans for redeveloping the current hospital site will soon have a profound impact on the nature of this neighborhood. If approved, we intend to maintain Spaah at this proposed location for the long-term (at least ten years – we are hoping to retire without making any future moves).

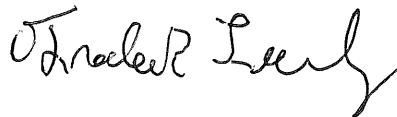
We are both long-term residents of the Prospect Hill neighborhood. At the City Council meeting on October 24, 2018, we saw a plan for redeveloping the current hospital location into a diverse, attractive home to retail, residential, office, mixed-use spaces, as well as affordable housing. We would be delighted to have Spaah become one of the first businesses to help strengthen the new core identity of the neighborhood.

Please feel free to contact us if more information is required. We sincerely appreciate your consideration, and hope that our request is approved.

Sincerely,



Donna M. Lafferty  
Owner



Frederick C. Luehring  
Owner

Attachments:

- A - Letter of Support from the Prospect Hill Neighborhood Association
- B – Notarized Affidavit from building owner James B. Ray, MD
- C – Menu of Spaah services

To whom it may concern:

The Prospect Hill Neighborhood Association enthusiastically supports allowing the health spa known as Spaah to occupy the top level of the building at the northwest corner of 2<sup>nd</sup> and Rogers (502 W. 2<sup>nd</sup> Street, Bloomington, IN).

Although PHNA has not had a meeting, the executive committee supports the move.

We feel this is an appropriate use of the existing space. Spaah is an established local business, provides employment to over twenty Bloomington residents, and would be a great addition to our neighborhood.

Sincerely,  
Prospect Hill Neighborhood Association Executive Committee



Jessika Griffin, President

Leslie Abshier, Vice-President

Glenda Murray, Treasurer

Patrick Murray, PHNA Secretary