

CITY OF BLOOMINGTON



August 22, 2019 @ 5:30 p.m.
UTILITIES BOARD ROOM
600 E. MILLER DRIVE

**CITY OF BLOOMINGTON
BOARD OF ZONING APPEALS
August 22, 2019 at 5:30 p.m.**

♦COB Utilities Board Room – 600 E. Miller Dr.

ROLL CALL

MINUTES TO BE APPROVED: April 2019
May 2019

REPORTS, RESOLUTIONS, AND COMMUNICATIONS:

PETITIONS WITHDRAWN:

AA-18-19 **Annie Stout and Danny Weddle**
1011 W. 7th St.
Request: Administrative Appeal of the Notice of Violation (NOV) issued related to *primary structure* code interpretation.
Case Manager: Jackie Scanlan

PETITIONS CONTINUED TO: September 19, 2019

V-17-19 **City of Bloomington**
105/111 W. 4th St., and 222 S. Walnut St.
Request: Variances from entrance and drive standards in Section 20.05.035 in the Commercial Downtown (CD) zoning district.
Case Manager: Jackie Scanlan

PETITIONS:

V-20-19 **Doug Wissing**
521 W. Smith Ave.
Request: Variance from rear yard building setback standards to allow an addition to an existing residence.
Case Manager: Eric Greulich

UV-26-19 **Kimberly Carballo**
1300 S. Lincoln St.
Request: Use variance to allow the raising of goats on a single lot in the Residential Core (RC) zoning district.
Case Manager: Ryan Robling

V-28-19 **Zachary Thomas & Kelli Hostettler**
804 W. Howe St.
Request: Variance from maximum fence height to allow a fence in excess of code requirements.
Case Manager: Ryan Robling

V-30-19 **Catalent Indiana, LLC**

****Next Meeting: September 19, 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.

1300 & 1400 S. Patterson Dr.
Request: Variance from riparian buffer standards.
Case Manager: Jackie Scanlan

****Next Meeting: September 19, 2019**

Auxiliary aids for people with disabilities are available upon request with adequate notice. Please call 812-349-3429 or e-mail human.rights@bloomington.in.gov.

BZA minutes are transcribed in a summarized manner. Video footage is available for viewing in the (CATS) Audio-visual Department of the Monroe County Public Library at 303 E. Kirkwood Avenue. Phone number: 812-349-3111 or via email at the following address: moneill@monroe.lib.in.us

The Board of Zoning Appeals (BZA) met in the Council Chambers at 5:30 p.m. Members present: Hoffmann, Huskey, Kappas, Klapper and Throckmorton.

APPROVAL OF MINUTES: March 2019

****Kappas moved to approve the March 2019 minutes. Throckmorton seconded. Motion carried by voice vote.**

REPORTS, RESOLUTIONS AND COMMUNICATIONS:

Scanlan addressed the fact that some members of the BZA received an email from a member of the public regarding CU-07-19 (*Matthew Francisco and Selma Sabanovic – 512 W. Howe St.*). This particular letter outlined an opinion about this petition. Being that the BZA is a quasi-judicial body, members of the BZA are not allowed to have ex parte communication with members of the public. The BZA should base their opinion on everything that is discussed during the actual hearing. Scanlan said to her knowledge none of the Board members actually responded to this person. In addition, Staff let this person know that they would need to come to the public hearing to voice their opinion.

All members of the BZA went on record as saying they did not respond to this particular email.

► *Barre Klapper has recused herself from the first petition—V-01-19 because she is an immediate, adjacent neighbor. Klapper will rejoin the Board for the last two petitions. At this point, Jo Throckmorton (Vice President) will chair the meeting.*

PETITIONS:

V-01-19 **Malcolm Dalglish**
1111 E. Wylie St.
Request: Variance from side yard setback standards
Case Manager: Eric Greulich

Jackie Scanlan presented the staff report. The petitioner is requesting a variance from side yard building setback standards, and an architectural standards variance from permitted roofing materials. The petitioner is requesting permission to have a 3-foot side yard setback instead of the required 6-foot side yard setback to build an attached carport on the east side of the existing home. The petitioner is also requesting permission to use polycarbonate roofing; hence the variance request for that. The property is located at 1111 E. Wylie St., which is a core neighborhood. The carport would extend 9 feet from the house. The house is currently 12 feet from the side yard setback, so the proposed carport would be 3 feet from the side property line. The petitioner is asking to use polycarbonate roofing to cover the carport. The petitioner submitted examples of possible corrugated polycarbonate that they would use on-site. This type of material is

not allowed in the zoning district per the Unified Development Ordinance (UDO). This request went to the Historic Preservation Commission (HPC); it's located in the Elm Heights Historic District. The HPC issued a Certificate of Appropriateness (COA) to allow the carport and the proposed material at their March 28th hearing. Regarding the setback variance; Staff finds the strict application of the UDO would result in practical difficulties in this situation; this has to do with the location of the house and existing parking area. It would not allow a structure to be constructed over the parking area to protect the vehicle which is a common accessory/addition on houses in this area and all over town. The location of house and driveway; because the driveway comes in at a perpendicular angle it's unique and not always found on properties of this size so it makes the carport parallel to the house necessary. Scanlan stated it's very hard to justify an architectural variance for materials. Staff was unable to find practical difficulty or unique circumstance on this single-family house. No peculiar condition was found that would require that polycarbonate roofing be necessary. The UDO provides for multiple material choices for roofing in this area, anyone one of which could be used and more useful, and more durable than what Staff has found polycarbonate to be in the past. Based upon the findings outlined in the staff report, the department recommends that the BZA adopt the proposed findings and approve the variance for side yard building setback standards, and deny the variance for the requested roofing material.

Malcom Dalglish, petitioner, spoke about his petition and why this is a unique situation. He presented his reasoning behind the use of polycarbonate (translucent) for the proposed roofing material. One reason is for the natural, morning sunlight that comes into the first floor of the home. Using shingles would only darken the home on the first floor. In addition this material is easier to replace, maintain, and easier to hose down or wash off in their elderly years. He believes this is a key element to the overall project.

Hoffmann asked Staff about the permitted options in the code. Scanlan said the options are shingles, shakes, tile, standing seam metal or V-grain metal with the last two being similar. Hoffmann questioned the use of glass. Scanlan responded that glass is not a permitted material. Discussion ensued between the BZA and Staff regarding the use of polycarbonate versus other material, including what types of materials might be permitted in the future given the new UDO that is currently in process. Scanlan responded that this material has not been proposed as one to be allowed in the RC (Residential Core) or comparable zoning district. It might be something to revisit in the future given that polycarbonate is probably different now than it was years ago. Huskey asked what the process would be moving forward should the Board decide to deny the variance for the material. Scanlan explained the petitioner could file for a building permit and use one of the approved materials as outlined in the UDO, or there could be an appeals process to the BZA's decision but that would go into the judicial realm. Throckmorton asked about Staff's rationale behind recommending approval of the side yard setback variance. Scanlan explained that the function of what the petitioner is asking for is for a carport. There is nowhere else on this lot that is available that meets requirements. The least obstructive place to the put the carport is where they're asking to place it with the 3-foot encroachment. Kappas asked the petitioner how he would maintain the structure if the polycarbonate were to begin aging. Dalglish said this area only has a couple hours of direct sunlight which would extend the life of the material. If it ever needed to be replaced it would be easy to do so.

Public comments in favor of the petition:

Chris Sturbaum from the HPC; Duncan Campbell (Advisory Member of the HPC) who is an expert on architectural compatibility, and Asa Paley.

Judy Klein, petitioner's wife, explained in further detail why it's important for them to have a carport. Overall it's very challenging living without a garage and a functional driveway; they share a drive with their neighbor. A carport would allow a sheltered area going into their basement and for the ramp that will be included as part of this project. The proposed material also meets the requirements of the Historic District. She urged the BZA to approve their request.

Discussion ensued about the historic nature of the home including the fact that the HPC not only approved the polycarbonate material, but actually preferred it to all other materials. Throckmorton asked if there were any material options in the current code that would provide for light to pass through. Scanlan said no; there is no roofing material.

****Hoffmann moved to approve the location variance (side yard setback) based on the written findings outlined in the staff report. With respect to the materials variance; change the written findings with respect to criterion #3 and say, "practical difficulties will be found if the material variance is denied because the house has the peculiar condition of being a historically designated house, combined with the location of this structure and the specific recommendation by the HPC to allow the use of this material and not any of the materials that are approved in the code." This is very specific to the situation of this property and the fact that the HPC specifically wants this material. Kappas seconded. Motion carried by voice vote 4:0—Approved.**

► *Let the record reflect that Barre Klapper rejoined the Board.*

CU-07-19 **Matthew Francisco and Selma Sabanovic**
512 W. Howe St.
Request: Conditional Use approval to allow a detached accessory dwelling unit (ADU)
Case Manager: Eric Greulich

Jackie Scanlan presented the staff report. The property is located at 512 W. Howe St. and is part of the Prospect Hill Historic District. The petitioner is requesting conditional use approval to allow the construction of a detached garage to be used as an Accessory Dwelling Unit (ADU) in the Residential Core (RC) zoning district. The site currently contains one single-family residence; the owners live in the existing home. The proposed 2-story (ADU) would face Smith Ave. on the north side of the property and would also have a garage on the ground floor. There is an existing driveway that accesses the property from Smith Ave. that would be relocated to access the new garage. The Accessory Dwelling Unit would be approximately 400 sq. ft. and have one bedroom. The garage would be finished with a cement composite lap siding to match the existing residence. The Historic Preservation Commission (HPC) reviewed this petition at their March 28th meeting and found that it meets the Historic District guidelines and subsequently issued a Certificate of Appropriateness—COA-19-11 for the construction of the (ADU). Based upon the findings outlined in the staff report, the department

recommends that the BZA adopt the proposed findings and approve the conditional use, including the following conditions:

1. The conditional use is approved for the accessory structure as submitted only.
2. Petitioner shall record a commitment to satisfy 20.05.0333(I), indicating that the use approval shall only be in effect as long as the owner(s) of record occupies either the house or the ADU as his or her primary residence. If the ADU approval is revoked any time, the ADU must be removed from the property.
3. Petitioner shall submit a copy of the property tax homestead exemption for the property.

Marc Cornett spoke on behalf of the petitioners. This plan has been in the works for several years. He said they have received support from the neighborhood association. The plan was presented to the Historic Preservation Commission (HPC) at their March meeting. However; they didn't like the Smith Ave. appearance and proposed more of a "front door" appearance along Smith Ave. To that end, their request was continued at the March meeting and they came back with the current proposal. A copy of that elevation was included as part of the BZA's packet. Cornett said in the current plan they have respected the Smith Ave. streetscape, and the wishes of the Historic Preservation Commission. As it turns out, it brings the scale down even further with the addition of the gable dormer and a porch. The zoning standards for this conditional use have been met. They look forward to building the project.

Hoffmann asked Staff about a 2013 proposal that was referenced in a letter that was part of the BZA's information packet. Marc Cornett (petitioner's representative) explained that the owners were interested in doing a granny flat back in 2013 and they received support from the neighborhood association to do that. However; the struggle with the Planning Department was the fact that there wasn't an (ADU) ordinance back then, and it was hard to find a *peculiar condition* to support that in a single-family neighborhood. Cornett added that Smith and Howe are two frontages for through lots. Back then he and the petitioners talked about subdividing the property to more replicate the balance of the properties on the block. Cornett added that all of those lots are subdivided but of them didn't start out being subdivided. Cornett found out through research that most of the lots on the eastern end had been through lots, and over time they had become subdivided and infilled. Klapper asked the petitioner to explain their decision about where to locate the proposed structure rather than placing it being elsewhere along the back of the property line. Cornett said originally it's where the barn was located. Historically, the barn was a little bit closer to the west property line. There is also two power poles. In order to get the driveway in, they have to be to the east or the west. There is also existing trees to the middle of the power pole, including an existing Walnut tree to the west. Historically, appendage buildings would not have been placed on the middle of the site; they would have been close to property lines to retain usage of the yard. With that in mind, they were trying to reuse those same patterns.

Matthew Francisco has plans to work in the garage quite a bit. The yard is basically on that side and he wants to have easy access to the yard when his children are playing outside. It also makes sense to have open space for the family to use.

Public comments in favor of the petition:

David Wierhink lives along Smith Avenue and he's in favor of the conditional use and urged the Board approve it. Doug Wissing owns property to the west in Prospect Hill and he has concerns about the proposed height of the garage (ADU). He isn't opposed to the (ADU) just the placement of it.

Cornett explained how the existing power poles make access tricky. Cornett explained if they move much further to the east, the garage door flips sides and then it faces west, which puts the active elevation of the garage for any workshop criteria, car repair, or car sitting on that side of the building. He said they are significantly further away than what code requires. It's actually a one and one-half story building. The peak is the ultimate height of the building. The dormers on both sides are significantly farther to the east than the footprint. Cornett closed by saying it's only tall for approximately one-fourth of the façade.

Hoffmann asked Staff if they discussed the location of the structure. Scanlan responded that she didn't know if Eric (Greulich), Senior Zoning Planner, who previously worked on this case had that conversation with the petitioner or not. In this case, concerns were raised by the immediate neighbor. Scanlan added that Staff often speaks to the petitioner to see if they would be willing to accommodate certain requests.

****Hoffmann moved to approve CU-07-19 based on the written findings, including the three conditions outlined in the staff report. Kappas seconded. Motion carried by voice vote 5:0—Approved.**

V-11-19 **John Bickley and Sandra Bonsib**

1003 W. Howe St.

Request: Variance from side and rear yard setback standards for the construction of an addition and an attached garage to a single-family home.

Case Manager: Ryan Robling

Ryan Robling presented the staff report. The property is located at 512 W. Howe St. and with the Prospect Hill Neighborhood. The petitioners are requesting variances from side and rear yard setback standards for the construction of an addition and an attached garage to their one-story home. The house is situated on the northwest corner of the lot and has an existing side setback of 4 feet from the western property line. The proposed addition is 528 square feet; the proposed attached garage would be 532 square feet. The proposed garage would utilize the existing driveway which has an entrance from the alley to the west. The proposed garage would be located 4 feet from the western side property line and 6 feet from the southern rear property line. The Unified Development Ordinance (UDO) requires a minimum side setback of 6 feet and a minimum rear setback of 25 feet for primary structures. The east and west property lines are considered side yards and the property line to the south is considered the rear yard. The proposed garage would encroach 2 feet into the western side yard setback and 19 feet into the southern rear yard setback. The petitioners received a *Certificate of Appropriateness* (COA) at the Historic Preservation Commission hearing on March 28, 2019. Staff found no practical difficulties in the use of the property. There are no peculiar conditions that require variance from the setback regulations. Staff recommends denial of the variance(s) request based on the written findings outlined in the staff report.

Cornett explained that Prospect Hill is a dense neighborhood with a lot of interesting site conditions. The steep grade is kind of a “no car zone” for getting in to a garage from the alley. With the design; he said they have intentionally made a courtyard to make an indentation in the property to break the two pieces into half—as if they are attached, although physically connected. This auto courtyard allows a vehicle to pull in to the side off of the alley, to get into a parallel situation to pull into a stacked garage (2-cars long) before the grade falls away.

John Bickley and Sandy Bonsib added some additional comments about why he and his wife decided to attach the garage, including discussions they had with their architect (Marc Cornett) to come up with their current proposal—to have the garage attached to the home so they can age-in-place.

Discussion ensued between the BZA and the petitioner regarding the location of the garage being attached versus detached, including the possible elimination of the carport and moving the garage up and then coming in to the garage from the south. Cornett indicated that moving the garage to the south is not an option because the size of the garage would have to be reduced in size. Throckmorton asked about the square footage of the existing house. Cornett responded it’s approximately 1400 sq. ft. Throckmorton said it appears the proposal is being complicated by the 500 sq. ft. proposed addition. Klapper wondered if any consideration was given to having a stacked garage. Cornett said the petitioner would like to have the option for a shop, including the flexibility to have the parking.

Public comments in favor of the petition:

(First name inaudible) Byder, Jessica Griffin, Clinton McKay (He also submitted a letter of support from partner, Peter Roeth—1002 W. Howe), Douglas Peach, Sandy Welch, Glenda Murray, Tracy Gates, Chris Sturbaum, and Barbara Winn.

Sandra Bonsib, petitioner, said they really need to have a two-car garage because they have two cars. The addition is necessary because the extra space is needed.

Hoffmann outlined the issues the Board is being asked to decide upon. He believes it comes down to the “practical difficulties” in the use of this property that are due to “peculiar” conditions. In his opinion, there are practical difficulties in the use of this property. In this case, what the petitioner is seeking is very much compatible with what is surrounding in the neighborhood. The question is whether there is something that is peculiar to the property. Hoffmann believes there are five ways in which this property is peculiar—not unique, because there are other properties that share some of the same characteristics. But the conditions are certainly not normal, they are peculiar. **#1** The fact that there are two alleys, which limits the usefulness of the remainder of the lot (specifically the yard space); **#2** MD zoning and established MD business that touches the southwest corner of this property; **#3** The grade change which limits the possibility of accessing any garage attached or detached from the south alley; **#4** The existing primary structure is already closer than 6 feet from the property line which is the setback for primary structures in the current code; **#5** The fact that the HPC has already approved the proposed addition and garage in the proposed location.

****Hoffmann moved to approve V-11-19 based upon the aspects of the property as stated above #1 through #5 as it pertains to practical difficulty, including the written findings outlined in the staff report, but excluding the “practical difficulty” criterion. Kappas seconded. Motion carried by voice vote 5:0—Approved.**

Meeting adjourned.

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The Board of Zoning Appeals (BZA) met in the Council Chambers at 5:30 p.m. Members present: Huskey, Kappas, Klapper and Throckmorton (Joe Hoffmann absent).

APPROVAL OF MINUTES: None at this time.

REPORTS, RESOLUTIONS AND COMMUNICATIONS: None at this time.

PETITIONS:

UV/V-18-19 **Bloomington Cooperative Living, Inc.**

921 W. 9th St.

Request: Use variance to allow a cooperative housing unit. Also requested is a variance from the minimum number of required on-site parking spaces.

Case Manager: Ryan Robling

Ryan Robling presented the staff report. The subject site is located at 921 W. 9th St., and zoned RC (Residential Core). The property has been developed with a large two-story single-family house that has been vacant for a number of years. The surrounding properties have also been developed with single-family houses. The property fronts on both W. 9th St. to the north, and N. John St. to the west. Robling noted there is an unimproved alley to the south of the property. The petitioner is requesting a use variance approval to allow a cooperative housing unit. Also requested is a variance from the minimum number of required on-site parking spaces. The petitioner is proposing to modify the interior of the existing structure to create 12 private bedrooms, and 3 private two-bedroom suites. In doing so, this would allow space for 19 unrelated adults. The two-bedroom suites would allow for families with children. Tenants would share common kitchen spaces, living areas, and bathrooms. The petitioner plans to pave the alley to the south of the property, which will then be used to access the 4 newly created parking spaces including one (1) van accessible space. Additional on-street parking will be available along N. John St. to the west and W. 9th St. to the north. The petitioner also plans to install a new second story egress stair which would allow access to the second story from the outside. No other exterior changes are being proposed. The Comprehensive Plan encourages a mix of land uses and housing types in the city and encourages the rehabilitation of existing structures. Based upon the findings outlined in the staff report, the department recommends that the BZA adopt the proposed findings and approve the use variance as well as the variance from minimum number of on-site parking spaces with the following conditions:

1. The landscaping plan shall meet UDO standards.
2. Unit must be inspected and registered with Housing and Neighborhood Development (HAND).
3. A maximum of 19 bedrooms and a maximum of 19 unrelated adults are allowed.

4. A building permit is required prior to any construction.

Brady Heberlan, Bloomington Cooperative Housing, outlined their proposal including the housing options offered to the community. The Near Westside Neighborhood Association supports their request for a use variance. In addition, the *Bloomington Community Bike Project* wrote a letter of support as well. The petitioner's architect, Lucas Brown, outlined the specifics of their site plan and explained how the site is very centrally located. In fact, it's easy to get around Bloomington without a car. Brown discussed the additional landscaping that would be installed as part of this proposal.

Discussion ensued between the BZA and Staff regarding the existing parking lot to the southeast and whether or not there were restrictions with the lot itself. Kappas mentioned the potential for future noise, trash, and debris with the number of people possibly living in this facility. Scanlan, Development Services Manager, pointed out that a lot of people who live in cooperative housing do not have vehicles because there are a limited number of parking spots on-site. Whereas in a traditional apartment complex, it's typical for every unit to have at least one car. Heberlan, Bloomington Cooperative Living, said they are still trying to figure out the exact size of rooms with regard to families with children as opposed to a single mother with one child or children. The plan is to also establish quiet hours. Throckmorton had concerns given the potential for 19 cars to be parked here. The petitioner is only proposing 14 parking spaces, assuming that every tenant has one car. Scanlan said she would point back to the other location on Kirkwood (the old Middle Way House where they have 5 on-site spaces). At that location, they have a similar number of tenants that would be here. Staff felt there was plenty of neighborhood parking to accommodate both existing residents and this larger use than what is typical for the neighborhood. Scanlan said this building used to be occupied. Even though it wasn't occupied by 19 people, there were still quite a number of people who lived in this building. Robling also explained the petitioner has the ability to restrict the number of people who have cars, and he reiterated that parking is still available along 9th St. and Johns St. Klapper wondered if the building would be sprinklered (The architect confirmed that a residential sprinklered system would be installed). Huskey asked if the use variance would run with the property. Scanlan confirmed it would run with the property.

Public Comments:

Bill Baus, homeowner who resides in the area, isn't opposed to the project. However; he has concerns about the number of adults allowed to live here, and whether or not there would be available parking in the neighborhood.

Evelyn Smith has lived in cooperative housing for 4 years. She currently works for Middle Way House. She talked about her experiences with overflow parking at Middle Way House. In her opinion, cooperative housing organizations work hard to make sure parking is not at capacity.

****Kappas moved to approve UV/V-18-19 based on the written findings, including the four conditions outlined in the staff report with the added condition #5 stating that "The use variance is tied to Bloomington Cooperative Living, LLC in whole and vacates the property once sold to a new property owner." Throckmorton seconded.**

Klapper noted that because there are only residences on one side of the street--a unique condition, and there are many other streets in the neighborhood that are served on one side of the street, but actually have houses on both sides of the street is unique. So this is a unique situation in itself and that adds to the peculiarity of this site location.

Roll Call: Motion carried 4:0—Approved.

Meeting adjourned.

BLOOMINGTON BOARD OF ZONING APPEALS
LOCATION: 521 W. Smith Ave.

CASE #: V-20-19
DATE: August 22, 2019

PETITIONER: Doug Wissing
 521 W. Smith Ave, Bloomington

REQUEST: The petitioner is requesting a variance from rear yard setback standards to allow a 7'x13' addition to an existing residence.

REPORT: The property is located at 521 W. Smith Avenue and is zoned Residential Core (RC). The property is 44' x 67' and is 2,948 square feet in size. Surrounding land uses include single family residences to the north, south, west and east. The property has been developed with a one-story, single family residence. The building is within the Prospect Hill Historic District. Since the addition is not visible from a public street, then a Certificate of Appropriateness is not required for the addition. A variance from minimum lot size standards was approved in 1996 under case #V-90-96 in order to allow this residence and the adjacent residences to be placed on their own lots.

The petitioner is proposing to construct a 7'x13' one-story addition on the rear (south) side of the structure for a dining room. The house is currently 27'8" from the rear property line. The proposed addition would encroach 5' into the required 25' rear yard setback. The proposed addition would meet the 6' sideyard setback.

The petitioner is requesting a variance from the required 25' rear yard setback to allow a 20' rear yard setback.

CRITERIA AND FINDINGS FOR DEVELOPMENT STANDARDS VARIANCE

20.09.130 e) Standards for Granting Variances from Development Standards: A variance from the development standards of the Unified Development Ordinance may be approved only upon determination in writing that each of the following criteria is met:

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

PROPOSED FINDING: No injury is found with this petition. The proposed encroachment into the rear yard setback will only effect this lot. No adjacent properties will be effected by this encroachment.

- 2) *The use and value of the area adjacent to the property included in the Development Standards Variance will not be affected in a substantially adverse manner.*

PROPOSED FINDING: No negative effects from this proposal on the areas adjacent to the property are found. As stated previously, the encroachment will only effect this property. There are several adjacent properties that have residences that do not meet the required rear yard setback so the proposed encroachment would not be

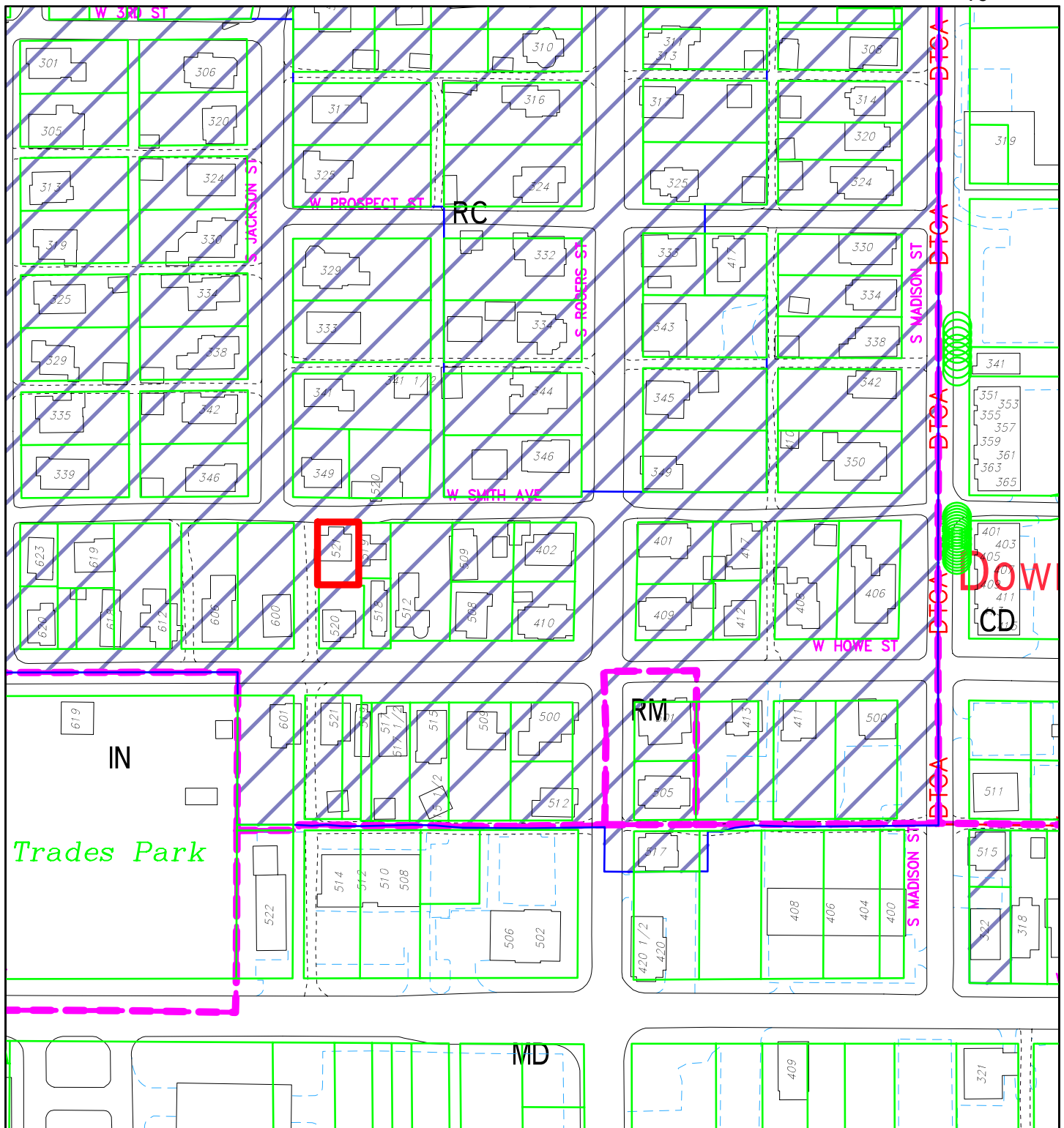
out of character with this area. The size of the existing house and minor addition are consistent in size to other residences in this area.

- 3) *The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property; that the practical difficulties are peculiar to the property in question; that the Development Standards Variance will relieve the practical difficulties.*

PROPOSED FINDING: Practical difficulty is found in the limits inherent in the lot size and the size of the house, the lot is 2,948 sq. ft. and the minimum lot size in this district is 7,200 sq. ft. The proposed addition is very minor in scale relative to the size of the house and the existing house size is also similar in size to the other residences in this neighborhood. Peculiar condition is found in the small size of the existing lot that is less than half of the minimum lot size of this district. The proposed encroachment is not excessive and is in keeping with the development pattern on other small lots within this area.

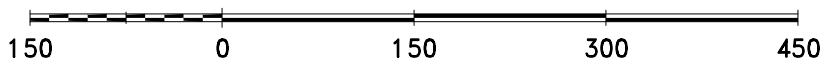
RECOMMENDATION: Based upon the written findings above, the Department recommends that the Board of Zoning Appeals adopt the proposed findings and recommends approval of V-20-19 with the following conditions:

1. The petitioners must obtain a building permit prior to construction.
2. This variance applies to the addition as proposed only. Any subsequent encroachment would require a variance.

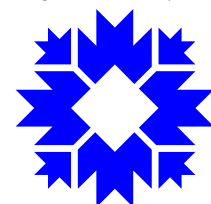


V-20-19 Doug Wissing
 521 W Smith Ave
 Board of Zoning Appeals
 Site Location, Zoning, Parcels

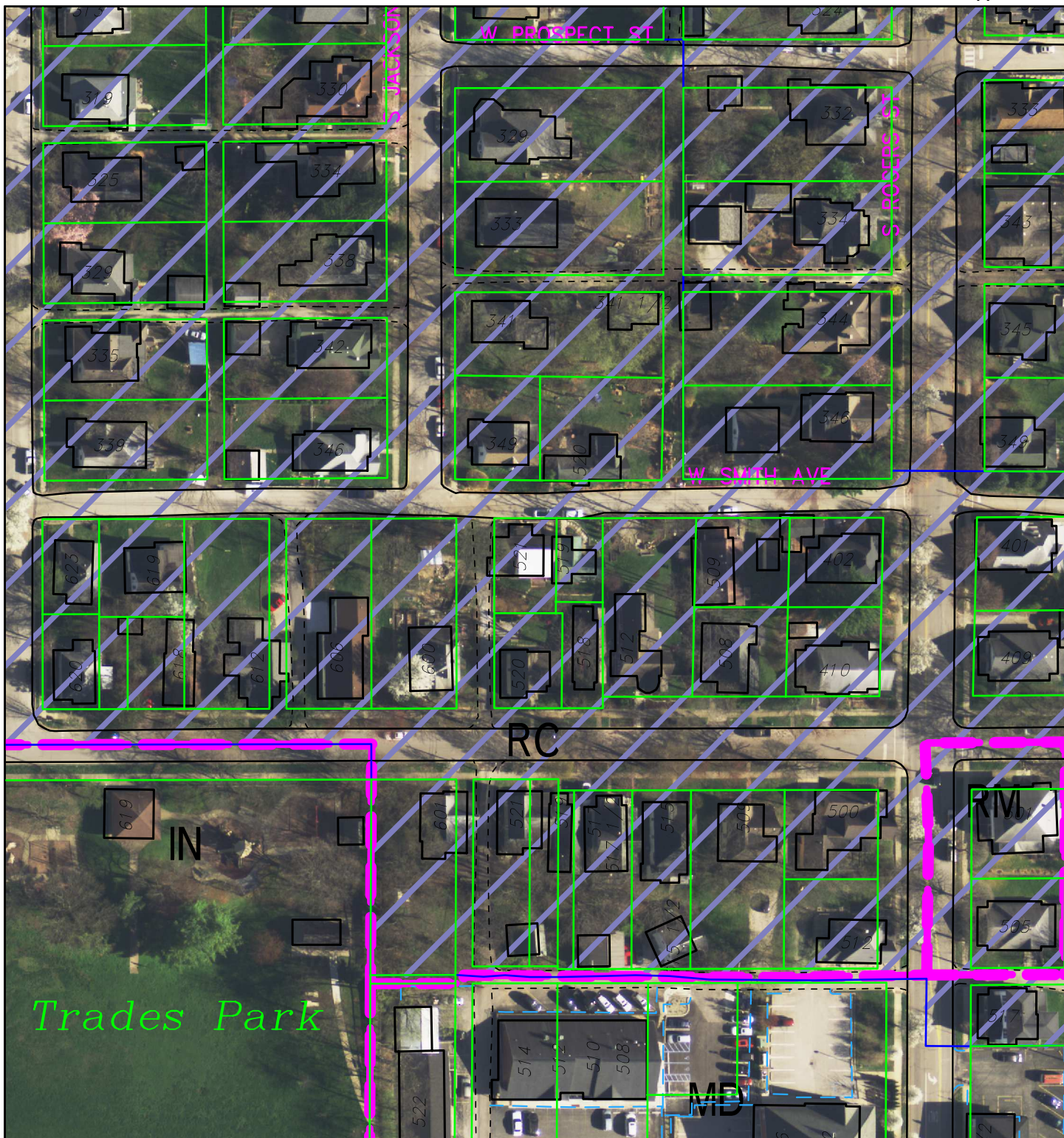
By: greulice
 12 Jul 19



City of Bloomington
 Planning & Transportation



Scale: 1" = 150'



V-20-19 Doug Wissing

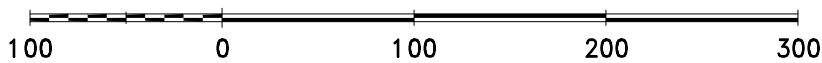
521 W Smith Ave

Board of Zoning Appeals

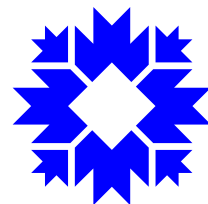
2016 Aerial Photograph

By: greulice

12 Jul 19



City of Bloomington
Planning & Transportation



Scale: 1" = 100'

For reference only; map information NOT warranted.

Petitioner's Statement for a variance
for a dining room addition at 521 W. Smith Ave.

I am requesting a variance to add a small dining room to my circa-1880s vernacular artisan cottage at 521 W. Smith. The Rachel Wright House, a restored historic cottage, is a wonderful residence, though the lack of a dining room is a drawback. The kitchen is too small for a dining table, so friends and family have to balance plates on their laps in the living room when they come to dinner. This little 93-square-foot dining room will allow folks to sit together for a meal.

The addition will be subordinate in size to the primary structure and compatible in materials and style with the existing house. The dining room will be constructed on the rear of the house, where it is not visible from Smith Ave. The total lot size of 521 W. Smith Ave. is 2,881 square feet, and the existing house has a 1,031- square-foot footprint, so with the 93-square-foot dining room addition, the total built square footage is well within the allowable percentage.

The existing house is 27' 8" from the rear lot line, so I am requesting a rear setback variance, as the 7-foot-wide dining room addition will be closer than 25 feet to the rear lot line.

The lots between Smith Ave. and Howe St. reflect the dense urban form of Victorian-era working-class neighborhoods. Accordingly, the 521 W. Smith Ave house is approximately 27 feet from the property line, and 520 W. Howe, the adjacent house to the south, is approximately 26 feet from the property line. The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property with this peculiar situation. The requested Development Standards Variance will relieve the practical difficulties, and permit the small dining room to be built. If permitted, the dining room will increase the livability of 521 W. Smith, and add to the value and sustainability of the surrounding area, one of Bloomington's core neighborhoods.

Thank you for your consideration. Plans and a survey are attached.



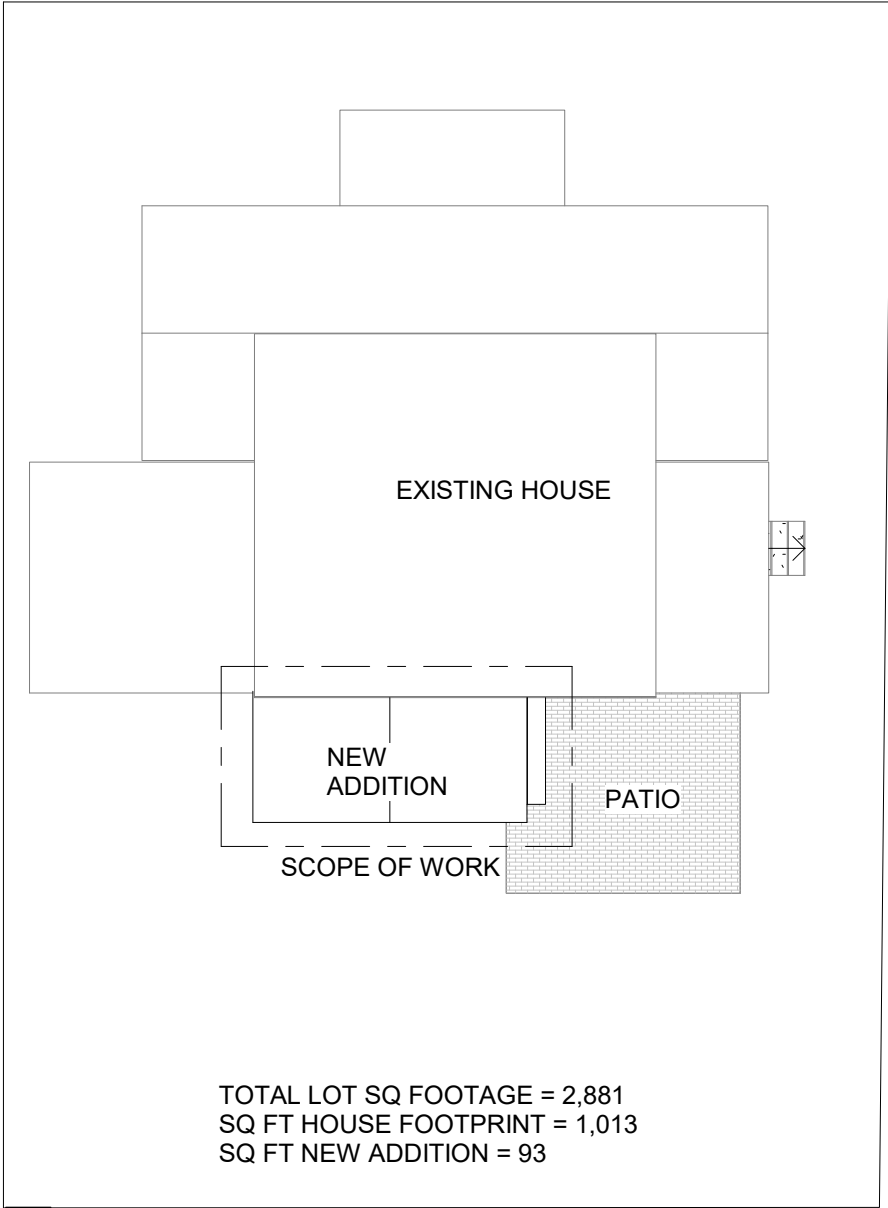
① 3D View 14

DR ADDITION

No.	Description	Date

COVER SHEET

Project number	Project Number	A0.0
Date	7.20.15	
Drawn by	Author	
Checked by	Checker	
		Scale



EXISTING HOUSE

NEW ADDITION

PATIO

SCOPE OF WORK

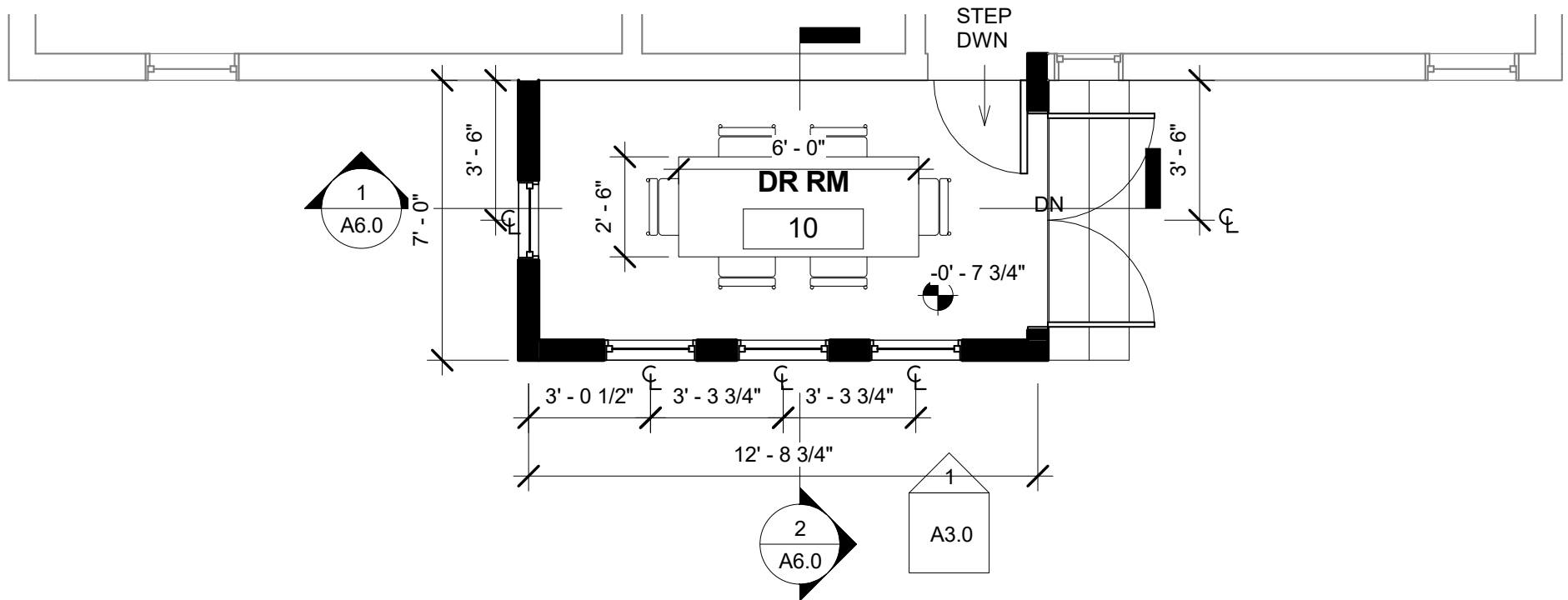
TOTAL LOT SQ FOOTAGE = 2,881
 SQ FT HOUSE FOOTPRINT = 1,013
 SQ FT NEW ADDITION = 93

① Site
 3/32" = 1'-0"

DR ADDITION

No.	Description	Date

SITE PLAN		A1.0
Project number	Project Number	
Date	7.20.15	
Drawn by	Author	
Checked by	Checker	Scale 3/32" = 1'-0"



① First Floor
1/4" = 1'-0"

DR ADDITION

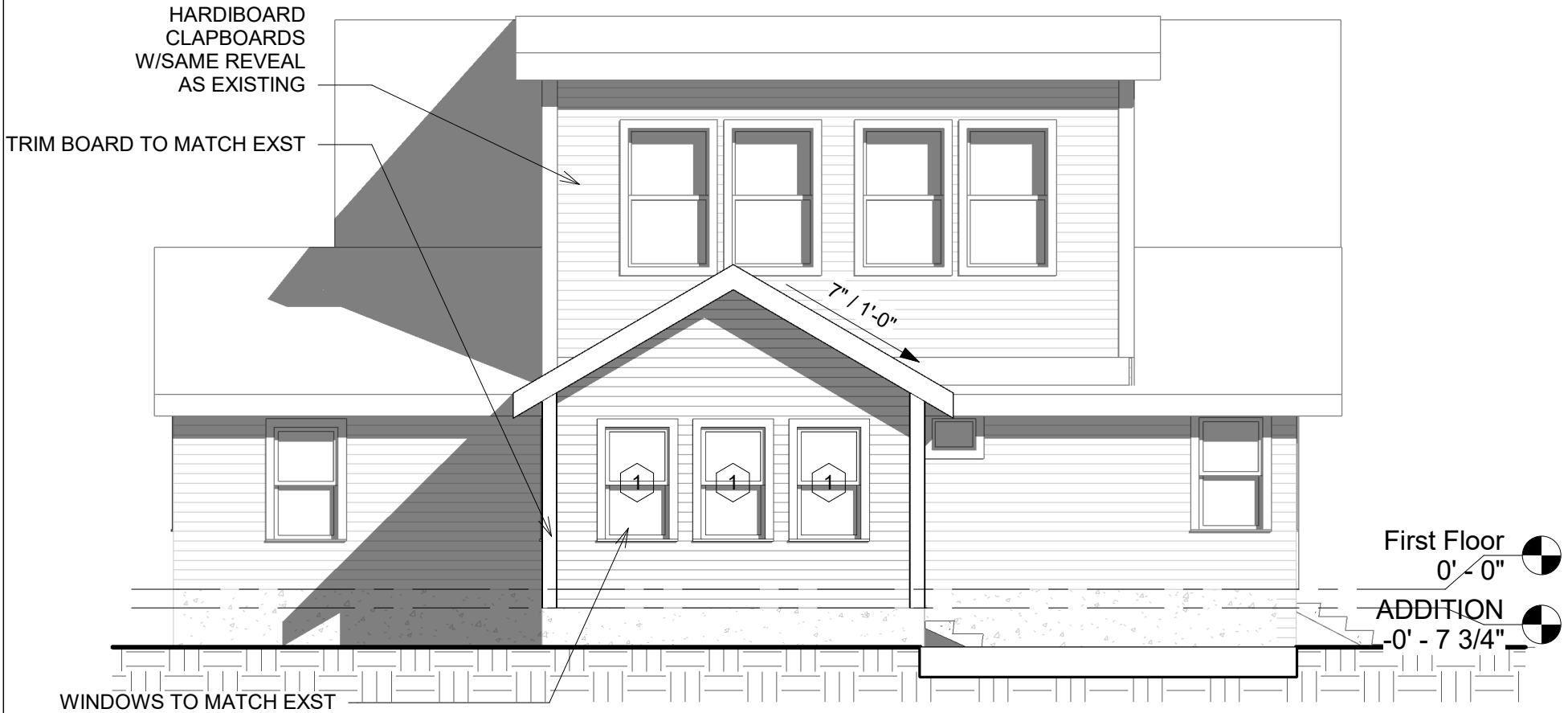
No.	Description	Date

ADDITION

Project number	Project Number
Date	7.20.15
Drawn by	Author
Checked by	Checker

A2.0

Scale 1/4" = 1'-0"



WINDOWS TO MATCH EXST

First Floor
0' - 0"

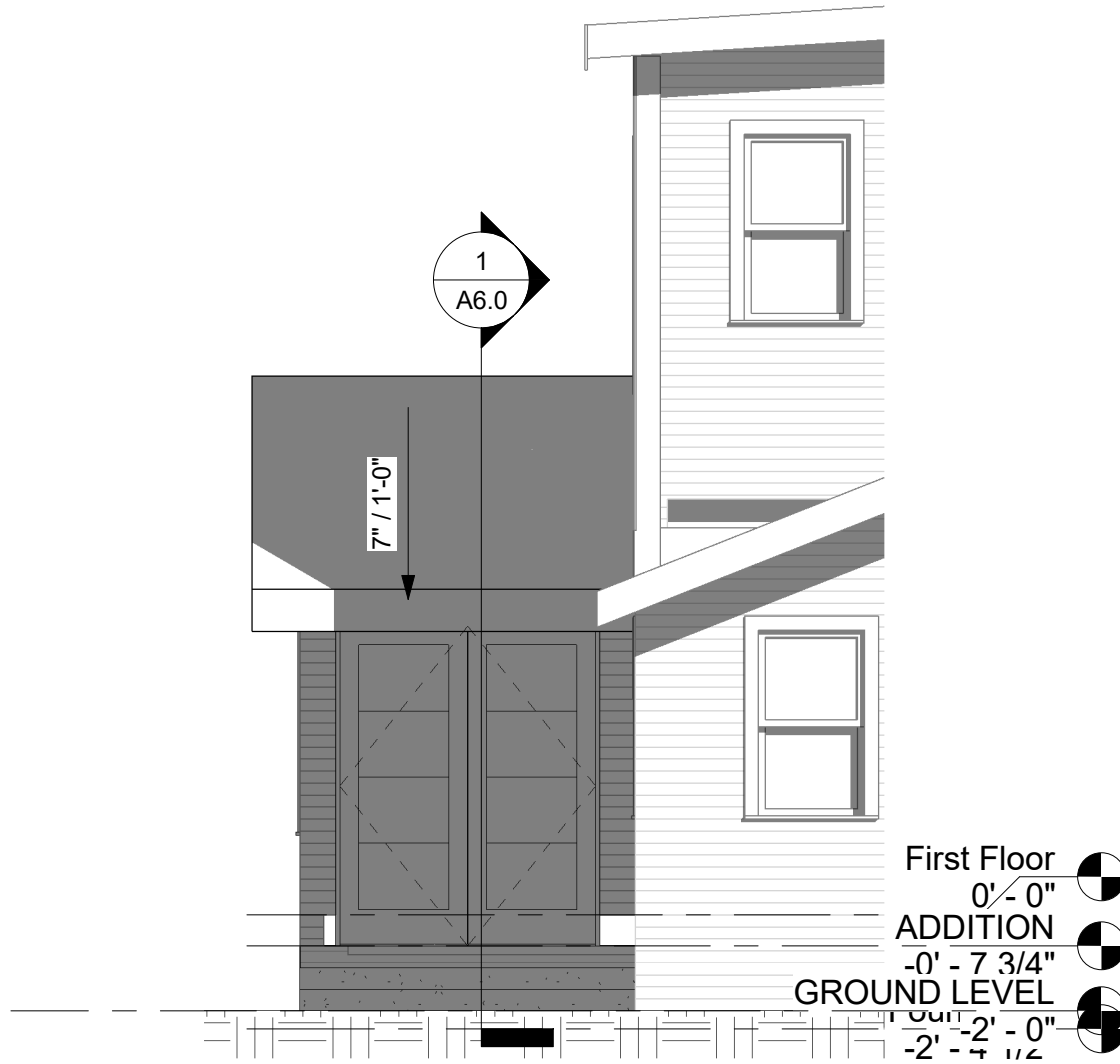
ADDITION
-0' - 7 3/4"

① Elevation 4 - a
3/16" = 1'-0"

DR ADDITION

No.	Description	Date

EXT ELEVATIONS		A3.0
Project number	Project Number	
Date	7.20.15	
Drawn by	Author	
Checked by	Checker	Scale 3/16" = 1'-0"



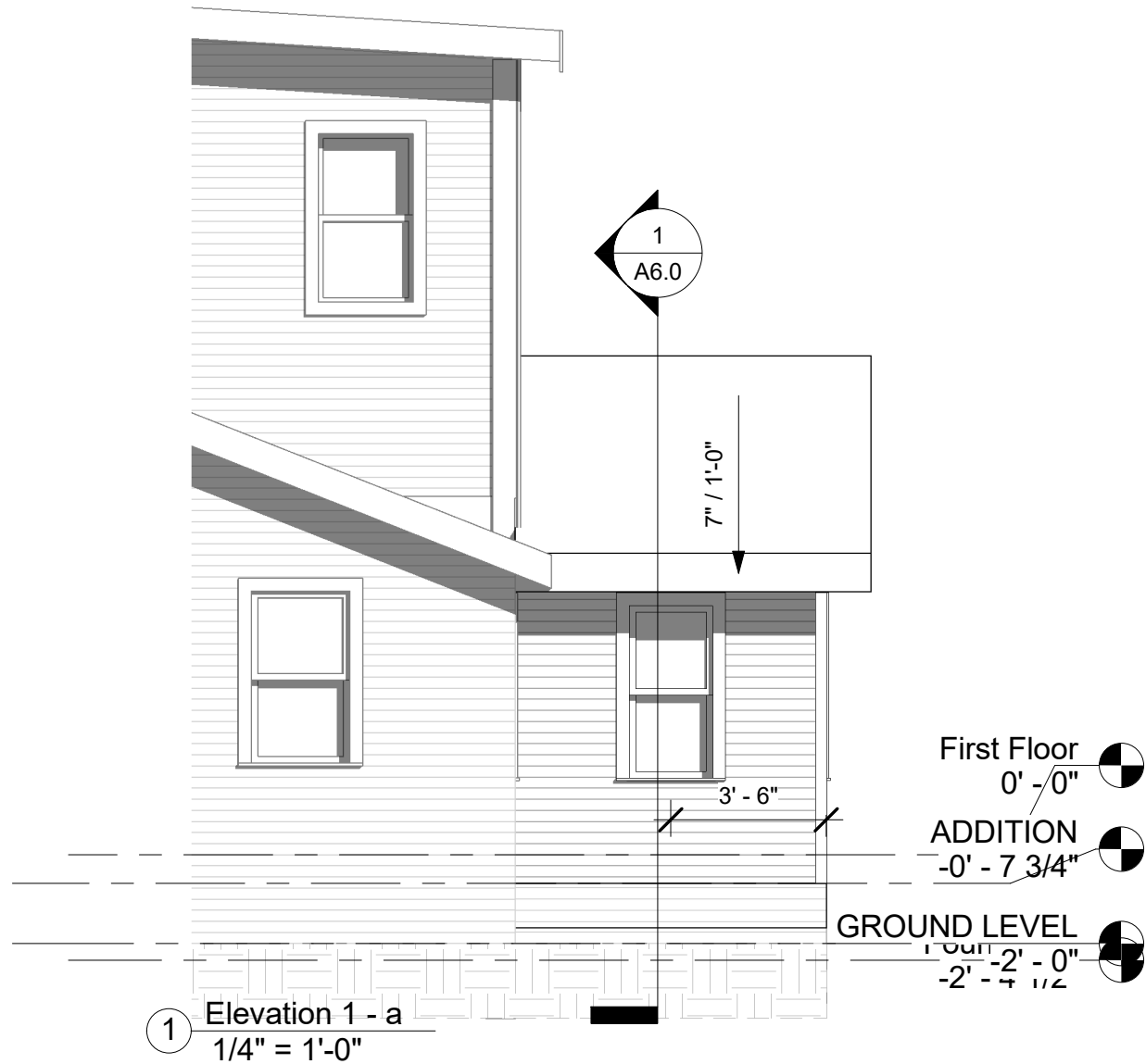
① Elevation 3 - a
1/4" = 1'-0"

DR ADDITION

No.	Description	Date

EXT ELEVATIONS

Project number	Project Number	A3.1
Date	7.20.15	
Drawn by	Author	
Checked by	Checker	
		Scale 1/4" = 1'-0"



DR ADDITION

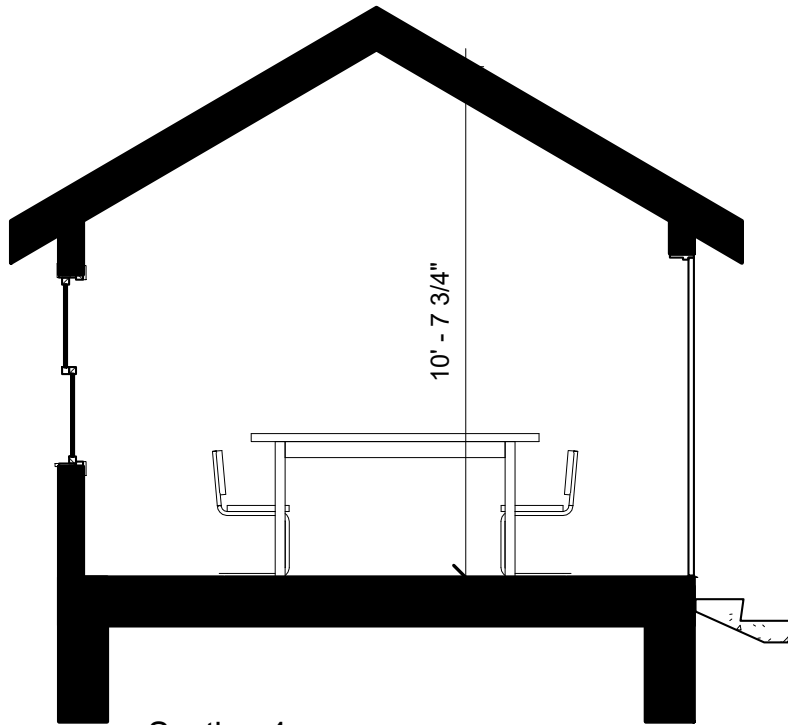
No.	Description	Date

EXT ELEVATIONS

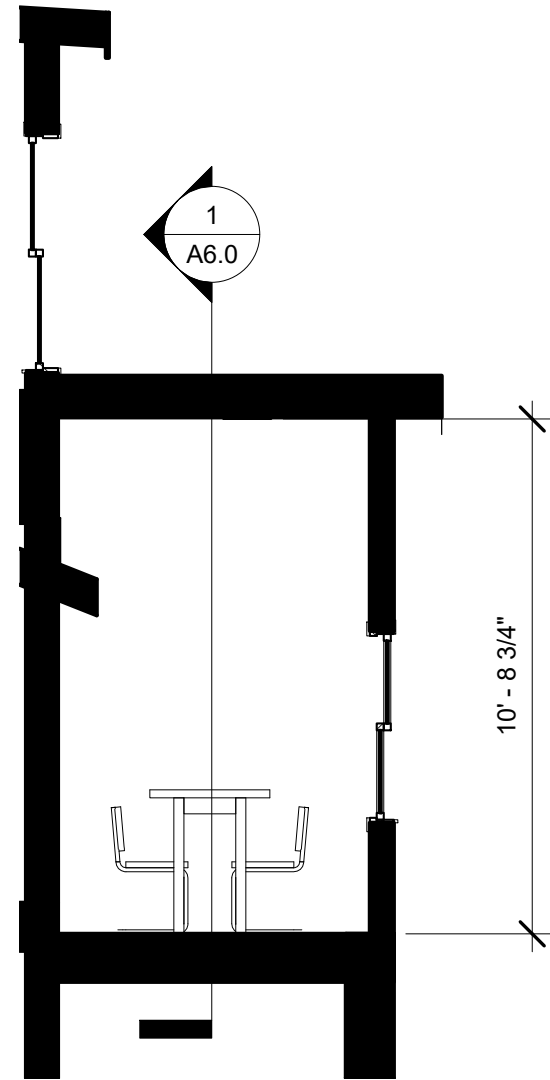
Project number	Project Number
Date	7.20.15
Drawn by	Author
Checked by	Checker

A3.2

Scale 1/4" = 1'-0"



① Section 4
1/4" = 1'-0"



② Section 5
1/4" = 1'-0"

DR ADDITION

No.	Description	Date

SECTIONS

Project number	Project Number	A6.0
Date	7.20.15	
Drawn by	Author	
Checked by	Checker	
		Scale 1/4" = 1'-0"

BLOOMINGTON BOARD OF ZONING APPEALS
STAFF REPORT
LOCATION: 1300 S. Lincoln St.

CASE #: UV-26-19
DATE: August 22, 2019

PETITIONERS: **Kimberly Carballo**
 1300 S. Lincoln St., Bloomington, IN

REQUEST: The petitioner is requesting a variance to allow the raising of goats on a single lot in the Residential Core (RC) district.

REPORT: The 5,227 square foot property is located at 1300 S. Lincoln St. The property is zoned Residential Core (RC) and has been developed with a one-story single family house, and a detached accessory structure. The surrounding properties to the north, south, east, and west are also zoned RC, and have been developed with single family houses. The property fronts on S. Lincoln St. to the east and E. Driscoll St. to the north. As 1300 S. Lincoln has fronts along the north and east property line, the south and west property lines are considered side property lines.

The Unified Development Ordinance (UDO) defines the keeping of livestock other than chicken flocks as the use 'crops and pasturage'. 'Crops and pasturage' is not an approved use in the RC zoning district. 'Crops and pasturage' is only an approved use with special conditions in the Residential Estate (RE) district. Per 20.05.091, livestock shall be permitted only in a pasturage context. Pasture use shall be limited to one animal unit per acre of land actually used as pasture and accessible to the livestock. Goats equal 0.5 animal units, per the UDO. If 2 goats were kept in the RE zoning district, they would require a total of one acre of dedicated pasturage to meet UDO requirements. Eligible RE lots are required to be no less than 5 acres, and structures containing livestock or livestock waste must be setback a minimum of 75' from the front property line, and 50' from side property lines.

The petitioner currently has 2 goats on the property and are proposing to continue keeping a maximum of 2 goats there. The petitioner has converted a majority of their backyard into an area for the goats. The backyard has a fence around the entire perimeter. An existing accessory structure, along the west property line, acts as shelter for the goats.

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 that there is a negative impact on the public health and safety of the community. Close proximity to animal waste is a potential health risk to surrounding residents. RE district properties on which the UDO permits the raising of livestock are required to be no less than 5 acres, with dedicated pasturage area which would be a minimum of 1 acre for two goats. 1300 S. Lincoln St. is significantly smaller than that at only .12 acres. The health and safety of livestock on such a small parcel is also a concern. Additionally, structures containing livestock and livestock waste must be setback 75' from the front property line, and 50' from the side property line in the RE scenario. The current accessory structure which is used to keep live stock at 1300 S. Lincoln is setback 0' from the west side property line, 14' from the south side property line, and 5' from the north front property line. The size of the property does not adequately allow for livestock and livestock waste to be located safely away from surrounding residents.

- (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 adverse impacts associated with the proposed use variance. The sights, sounds, and smells of livestock are not customary in a small lot, urban, residential neighborhood. These nuisances could contribute to a loss in the value of adjacent properties.

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

Proposed Finding: The Department finds no peculiar condition to the property which would cause the need for this variance. The property was developed with a single family residence which is the intended use in the RC district. The yard, and primary structure were developed with single family residence activities in mind and can easily support those activities.

- (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 that strict application of the terms of the UDO will not constitute an unnecessary hardship if applied to the property. The size of the property is not sufficient for safely raising livestock, according to the UDO. Parcels within the RC district were not intended to host livestock and this parcel could easily continue a single family residential use.

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

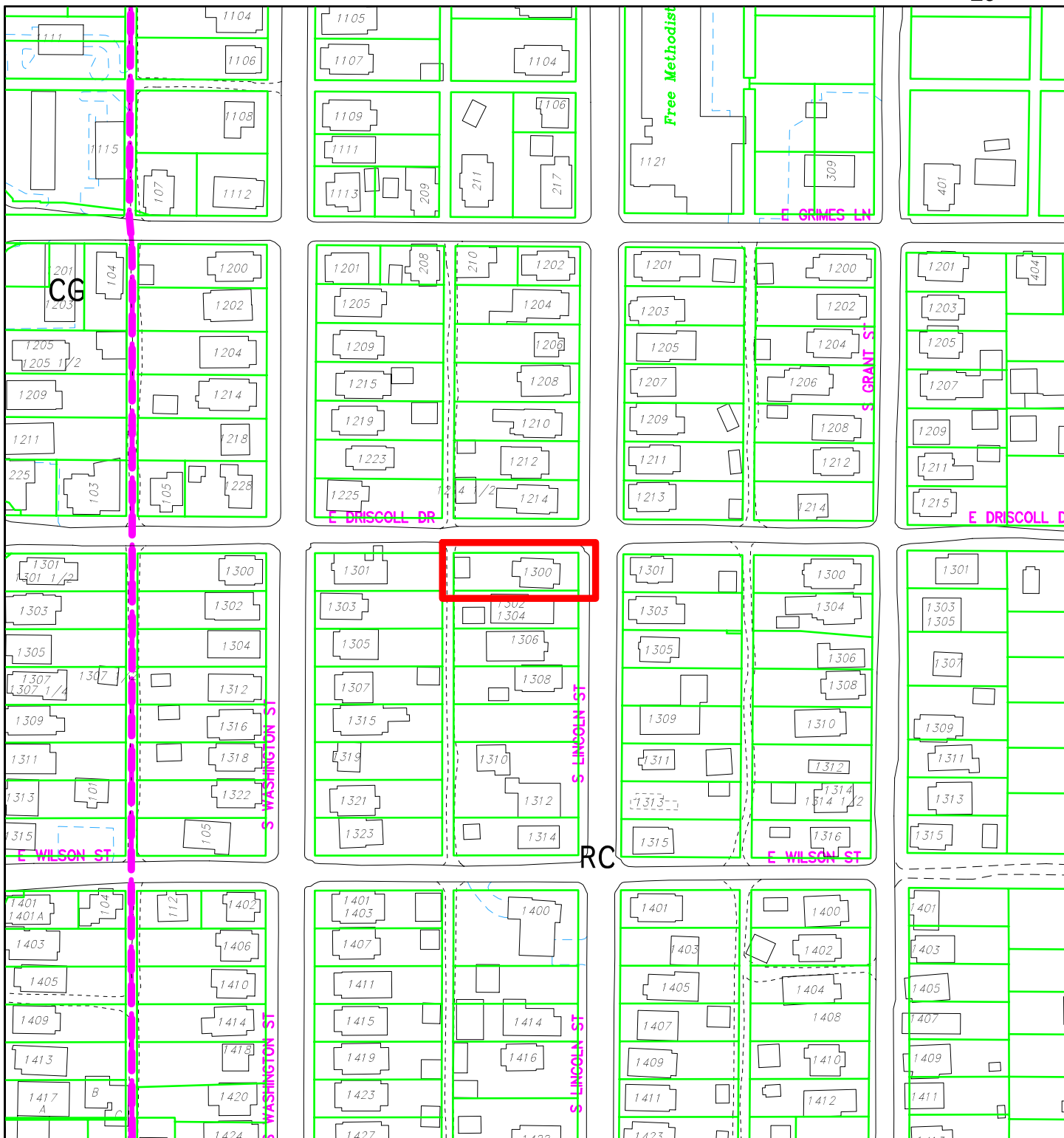
Proposed Finding: The Department finds that this proposal meets some of the goals and policies of the Comprehensive Plan. The Comprehensive Plan states that

urban agriculture should be supported and that local food processing should be facilitated and not hindered by local regulations.

The Comprehensive Plan also calls for the assessment and possible creation of permitted urban agricultural uses within nonagricultural zoning districts. This petition would allow for an urban agricultural use within a nonagricultural zoned district. The Comprehensive Plan identifies this property as Mixed Urban Residential.

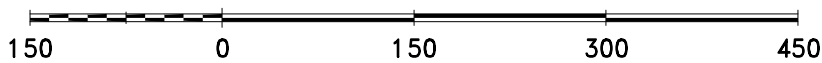
In addition, Policy 3.8 in the Comprehensive Plan gives guidance to “Promote and protect local food culture and Bloomington’s food system.” This petition will promote Bloomington’s local food system, as goats are capable of producing fertilizer for other agricultural uses, and milk for human consumption.

RECOMMENDATION: Based upon the written findings above, The Department recommends adoption of the proposed findings and denial of V-26-19.



UV-26-19 Kimberly Carballo
 1300 S. Lincoln St.
 Board of Zoning Appeals
 Site Location, Zoning, Parcels

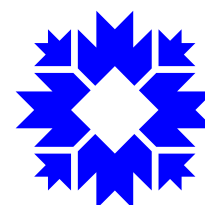
By: roblingr
 16 Aug 19



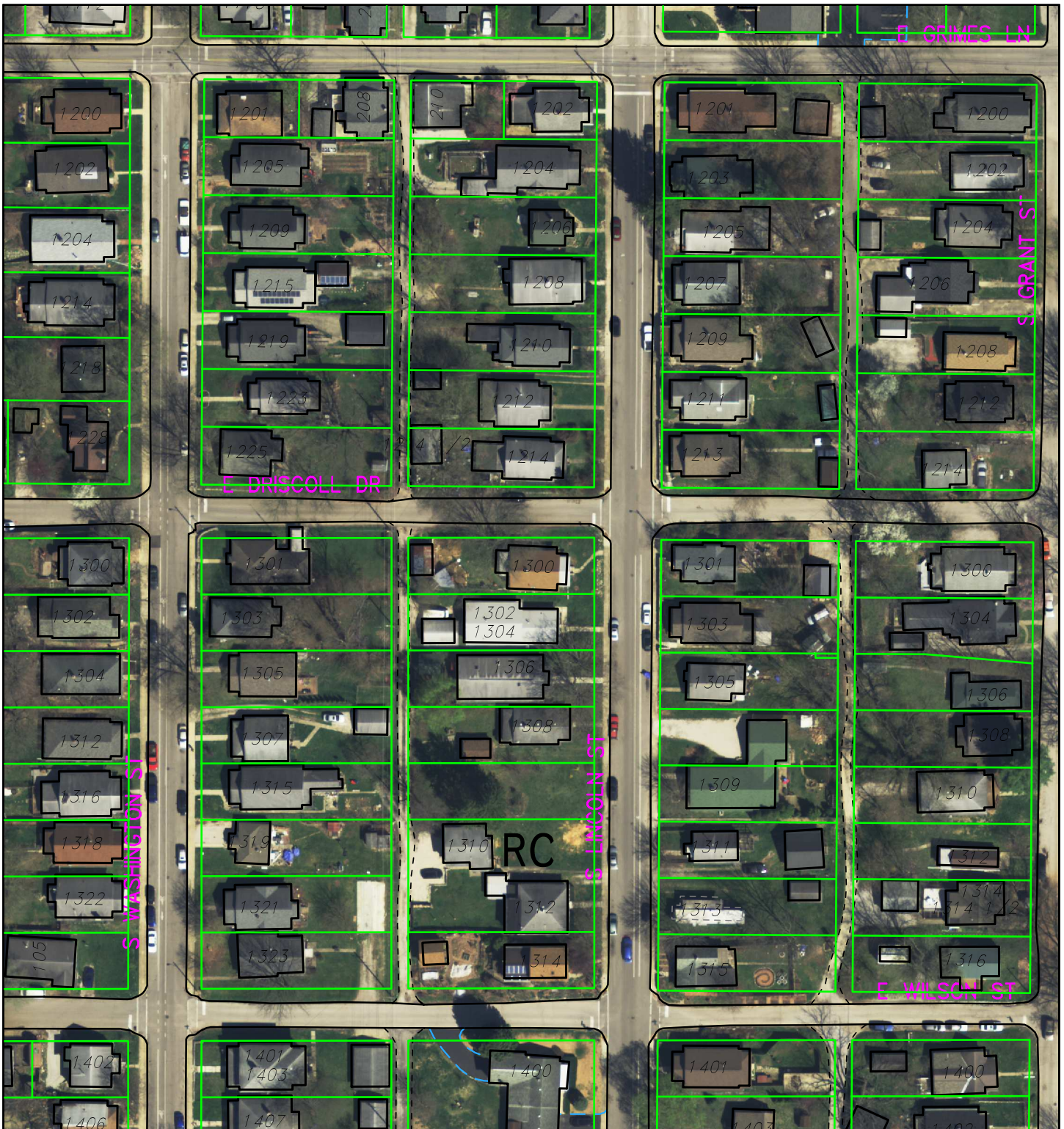
For reference only; map information NOT warranted.



City of Bloomington



Scale: 1" = 150'



V-26-19 Kimberly Carballo

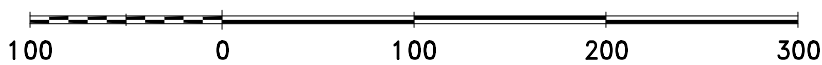
1300 S. Lincoln St.

Board of Zoning Appeals

2016 Aerial

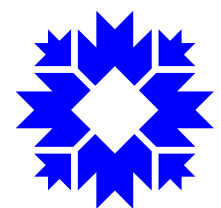
By: roblingr

16 Aug 19



For reference only; map information NOT warranted.

City of Bloomington



Scale: 1" = 100'

Kimberly Carballo
1300 S Lincoln St
Bloomington, IN 47401
812.345.3743

Petitioner's statement for request to the Board of Zoning Appeals
16 July 2019

I am requesting a variance from the development standards of the UDO, to be allowed to keep two dwarf goats on my property at 1300 S Lincoln St. This request fulfills the three criteria for a variance allowance:

1. "It will not be injurious to the public health, safety, morals, and general welfare of the community." These are dwarf goats, not full-size. They actually are a point of bonding (general welfare) for the community, with many neighborhood individual members and families coming to visit them regularly. They also contribute to the morals and general welfare by being willing to eat food scraps from my house and anyone else who wants to take the trouble to bring them scraps, cutting down significantly on landfill use.
2. "The use and value of the area adjacent to the property will not be affected in a substantially adverse manner." The house directly next door to the south is a two-part rental, and is not affected at all by keeping animals. The house across the alley is long-term unoccupied and is not affected in any way by keeping animals. The neighbors to the south and north (those closest to the back yard) have submitted encouraging letters of support for keeping the goats.
3. "... the practical difficulties are peculiar to the property in question; that the Development Standards Variance will relieve the practical difficulties." The code outlines RE, but RC is not specifically addressed. Furthermore, a variance has already been issued to a neighbor across the alley for a potbelly pig, and the goats will be no more of a nuisance (and are much more community-building) than the pig.

The area for the outdoor goat run has a very sturdy 5'6" / 6' fence on the north side (on Driscoll) and a 4' metal fence on the south side. The goats do not jump these fences. They also have a large sheltered area: the entire garage at Driscoll and the alleyway is for their indoor shelter and feeding area. It is warm in the winter, and has an industrial strength fan for cooling in the summer. The straw used for bedding and waste collection is cleaned regularly, with the straw and waste used on gardens (mine and other people's). There is no additional construction, vehicular access, or drainage adaptations needed.

32

Driscoll St

E Driscoll St

E



S Lincoln St

Google

Marian M. Conaty
1305 S. Washington St
Bloomington, IN 47401
812-333-0786
mmconaty@yahoo.com

May 23, 2019

To whom it may concern,

Kim Carballo lives down the alley from me at 1300 S. Lincoln Street. In the time she's been there she has made numerous improvements to her land and house. In all respects, she has been an excellent neighbor.

I am aware that she has two goats living on her property. They are adorable. In no way do they bother me, or cause me any concern.

She has informed me that she will need a variance to keep the goats. I support her request for such a variance. She has proven herself to be a responsible and diligent animal owner and that she is fully capable of caring for her animals with no impact on her neighbors.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Marian M. Conaty', with a long horizontal flourish extending to the right.

Marian M. Conaty-

To whom it may concern,

We are Ashley and Mark Chilla and we live at 1201 S. Washington Street, one block away from Kim Carballo at 1300 South Lincoln St. This letter is in support of keeping the goats at 1300 S. Lincoln St.

Not only are the goats unobtrusive, but they are also part of the fabric of our neighborhood community. At least twice a day, we walk our dog Pete by Oreo and Snickerdoodle and greet them on our walk. Pete is particularly fond of Oreo. Part of what makes Bryan Park so special is that you can go by certain houses and see lovely flowers, trees, cats, dogs, and even chickens or goats. It adds to the unique character of the neighborhood.

We feel that our neighborhood is made better by their presence, and we feel it would be a detriment to the area to not have them as part of our community.

Thank you so much for your time,
Ashley and Mark

Subject: Goats

Date: Monday, May 27, 2019 at 3:37:47 PM Eastern Daylight Time

From: Steph Estell

To: kscarballo@gmail.com

Dear Kim Carballo,

I am your neighbor at 1204 S. Washington St. I support your keeping of Oreo and Gingersnap, our neighborhood goats.

Thank for adding to the biodiversity in our world.

Sincerely,
Stephanie Estell

Sent from my iPhone

Subject: Goats in the neighborhood

Date: Sunday, May 26, 2019 at 10:39:29 PM Eastern Daylight Time

From: lynae.phillipsmitchell

To: kscarballo@gmail.com

To whom it may concern,

I'm writing this email in support of having the goats in my neighborhood. Our dogs love to visit them on our walks in the evenings and they are very sweet to pet.

They have been a great addition to our neighborhood.

Sincerely,

Lynae Mitchell

1200 S Palmer Ave

Bloomington Indiana

Sent from my Verizon, Samsung Galaxy smartphone

Subject: Goats

Date: Saturday, May 25, 2019 at 12:49:56 AM Eastern Daylight Time

From: haddie k

To: KS Carballo

To Whom It May Concern-

Kim Carballo and her two goats are my neighbors. My family and I live in a rental property nearby. Taking my son for walks, we became acquainted with our neighbor through curiosity and admiration of her backyard farm. For the last year and a half, Kim has generously invited us to bring our compost to her goats. The compost feeds her goats, reduces our waste, and gives both my child and myself exposure to animals and their keeping we would not have otherwise. We consider ourselves profoundly lucky to live in close proximity to a talented and generous urban farmer, such as Ms. Carballo. Being near her goats has allowed us to reduce our waste, learn new skills (goat milking, goat petting, goat feeding), and create closer connections to our neighbors. Just this week, my usually timid son fed her goats some alfalfa treats from the palm of his little toddler hand. He was thrilled, and Kim and I shared in his pride. We sincerely hope her goats will remain our neighbors.

Sincerely,

Haddie Katz

--

Haddie Katz, CPM

May 23, 2019

To Whom it May Concern--

My name is Mike Voyles, and I am writing this letter of support for Kim Carballo and her two goats, Oreo and Ginger Snap.

I have lived with my family in the Bryan Park neighborhood since 2005 and consider Kim and her goats to be one of the highlights of being a part of this neighborhood. When family and friends visit from out of town, we routinely make a point of taking them to meet the goats. Oreo and Ginger Snap are natural ambassadors of this town: eclectic but humble, local yet global. These visitors always leave with a greater appreciation for Bloomington's distinct character.

Additionally, I consider myself lucky to be one of the individuals Kim trusts to care for Oreo and Ginger Snap when she's out of town. Milking and feeding the goats daily is a rare and welcome task that I've been able to share with my two young children. They assist in the routines and are able to be part of this basic human and animal connection that few children outside of a farm have the chance to experience.

My hope is that Oreo and Ginger Snap can continue to be part of this diverse community in the Bryan Park neighborhood. Thank you for your consideration.

--Mike Voyles

May 24, 2019

To whom it may concern:

I am the current tenant at 1304 S. Lincoln St. I have lived here for 3 years and the entire time the goats have been next door. I am not bothered by them - they are quiet and seem to be well taken care of. I do not think they are of any nuisance to the neighborhood, and I am fine with them being present.

Sincerely,

Abby Kimitt

31 May 2019

To whom it may concern,

I live across Driscoll Street from Kim Carballo's backyard where her goats reside. My front door is approximately 50 feet or less from their pen and sleeping quarters.

If anyone were to have a problem with the goats being there it would be me, but I don't. It's a pleasure having them as neighbors. 95% of the time I am not even aware that they're there. I like interacting with them and watching others enjoy meeting them.

I urge you to allow their continued presence in our neighborhood. Thank you for your time.

Sincerely,

Richard A. Serpa

A handwritten signature in black ink, appearing to read "Richard A. Serpa", with a long, sweeping underline that extends to the right.

1214 ½ S. Lincoln Street

Bloomington, IN 47401

812-272-0852

rserpa311@gmail.com

May 27, 2019

To Whom It May Concern:

I have been the next door neighbor to Kim for the past two years, and believe she is an excellent and responsible steward of her land and animals. She takes great care of her property and her animals have never inconvenienced me or others.

Please contact me for any further questions.

Best,

Lienne Sethna

Lienne Sethna
1302 S. Lincoln St.
Bloomington, IN 47401

LSETHNA@GMAIL.COM



Ryan Robling <roblingr@bloomington.in.gov>

Neighbor, Kim Carballo's, request for goat approval

Jim Gronquist <jgronquist@gmail.com>
To: roblingr@bloomington.in.gov

Mon, Jul 22, 2019 at 11:28 AM

Dear Planning:

My neighbor, Kim Carballo, very responsibly keeps (2) goats at her home on S. Lincoln. She pursues this activity in a manner that respects her neighbor's needs and definitely adds to our neighborhood.

Best,

Jim Gronquist
Neighbor
1414 S. Lincoln St.
812 219 0135



Ryan Robling <robtingr@bloomington.in.gov>

FW: Support variance for goats

1 message

Carballo, Kimberly Sue Laura <kscarballo@gmail.com>
To: robtingr@bloomington.in.gov

Sat, Jul 27, 2019 at 8:58 PM

Hi Ryan,

Here's a support letter (I'm not sure if I sent it before or not).

Thanks,

Kim

From: Jenny Bauer <jenny.bauer65@gmail.com>
Date: Monday, June 10, 2019 at 11:58 AM
To: K Carballo <kscarballo@gmail.com>
Subject: Support variance for goats

To Whom It May Concern:

I am a neighbor of Kim Carballo's at 1223 S. Washington Street. I fully support Kim's application for a variance to have backyard goats.

Thanks for your consideration.

Jenny Bauer



Ryan Robling <roblingr@bloomington.in.gov>

FW: The goats

1 message

Carballo, Kimberly Sue Laura <kscarballo@gmail.com>
To: "roblingr@bloomington.in.gov" <roblingr@bloomington.in.gov>

Sat, Jul 27, 2019 at 11:49 PM

Hi Ryan,

Here's another one.

Thanks,

Kim

To whom it may concern,

We are Ashley and Mark Chilla and we live at 1201 S. Washington Street, one block away from Kim Carballo at 1300 South Lincoln St. This letter is in support of keeping the goats at 1300 S. Lincoln St.

Not only are the goats unobtrusive, but they are also part of the fabric of our neighborhood community. At least twice a day, we walk our dog Pete by Oreo and Ginger Snap and greet them on our walk. Pete is particularly fond of Oreo. Part of what makes Bryan Park so special is that you can go by certain houses and see lovely flowers, trees, cats, dogs, and even chickens or goats. It adds to the unique character of the neighborhood.

We feel that our neighborhood is made better by their presence, and we feel it would be a detriment to the area to not have them as part of our community.

Thank you so much for your time,
Ashley and Mark



Ryan Robling <roblingr@bloomington.in.gov>

FW: Goats

1 message

Carballo, Kimberly Sue Laura <kscarballo@gmail.com>
To: "roblingr@bloomington.in.gov" <roblingr@bloomington.in.gov>

Sat, Jul 27, 2019 at 11:59 PM

One more!

KC

On 5/27/19, 3:37 PM, "Steph Estell" <steph.stell@gmail.com> wrote:

Dear Kim Carballo,

I am your neighbor at 1204 S. Washington St. I support your keeping of Oreo and Gingersnap, our neighborhood goats.

Thank for adding to the biodiversity in our world.

Sincerely,
Stephanie Estell

Sent from my iPhone



Ryan Robling <roblingr@bloomington.in.gov>

FW: Goats in the neighborhood

1 message

Carballo, Kimberly Sue Laura <kscarballo@gmail.com>
To: "roblingr@bloomington.in.gov" <roblingr@bloomington.in.gov>

Sun, Jul 28, 2019 at 12:00 AM

To whom it may concern,

I'm writing this email in support of having the goats in my neighborhood. Our dogs love to visit them on our walks in the evenings and they are very sweet to pet.

They have been a great addition to our neighborhood.

Sincerely,

Lynae Mitchell

[1200 S Palmer Ave](#)

[Bloomington Indiana](#)

Sent from my Verizon, Samsung Galaxy smartphone



Ryan Robling <roblingr@bloomington.in.gov>

FW: Goats

1 message

Carballo, Kimberly Sue Laura <kscarballo@gmail.com>
To: "roblingr@bloomington.in.gov" <roblingr@bloomington.in.gov>

Sun, Jul 28, 2019 at 12:02 AM

To Whom It May Concern-

Kim Carballo and her two goats are my neighbors. My family and I live in a rental property nearby. Taking my son for walks, we became acquainted with our neighbor through curiosity and admiration of her backyard farm. For the last year and a half, Kim has generously invited us to bring our compost to her goats. The compost feeds her goats, reduces our waste, and gives both my child and myself exposure to animals and their keeping we would not have otherwise. We consider ourselves profoundly lucky to live in close proximity to a talented and generous urban farmer, such as Ms. Carballo. Being near her goats has allowed us to reduce our waste, learn new skills (goat milking, goat petting, goat feeding), and create closer connections to our neighbors. Just this week, my usually timid son fed her goats some alfalfa treats from the palm of his little toddler hand. He was thrilled, and Kim and I shared in his pride.

We sincerely hope her goats will remain our neighbors.

Sincerely,

Haddie Katz

--

Haddie Katz, CPM

May 23, 2019

To Whom it May Concern--

My name is Mike Voyles, and I am writing this letter of support for Kim Carballo and her two goats, Oreo and Ginger Snap.

I have lived with my family in the Bryan Park neighborhood since 2005 and consider Kim and her goats to be one of the highlights of being a part of this neighborhood. When family and friends visit from out of town, we routinely make a point of taking them to meet the goats. Oreo and Ginger Snap are natural ambassadors of this town: eclectic but humble, local yet global. These visitors always leave with a greater appreciation for Bloomington's distinct character.

Additionally, I consider myself lucky to be one of the individuals Kim trusts to care for Oreo and Ginger Snap when she's out of town. Milking and feeding the goats daily is a rare and welcome task that I've been able to share with my two young children. They assist in the routines and are able to be part of this basic human and animal connection that few children outside of a farm have the chance to experience.

My hope is that Oreo and Ginger Snap can continue to be part of this diverse community in the Bryan Park neighborhood. Thank you for your consideration.

--Mike Voyles

BLOOMINGTON BOARD OF ZONING APPEALS
STAFF REPORT
LOCATION: 804 W. Howe St.

CASE #: V-28-19
DATE: August 22, 2019

PETITIONERS: **Zachary Thomas and Kelli Hostettler**
 804 W. Howe St., Bloomington, IN

REQUEST: The petitioners are requesting a variance to allow a fence in excess of the Unified Development Ordinance maximum height requirements.

REPORT: The 6,969 square foot property is located at 804 W. Howe St. The property is zoned Residential Core (RC) and has been developed with a single family residence. The property is located within the Greater Prospect Hill Historic District. The surrounding properties to the north, south, east, and west are also within the RC district and have been developed with single family residences. The property fronts on W. Howe St. to the south, S. Maple St. to the east, and W. Smith Ave. to the north.

On June 11, 2019, the Department's Zoning Compliance Planner issued a Notice of Violation to the property owners for a fence in excess of the maximum height requirements. The petitioner has constructed a fence which measures 72" in height.

The standards for maximum height of a fence for a corner lot in the UDO state "Fences and walls along the lot frontage of the secondary front building wall, shall not exceed four (4) feet forward of the build to line." S. Maple is the property's secondary front building wall, as the property's primary front is along W. Howe. The UDO establishes the build-to line in the RC district as 15 feet from the proposed right-of-way or the block face average whichever is less. 804 W. Howe St. is the only property on the block along S. Maple St., and as such sets the block face average. 804 W. Howe St. has been built 9' from the proposed right-of-way of S. Maple St., so any fence built between the house and the right-of-way can be a maximum of 4' in height. The fence has been constructed 4' from that proposed right-of-way.

The Department visited the site on June 11, 2019 and determined W. Smith Ave. is functionally an alley at this location, despite its classification as road. This determination was made in part because no structures front on that portion of Smith Ave., the street's narrow width, and the lack of sidewalk along W. Smith. Because of this determination the Department believes a 6' fence would be appropriate along that frontage in areas not between the house and Maple St.

CRITERIA AND FINDINGS FOR DEVELOPMENT STANDARDS VARIANCE

20.09.130 e) Standards for Granting Variances from Development Standards: A variance from the development standards of the Unified Development Ordinance may be approved only upon determination in writing that each of the following criteria is met:

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

PROPOSED FINDING: The Department finds that there is a negative impact on the public space of fences built too close to the public right-of-way, which the standard was designed to protect. A 6-foot tall privacy fence within the front yard at this location would adversely impact the streetscape by impacting the visibility and pedestrian comfort on this portion of the road. There are existing sidewalks along both S. Maple, and W. Howe. The height of the fence would likely have a negative impact on the comfort level of pedestrians, primarily along S. Maple.

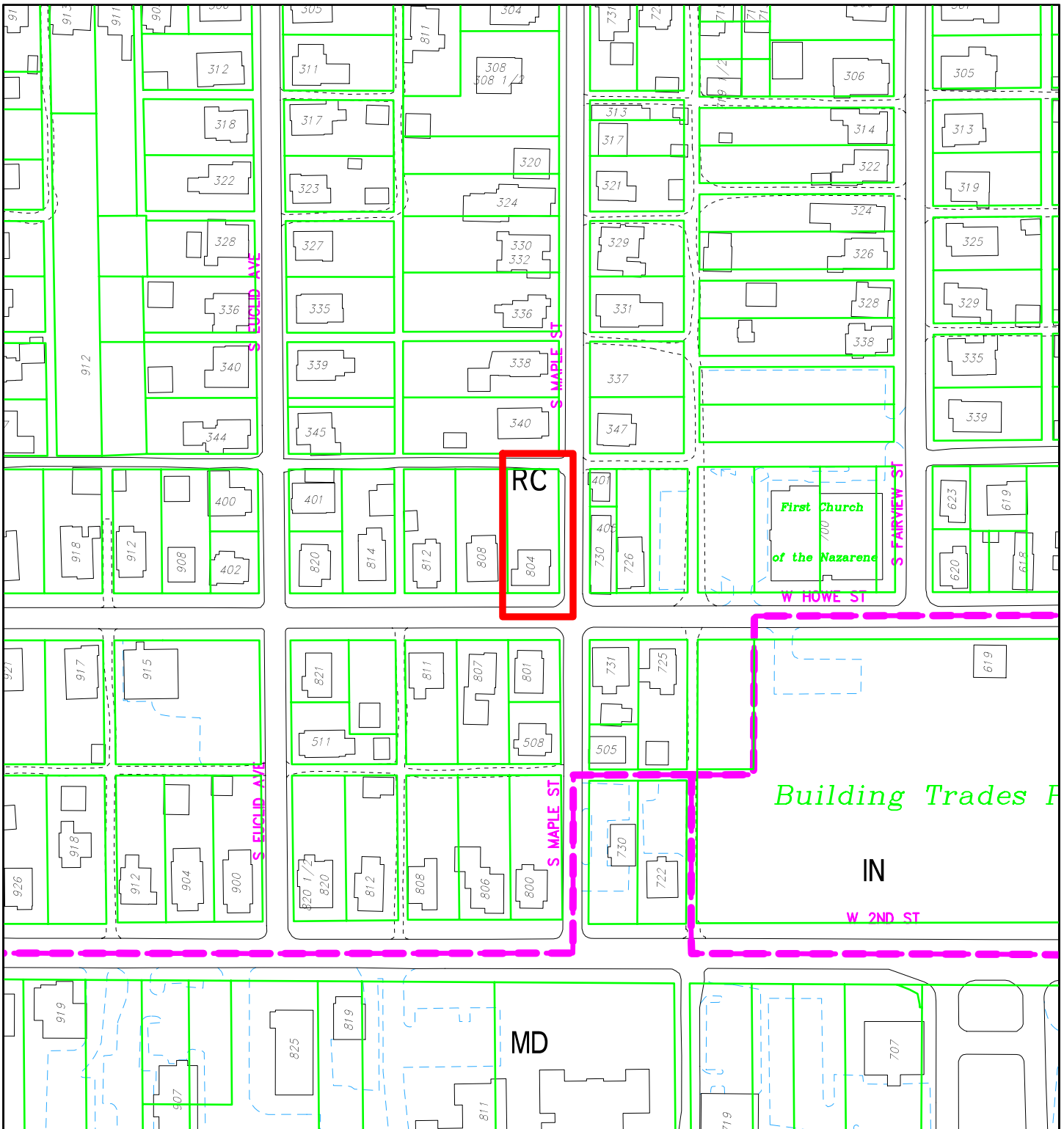
- 2) *The use and value of the area adjacent to the property included in the Development Standards Variance will not be affected in a substantially adverse manner.*

PROPOSED FINDING: The Department finds no known adverse impacts to the use and value of the surrounding area associated with the proposed variance. The Department has also received a letter of support from the Prospect Hill Neighborhood Association.

- 3) *The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property; that the practical difficulties are peculiar to the property in question; that the Development Standards Variance will relieve the practical difficulties.*

PROPOSED FINDING: The Department has found no peculiar conditions on this property to warrant the required variance for the Maple St. frontage. The property is on a corner lot and therefore has multiple front building walls. Being on a corner lot is not a peculiar condition as there are many corner lots throughout the city which face the same standards. However, three front yards is far less common, particularly with the third frontage functioning as an alley. The Department finds peculiar condition with front yards on three sides, The UDO does not prohibit a fence in this location, and only limits the maximum height to 4'.

RECOMMENDATION: Based upon the written findings above, The Department recommends adoption of the proposed findings and deny V-28-19.



V-28-19 Zachary Thomas and Kelli Hostettler

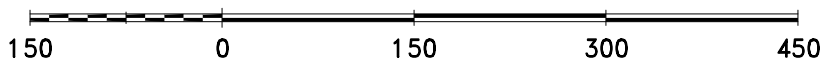
804 W. Howe St.

Board of Zoning Appeals

Location, Zoning, Parcels

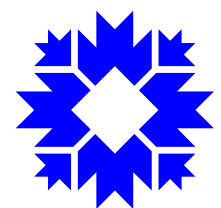
By: roblinger

16 Aug 19

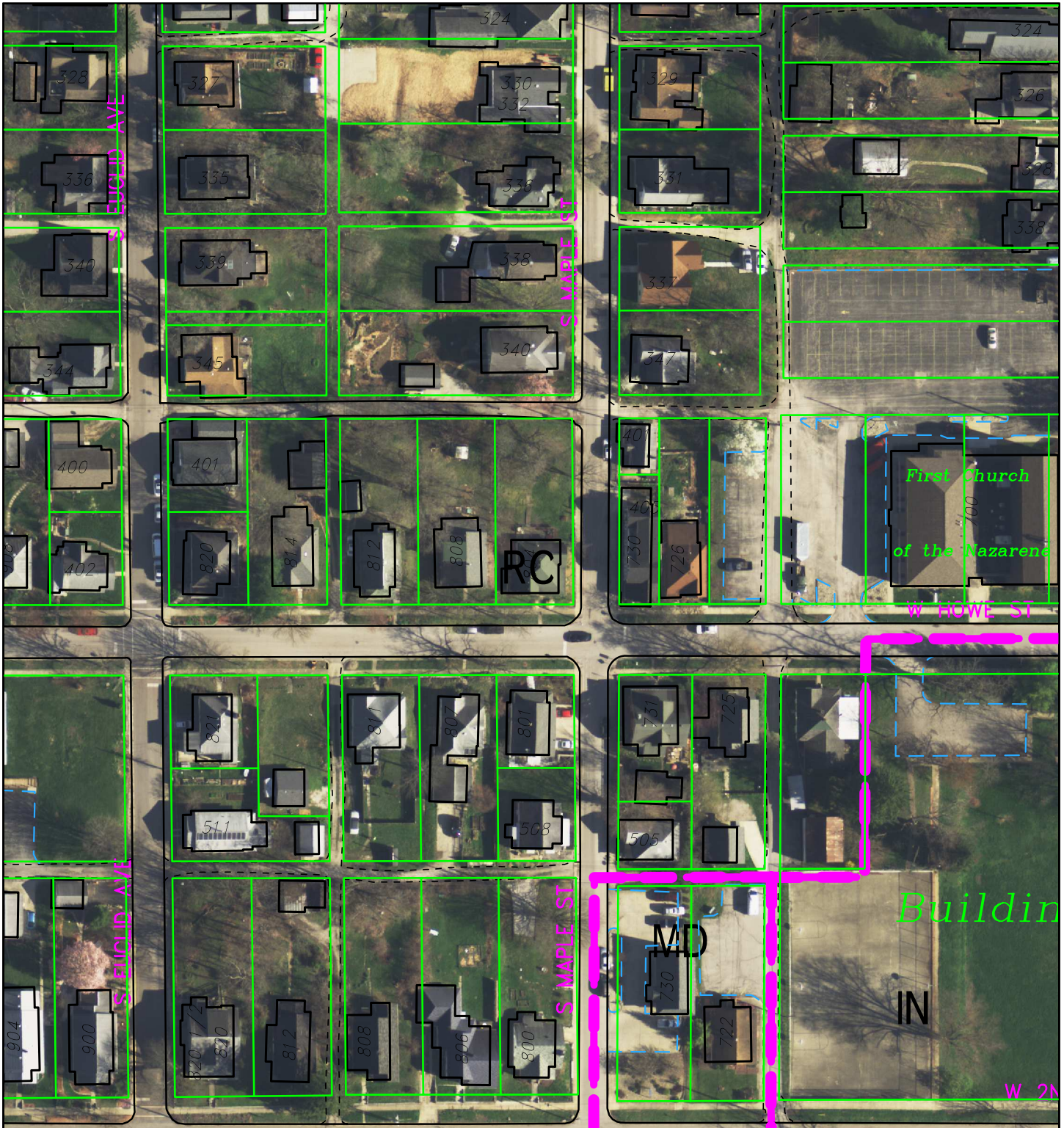


For reference only; map information NOT warranted.

City of Bloomington



Scale: 1" = 150'



V-28-19 Zachary Thomas and Kelli Hostettler

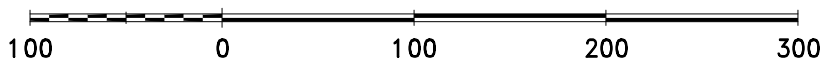
804 W. Howe St.

Board of Zoning Appeals

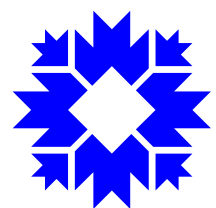
2016 Aerial Photo

By: roblingr

16 Aug 19



City of Bloomington



Scale: 1" = 100'

For reference only; map information NOT warranted.

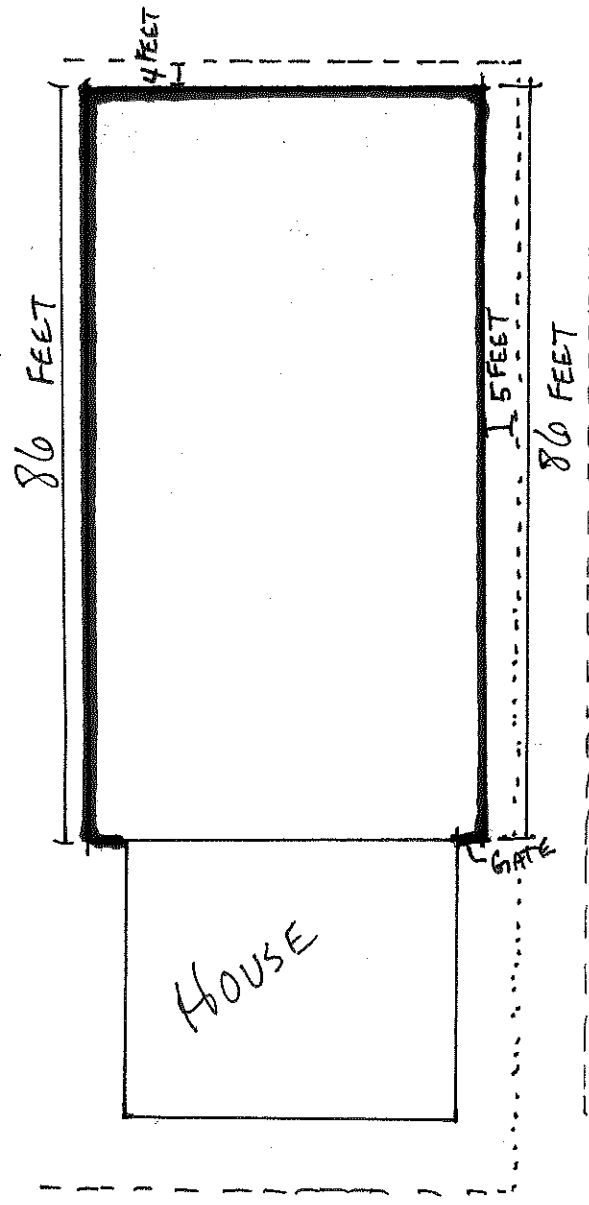
Petitioner's Statement
Zachary Thomas & Kelli Hostettler
July 2019

804 W Howe St. Fence

We purchased 804 W Howe Street in May of this year and were very excited to make the home our own by fencing in the backyard so we could enjoy the yard with our two large dogs. We decided on a 6-foot fence because it is tall enough to keep our dogs in the yard and safe. The fence was placed where it was free of obstacles and where it maximized the usable space in the yard. We are applying for a variance to keep our fence that runs along Maple Street at 6 feet tall for the following reasons:

- 1) If we make the section of fence along Maple Street 4 feet tall, it is not tall enough for our large, athletic dogs.
- 2) If we move the fence inwards 5 feet to comply with the UDO, we will be sacrificing a significant portion of usable space in our yard.
- 3) The fence, as is, does not pose any public safety risk as it does not block the visual triangle at Maple and Smith.
- 4) The fence does not affect the use or value of neighboring properties.
- 5) Moving the fence inward will not change the appearance of the fence, as our yard is sloped, and because moving it to the build-to line would permit us to build it to 8 feet.
- 6) If we want the 6-foot fence that we deem necessary for our animals, we will have to sacrifice a significant portion of usable yard space, solely because we are on a corner lot.

SMITH (ALLEY)



Maple St
 S Maple St
 S Maple St
 S Maple St

ALONG MAPLE:
 86' OF FENCE
 5' FROM SIDEWALK
 5' FROM BUILD LINE

W Howe St

W I



Ryan Robling <roblingr@bloomington.in.gov>

BZA Case V-28-19; 804 W Howe St

Murray, Patrick Joseph <pmurray@indiana.edu>

Mon, Aug 12, 2019 at 2:47 PM

To: "roblingr@bloomington.in.gov" <roblingr@bloomington.in.gov>

Cc: Zachary Thomas <zsthomas93@gmail.com>, "kelhoste@gmail.com" <kelhoste@gmail.com>

Dear Ryan Robling,

Last monday August 5, the Prospect Hill Neighborhood Association heard a request from Zachry Thomas and Kelli Hostettler about their request for a fence variance at their home at 804 W. Howe St.

The neighborhood approved a recommendation to keep the fence at its current location and to lower the solid portion to four feet and use two feet of lattice or similar material up to the six foot level.

The portion of the August 5 minutes pertaining to this case are attached below for your information.

Please let me know if you have any questions.

Patrick Murray,

PHNA Secretary

Request for Variance 804 W Howe. A new fence was constructed for the homeowners Zachary Thomas and Kelli Hostettler. Planning informed them that it does not meet code. At 6 feet, it is too tall at its current location on the Maple Street side of their property. It must be moved away from the property line or lowered in height. They have been summoned to appear before the BZA August 22 to ask for a variance to maintain height and location. They were apologetic that neither they or their contractor was aware of the building code. They said it would be a large added expense to move the fence away from the side walk and it would make their back yard too small. They said they offered to lower the fence in place with a trellis or similar above that to the six-foot line. They worry their dogs (German Shepherds) would be barking all the time as they could see people walking by all the time. They said Planning staff would not approve that scenario. It would need to go to the BZA for a board decision.

After much discussion of options, a motion was made by Chris Sturbaum to support allowing the fence to remain in its current location with a modification by lowering the solid fence to four feet above grade with two feet of open lattice above that. The motion was seconded by Richard Lewis. The vote passed with a majority voice vote with no objections and three abstentions. The secretary will inform Planning of the neighborhood recommendation. The petitioners asked if the neighborhood could send a representative to the BZA meeting, 5:30 pm August 22 at the Utility offices, [600 E. Miller Drive](#).



City of Bloomington
Planning and Transportation Department

June 11, 2019

Kelli Hostettler and Zachary Thomas
 804 W. Howe Street
 Bloomington, IN 47403

Re: **Notice of Violation (warning)**
 Development Standards - 804 W. Howe Street

Dear Sir or Madam:

This Notice of Violation (NOV) serves as a formal warning of non-compliance with Unified Development Ordinance (UDO) Section 20.05.046 FW-01 [Fence and Wall Standards; General] at 804 W. Howe Street. Records show that you are the owner of this property.

The City of Bloomington Planning and Transportation Department received a complaint of a fence and wall standards violation at 804 W. Howe Street on 05/30/2019. On 06/05/2019 staff observed a fence with a height of 6 feet at 804 W. Howe Street. Because your house is the only house on your block (on Maple between Howe and Smith), the build to line for your property is the line established by the easternmost wall of your house.

According to Bloomington Municipal Code **Section 20.05.046(d)(2)(D) - FW-01 [Fence and wall standards—General];**

(d) Maximum Height.

(2) Corner Lots: On corner lots where the structure has two front building walls, one frontage shall be considered a secondary front building wall.

- (A) Fences and walls forward of the front building wall shall abide by 20.05.046(d)(1).
- (B) Fences and walls along the lot frontage of the secondary front building wall, shall not exceed four (4) feet forward of the build to line or the building setback line, whichever applies.
- (C) Behind the build to line or front building setback line, on the secondary front building wall, fences and walls shall not exceed eight (8) feet in height.
- (D) The portion of fences up to and between the build to line/building setback line and the secondary front building wall which exceed five (5) feet in height, shall, by use of voids and solids via latticework or other similar techniques, be of open construction. This portion of the fence shall be constructed of materials widely accepted in the fence industry for permanent open-topped fencing.
- (E) Any determinations as to the secondary front building wall shall be decided by the Planning and Transportation Director.

In accordance with UDO Section 20.10, a violation of this nature may result in a one hundred dollar (\$100) fine. Each day a violation is allowed to continue is considered a distinct and separate

violation. Subsequent violations are twice the previous fine, up to a maximum daily fine of seven thousand five hundred dollars (\$7,500).

No fines have been issued at this time. You have the following options to remedy the situation.

1. Remove fence in excess of 4 feet in height along W. Howe and S. Maple by 06/25/2019,
OR;
2. Make an appointment with a Planner to discuss filing a variance request. The appointment must be on or before 07/18/2019 for the 08/22/2019 Board of Zoning Appeals hearing.
Based on the information we have at this time, the Department would not recommend approval of a variance to the Board.

If you dispute the City's assertion that the property is in violation of the above referenced sections of the Unified Development Ordinance, you may file an appeal with the City's Board of Zoning Appeals. Said appeal shall be filed with the Planning and Transportation Department within five (5) days of your receipt of this Notice of Violation and shall conform to the requirements of UDO Section 20.09.350.

Failure to resolve this violation may result in further enforcement action. If a fine is issued, the final fine amount shall be paid to the City of Bloomington. All fines may be contested in the Monroe County Circuit Courts.

Please contact the Planning and Transportation Department at planning@bloomington.in.gov or 812-349-3423 with any questions or concerns.

Sincerely,



Terri Porter, AICP
Director, Planning and Transportation

CC: Scott Robinson, AICP
Jackie Scanlan, AICP

BLOOMINGTON BOARD OF ZONING APPEALS**LOCATION: 1300 & 1400 S. Patterson Dr.****CASE #: V-30-19****DATE: August 22, 2019**

PETITIONER: Catalent Indiana, LLC
1300 S. Patterson Dr, Bloomington

CONSULTANT: Bledsoe, Riggert, Cooper and James
1351 W. Tapp Road, Bloomington

REQUEST: The petitioner is requesting a variance from riparian buffer yard setback standards to allow the relocation of an existing access drive.

REPORT: The property is located at 1300 S. Patterson Drive and is located on Tract B within the Thomson Area PUD. The property has been developed with 2 large buildings that were constructed as part of the Thomson/RCA manufacturing plant that was the former use on this site and were subsequently re-used by Cook Pharmica when they moved into the property in the early 2000's to now Catalent. Surrounding land uses include a concrete production facility to the south, office uses to the east, an industrial warehouse to the west, and a mix of single and multi-family residences to the north.

The petitioner is proposing a large remodeling project to the existing southern building and will be installing new cooling towers on the south side of the building. There is an access drive that runs along the entire south side of the building that was installed when the railroad tracks were removed that previously served a loading bay on the south side of the building. As part of the installation of the new cooling towers, an approximately 200' long section of the existing access drive needs to be relocated further south. Although there are future site improvements that might require other variances, this approval is for this scope of work only. The access drive is relocated approximately 65' from the top of bank of an adjacent creek to the south and is currently in the riparian buffer. Since the access drive is proposed to be relocated closer to the creek, a variance from the riparian buffer standards is required since the drive will be within the required 75' buffer from the creek.

The petitioner is requesting a variance from the required 75' riparian buffer standards to allow for the existing access drive to be relocated south to be approximately 40' from the top of bank.

CRITERIA AND FINDINGS FOR DEVELOPMENT STANDARDS VARIANCE

20.09.130 e) Standards for Granting Variances from Development Standards: A variance from the development standards of the Unified Development Ordinance may be approved only upon determination in writing that each of the following criteria is met:

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

PROPOSED FINDING: No injury is found with this petition. The area that the road is proposed to be relocated to was previously disturbed with previous development. No

trees or vegetation, other than existing turf grass, will be removed with this proposal. No adjacent properties will be effected by this encroachment.

- 2) *The use and value of the area adjacent to the property included in the Development Standards Variance will not be affected in a substantially adverse manner.*

PROPOSED FINDING: No negative effects from this proposal on the areas adjacent to the property are found. As stated previously, the encroachment will only effect this property. The area to be disturbed was previously used as a railroad spur and is not encumbered by vegetation or tree canopy.

- 3) *The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property; that the practical difficulties are peculiar to the property in question; that the Development Standards Variance will relieve the practical difficulties.*

PROPOSED FINDING: Practical difficulty is found in that the area of the access drive was previously heavily used and disturbed with a railroad spur. The relocation of the driveway will not require any substantial grading or disturbance. In addition, the Thomson PUD was approved prior to the current riparian buffer standards. The Thomson PUD only identified the West Branch of Clear Creek as a dominant stream through this area and required existing vegetated buffers to be preserved. The area of proposed disturbance is not vegetated and was previously developed for railroad traffic. Peculiar condition is found in the limited amount of area along this portion of the site and the previous level of disturbance combined with the existing warehouse location and required cooling tower location. The Thomson PUD anticipated development within existing disturbed areas. The proposed encroachment is not excessive and is in keeping with the development pattern within the PUD.

RECOMMENDATION: Based upon the written findings above, the Department recommends that the Board of Zoning Appeals adopt the proposed findings and recommends approval of V-30-19 with the following conditions:

1. This variance applies to the scope of work for this exact project as proposed only. Any subsequent encroachment would require a variance.
2. The petitioner shall continue to work with staff to come up with a proposed landscape mitigation plan.



**City of Bloomington
Environmental Commission**

MEMORANDUM

Date: August 22, 2019
To: Board of Zoning Appeals
From: Bloomington Environmental Commission
Subject: V-30-19 Catalent Biologics DP Expansion
1300 & 1400 South Patterson Drive

PURPOSE

The purpose of this memo is to express the environmental concerns and resulting recommendations of the Environmental Commission (EC). This Board of Zoning Appeals (BZA) case is a request for a variance from the Bloomington Municipal Code (BMC), to allow encroachment into the riparian buffer, which is prohibited in the Unified Development Ordinance (UDO).

RECOMMENDATION

The EC recommends that the BZA deny the requested variance.

REASONS and ISSUES

1. Insufficient water protection

The southern edge of the existing driveway is currently about 63 feet from the top of the waterway bank (the top of bank does vary somewhat). The southern edge of the building is about 90 feet from the top of bank; well out of the riparian buffer. UDO section 20.05.041 states that the buffer shall be measured from the top of the waterway bank perpendicularly outward. Therefore, the driveway already has encroached into what is now the riparian buffer.

If the driveway will encroach 35 feet into a buffer that is 75 feet wide, that amounts to 47%. The EC believes that is too much of a deviation from the vetted standards to retain water quality standards.

The plans that the EC received were somewhat illustrative and did not show the exact encroachment distance. The EC wants to ensure that if a variance is granted, the extent of the variance is defined. The exact footage of encroachment should be shown on a plan and the variance granted for only that distance and not a carte blanche variance to the regulation.

2. Redundant erosion control required

Because the riparian buffer is an environmentally sensitive area, redundant erosion control is required between any land disturbing activity and the remaining buffer.

3. Mitigation plan before doing the work

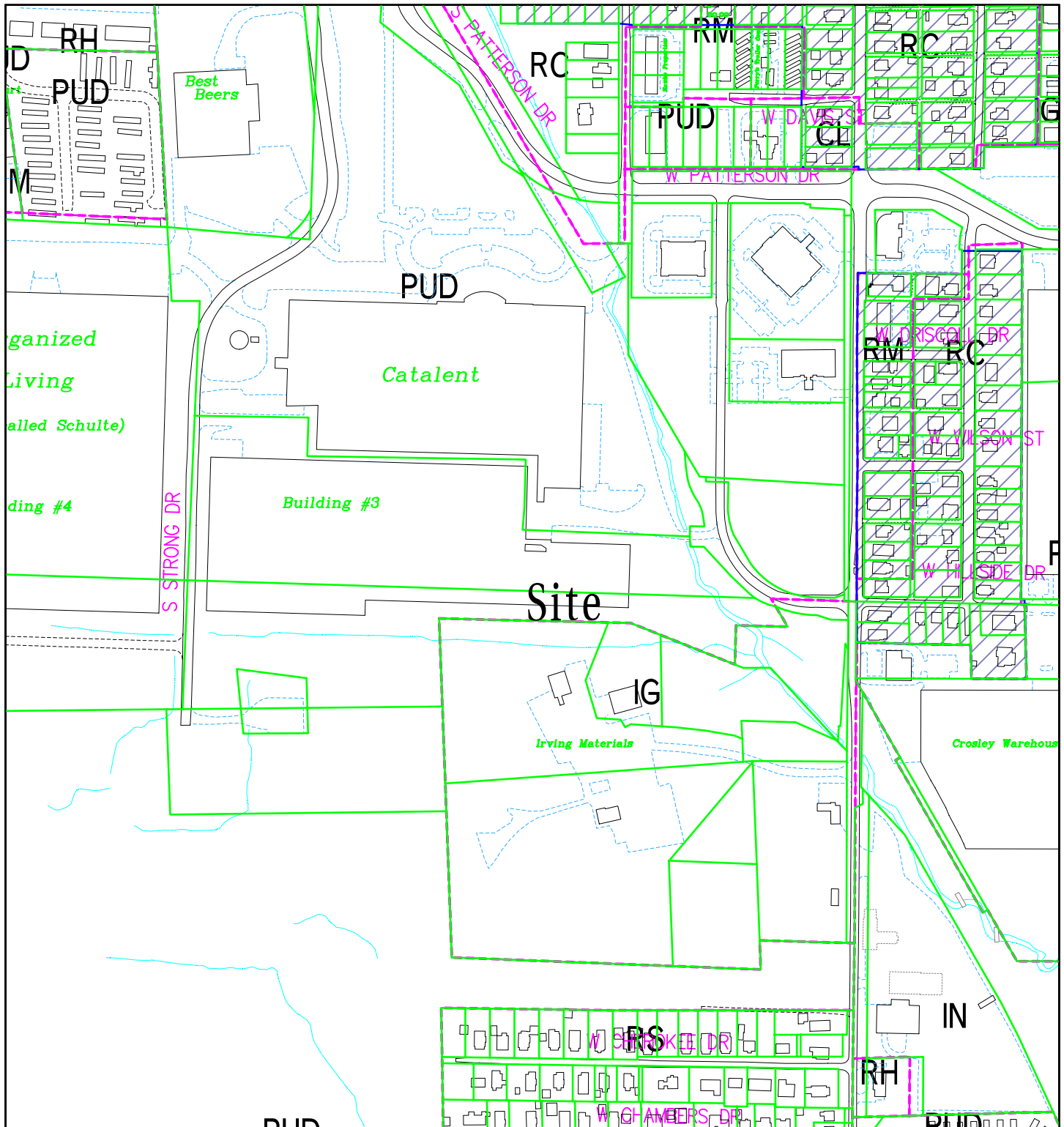
If the BZA is considering granting this variance, the EC believes that a mitigation plan should be developed and approved before the variance is approved. Granting approval prior to having all the parts of the project complete, is not recommended by the EC.

4. Alternative location for cooling towers

The EC would like the Petitioner to consider alternative locations for the cooling towers, such as the roof.

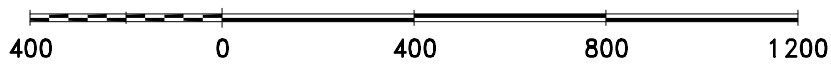
5. Create and record an easement

The riparian buffer will need to be placed in an environmental conservation easement as required in the UDO.

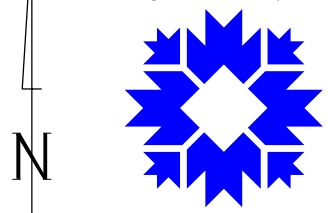


V-30-19 Catalent Indiana, LLC
 1300 S Patterson Drive
 Board of Zoning Appeals
 Site Location, Zoning, Parcels

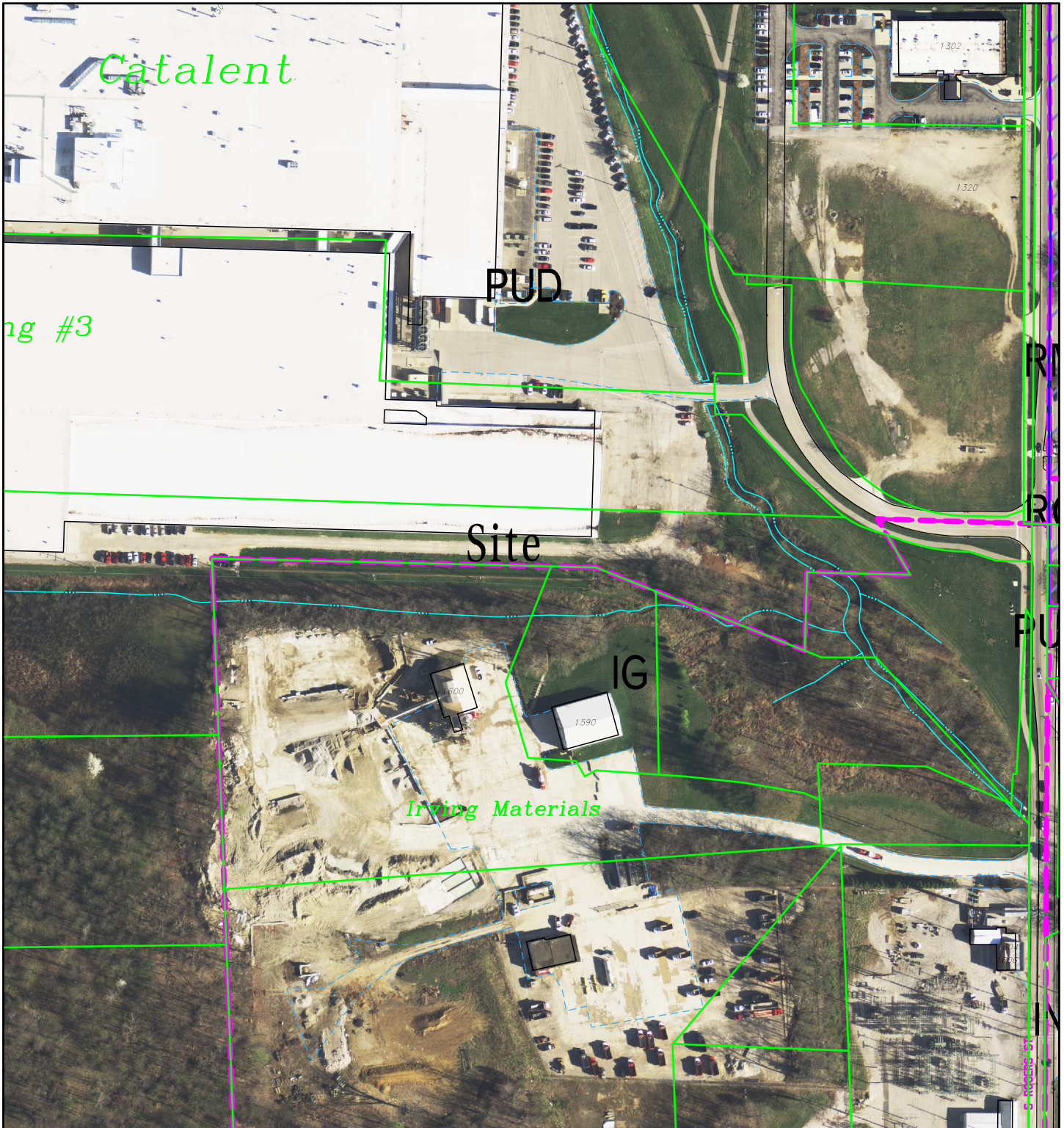
By: greulice
 16 Aug 19



City of Bloomington
 Planning & Transportation

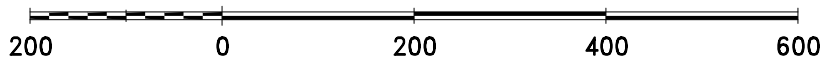


Scale: 1" = 400'



V-30-19 Catalent Indiana, LLC
 1300 S Patterson Drive
 Board of Zoning Appeals
 2016 Aerial Photograph

By: greulice
 16 Aug 19



City of Bloomington
 Planning & Transportation

Scale: 1" = 200'

For reference only; map information NOT warranted.

Bledsoe Riggert Cooper James

LAND SURVEYING • CIVIL ENGINEERING • GIS

August 1, 2019

City of Bloomington Board of Zoning Appeals
401 N. Morton Street
Bloomington, IN 47403

RE: City of Bloomington
Catalent DP Expansion, 1300 S. Paterson Drive
Variance from Environmental Standards

Dear BZA Members:

Catalent Biologics is in the process of replacing the east end of their south building from the ground up to create a new production facility. The building will remain the same position with a series of site improvements necessary to support their new operation. These improvements include a formal building entrance and parking area on the east side of the building; formalized parking along the north side of the building; and driveway modifications along the south side of the building.

On behalf of Catalent Biologics, we respectfully request your consideration of a variance from the Environmental Standards Section 20.05.041, Riparian Buffer of the Unified Development Ordinance.

The south side of the Catalent property is bordered by an open drainageway located approximately 100-feet south from the southern face of the building. The Environmental Standards require new development to preserve or provide a graduated 75-foot riparian buffer along the existing drainageway. The northern limit of this buffer is within 25-feet of the existing building. The variance we seek is necessary to allow for the construction of a cooling tower and the relocation of a portion of the existing drive along the south side of the building. These improvements will extend approximately 35-feet into the required buffer zone.

The new production facility requires a cooling tower. For operational efficiency, the cooling tower needs to be located on the south side of the building at the east end. The essential location of the cooling tower requires us to shift the existing drive south 30-feet.

These improvements will take place to the north of Catalent's existing fence line and will not impact the area on the south side of the fence, including the existing east/west grass maintenance access strip along Duke Energy's transmission lines and the existing tree lines riparian buffer along the open drainageway.

Your positive consideration of this request is greatly appreciated.

Sincerely,



William S. Riggert, PE

