

CITY OF BLOOMINGTON



February 20, 2020 @ 5:30 p.m.
COUNCIL CHAMBERS #115
CITY HALL

CITY OF BLOOMINGTON
BOARD OF ZONING APPEALS
February 20, 2020 at 5:30 p.m.

◆Council Chambers - Room #115

ROLL CALL

APPROVAL OF MINUTES: No minutes at this time

REPORTS, RESOLUTIONS, AND COMMUNICATIONS:

PETITIONS CONTINUED TO:

AA-41-19 **Judie Baker and David Holdman**
523 W. 7th St.
Request: Administrative Appeal of the Notice of Violation (NOV) issued related to
the demolition of two structures.
Case Manager: Jackie Scanlan

PETITIONS:

V-44-19 **Randall McGlothlin**
621 N. Lincoln St.
Request: Variances from front yard setbacks and maximum impervious surface
coverage standards to allow for a deck.
Case Manager: Ryan Robling

****Next Meeting: March 19, 2020**

*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.*

BLOOMINGTON BOARD OF ZONING APPEALS
STAFF REPORT
LOCATION: 621 N. Lincoln St.

CASE #: V-44-19
DATE: February 20, 2020

PETITIONERS: Randall McGlothlin
621 N. Lincoln St., Bloomington, IN

REQUEST: The petitioner is requesting variances from front building setbacks and maximum impervious surface coverage for the construction of a deck.

PREVIOUS HEARING: The petition was heard at the January 23, 2020 Board of Zoning Appeals hearing. There was no agreement on an outcome, and the petition was automatically forwarded to the February hearing.

REPORT: The 3,310 square foot property is located at 621 N. Lincoln St. The property is zoned Residential Multifamily (RM) and has been developed with a detached single-family dwelling. The surrounding properties are also within the RM district. The properties to the north and east have been developed with multifamily dwellings. The properties to the south and west have been developed with detached single-family dwellings. The property fronts on N. Lincoln St. to the east, and E. Cottage Grove Ave. to the north.

On September 12, 2019, the Department issued a Notice of Violation to the property owner for a deck which encroaches into required front building setbacks, and caused the property to be in excess of the maximum impervious surface coverage standards for the RM district.

In the RM district, the Unified Development Ordinance (UDO) requires a minimum front building setback of “15 feet from the proposed right-of-way indicated on the Thoroughfare Plan; or the block face average setback of the existing primary structures on the same block face, whichever is more”. The block face average along N. Lincoln St. is 22 feet from the right-of-way line, which establishes the front building setback at 22 feet along N. Lincoln St. The block face average along E. Cottage Grove Ave. is 7 feet, therefore the front building setback is 15 feet along E. Cottage Grove Ave. The existing house is located at the front building setback along N. Lincoln St. and is encroaching into the front building setback along E. Cottage Grove Ave. The petitioner has constructed a deck which encroaches 6 feet and 2 inches into the front building setback along N. Lincoln St., and 15 feet into the front building setback along E. Cottage Grove Ave. The UDO allows decks to encroach up to 6 feet into side or rear setbacks, but makes no exemption for front building setbacks. The steps of the deck encroach into the front setback an additional 4 feet 3 inches along N. Lincoln St. In total, the deck and steps encroach 12 feet and 5 inches into the front building setback along N. Lincoln St. and 15 feet into the front building setback along E. Cottage Grove Ave.

In the RM district, the UDO allows for a maximum of 40% of the lot area to be covered by impervious surfaces. 45% of the lot area was covered by impervious surfaces, prior

to the construction of the deck. The construction of the deck has covered 48% of the lot area in impervious surfaces and therefore brought the property further out of compliance.

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: Injury is found with the requested variance from front building setbacks. The requested variance from front building setbacks will have negative impacts on public space and public safety. The creation of the deck further increases the amount of structure directly adjacent to E. Cottage Grove. The deck's 6'2" encroachment into the front building setback along N. Lincoln places the structure roughly 12 feet 5 inches from the right-of-way. This reduced separation between the structure and right-of-way along E. Cottage Grove, along with the encroachment into the front building setback along N. Lincoln may have negative impacts on pedestrian and vehicular traffic along E. Cottage Grove and N. Lincoln. The residence will continue to be used as a detached single-family dwelling, which is a permitted use in the district. Decks are a common building feature on residential uses.

Injury is found in the requested variance from maximum impervious surface coverage. 45% of the lot area (1,511 square feet) was covered in impervious surfaces, prior to the deck's construction. 48% of the lot area (1,599 square feet) is covered in impervious surfaces after the deck's construction. The creation of the deck reduces greenspace on the property and brings the site further out of compliance.

- 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 adverse impacts to the use and value of the surrounding properties have been found as a result of the requested variance from the required front building setbacks. The deck utilizes the primary structure's front building setback along E. Cottage Grove. The deck will encroach 6'2", and the steps will encroach an additional 4'3", into the front building setback along N. Lincoln. The deck does not encroach toward adjacent properties and therefore should not negatively affect the use and values of those properties.

No adverse impacts to the use and value of the surrounding properties have been found as a result of the requested variance from maximum impervious surface coverage. The lot was previously over the RM district's maximum impervious surface percentage. The deck has increased the lot's impervious coverage by 3% (88 square feet).

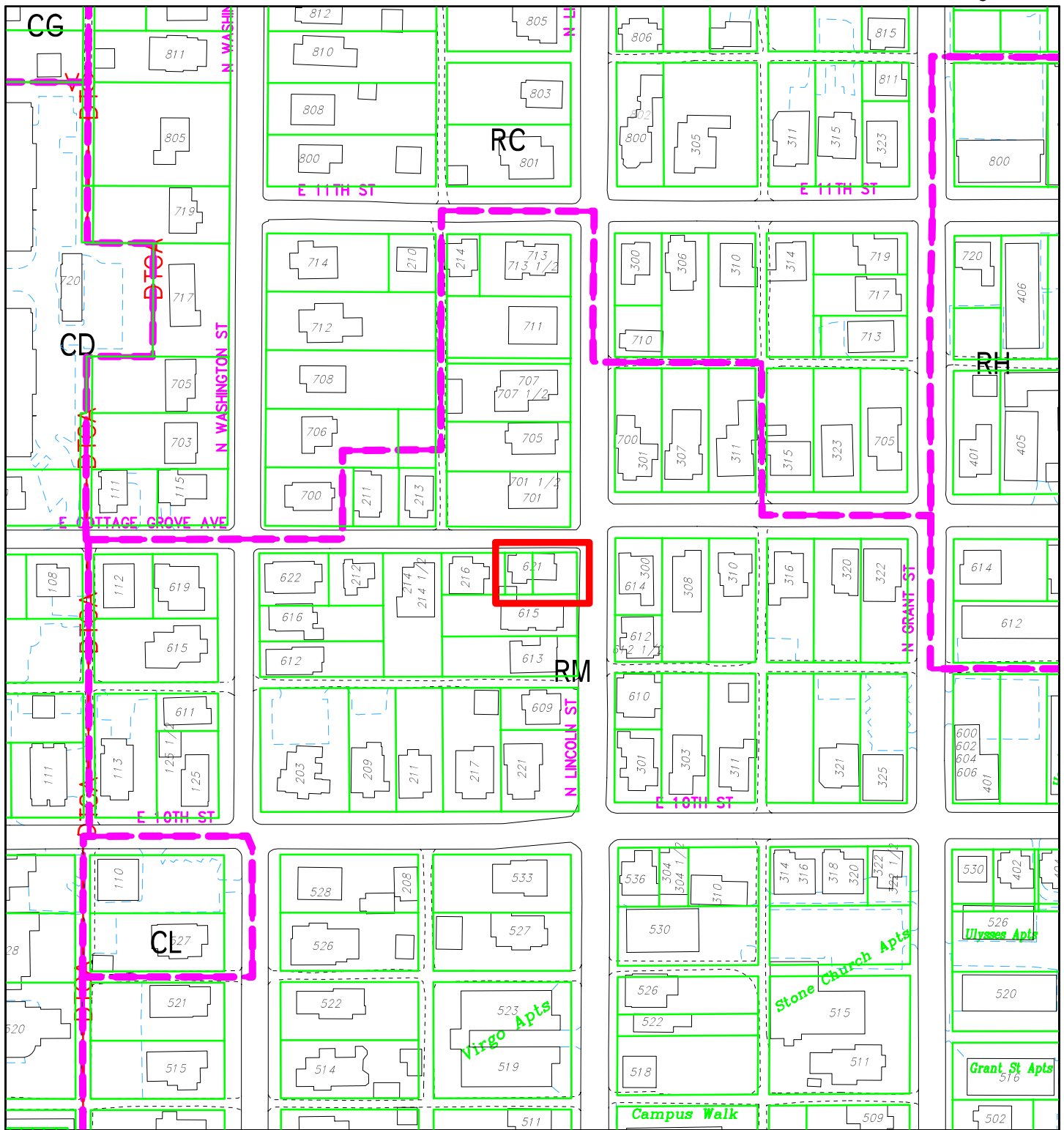
However, on July 16, 2019 the Department received a complaint about the deck from an adjacent property owner.

- 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: No practical difficulties in the use of the property as a result of the strict application of the setback standards of the UDO are found. Decks are a common building features on residential properties but they are incidental to the primary use. The property is currently, and was previously, used as a detached single-family dwelling. The UDO does not prohibit decks from being placed on any property, as long as they meet required setbacks. There are neither environmental constraints nor topographical challenges which prevent the property from meeting the terms of the UDO. As such, the requested variances will not alleviate any peculiar conditions on the property that limit its use.

No practical difficulties in the use of the property as a result of the strict application of the impervious surface standards of the UDO are found. The site is currently in excess of the UDO maximum impervious surface allowances. Because of this the construction of a deck would be limited. However, this limitation would apply to any increase in impervious surface coverage and is not unique to the construction of a deck nor the proposed use. There are neither environmental constraints nor topographical challenges which prevent the property from meeting the terms of the UDO. As such, the requested variances will not alleviate any peculiar conditions on the property that limit its use.

RECOMMENDATION: Based upon the written findings above, The Department recommends adoption of the proposed findings and denial of V-44-19.



V-44-19 Randall McGlothlin

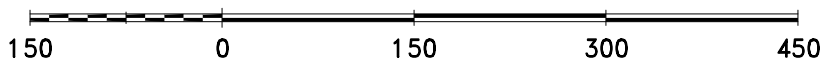
621 N. Lincoln St.

Board of Zoning Appeals

Location, Zoning, Parcels

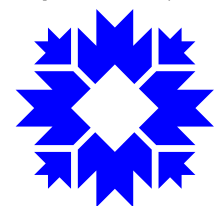
By: roblngr

11 Dec 19

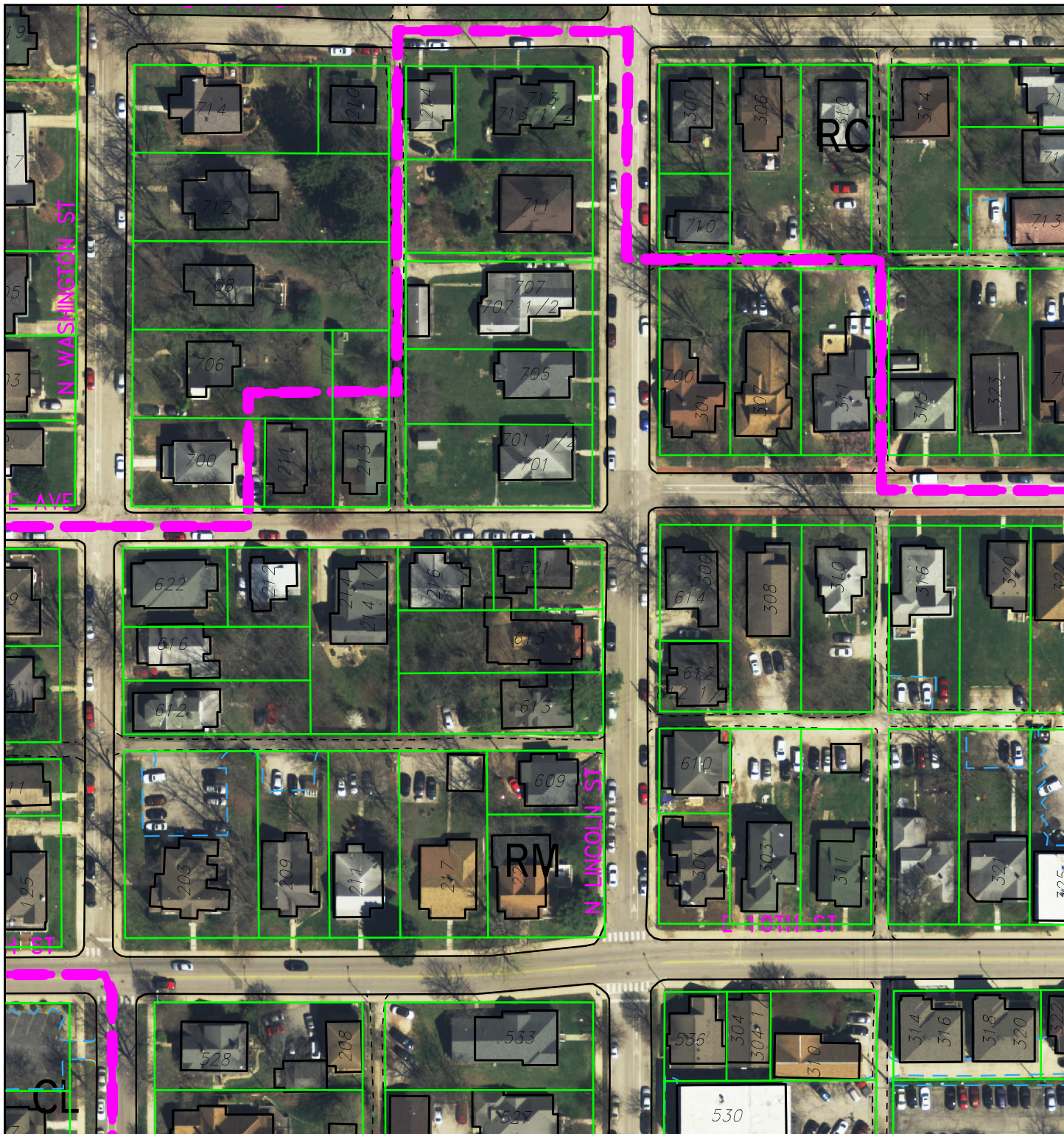


For reference only; map information NOT warranted.

City of Bloomington
Planning & Transportation



Scale: 1" = 150'



V-44-19 Randall McGlothlin

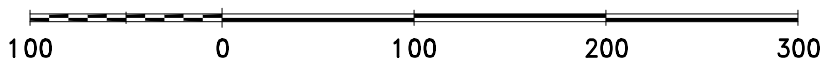
621 N. Lincoln St.

Board of Zoning Appeals

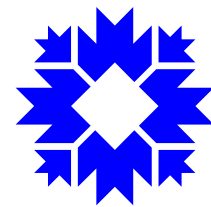
2016 Aerial

By: roblingr

11 Dec 19



City of Bloomington
Planning & Transportation



Scale: 1" = 100'

For reference only; map information NOT warranted.

PETITIONER'S STATEMENT

Randall McGlothlin owns property located at 621 N. Lincoln Street, Bloomington. The property is the southwest corner of E. Cottage Grove and N. Lincoln Street.

I request design standards variances from maximum impervious surface area and front yard setbacks.

The property and surrounding properties are all zoned residential, multi-family (RM). The lot was originally improved with a single family residential structure. The property was converted many years ago to a rental consistent with many, if not most, of the properties in the surrounding neighborhood.

The home was built at a time prior to a zoning ordinance and development standards. Because the lot is a corner lot, the property must now meet two front yard setback standards – Cottage Grove and Lincoln Street.

The existing residential structure does not comply with the front yard setback requirements along Cottage Grove.

The entry doorway to the residence is elevated. The house had a set of four concrete steps leading to the front door. There was no landing at the top of the steps. Guests coming to the home would be required to stand on the top step waiting for the door to be opened.

The home was without a porch or deck area.

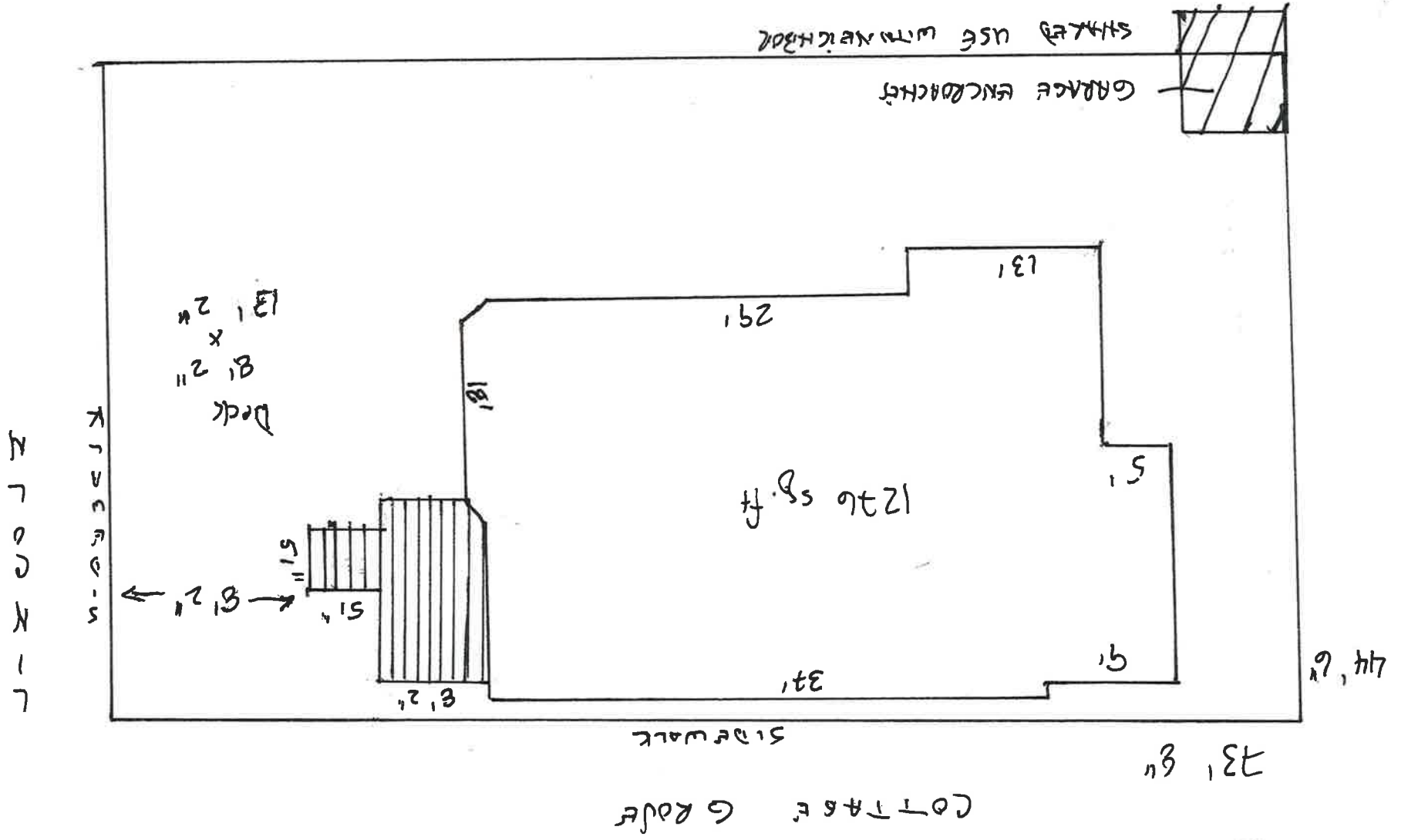
I decided to add new steps covering over the existing concrete steps and a small deck, which also serves as a landing for persons coming to the front door, as well as serves as a small front porch. I called to check on any building permit requirement. I was told no permit required for the stairs and deck. I was not aware of any other permit or requirement. I looked around the neighborhood and saw other stairs and decks similar to what I intended to construct. I worked within the area on the lot less than areas on other lots where new stairs and decks has been added. I assumed that what I planned was permitted since it was less intrusive than I see for existing, recent construction on other lots in the neighborhood. I did not think there was any problem with my improvements to the property.

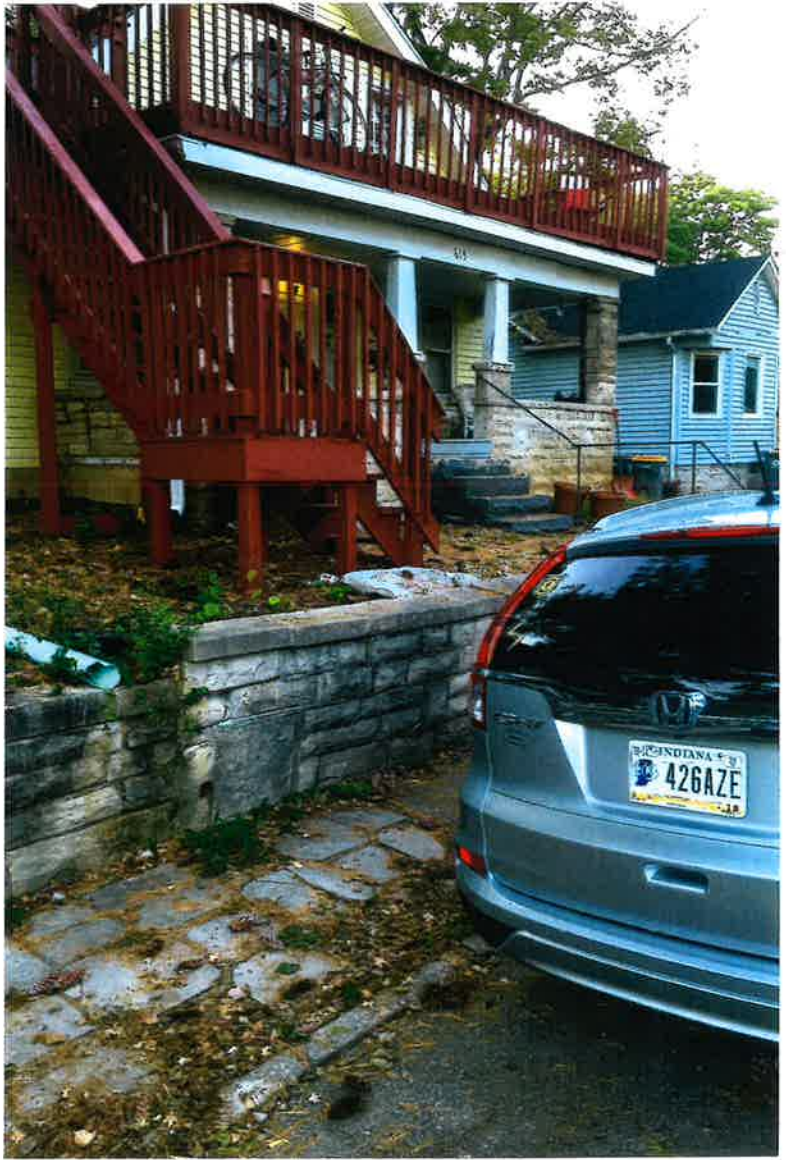
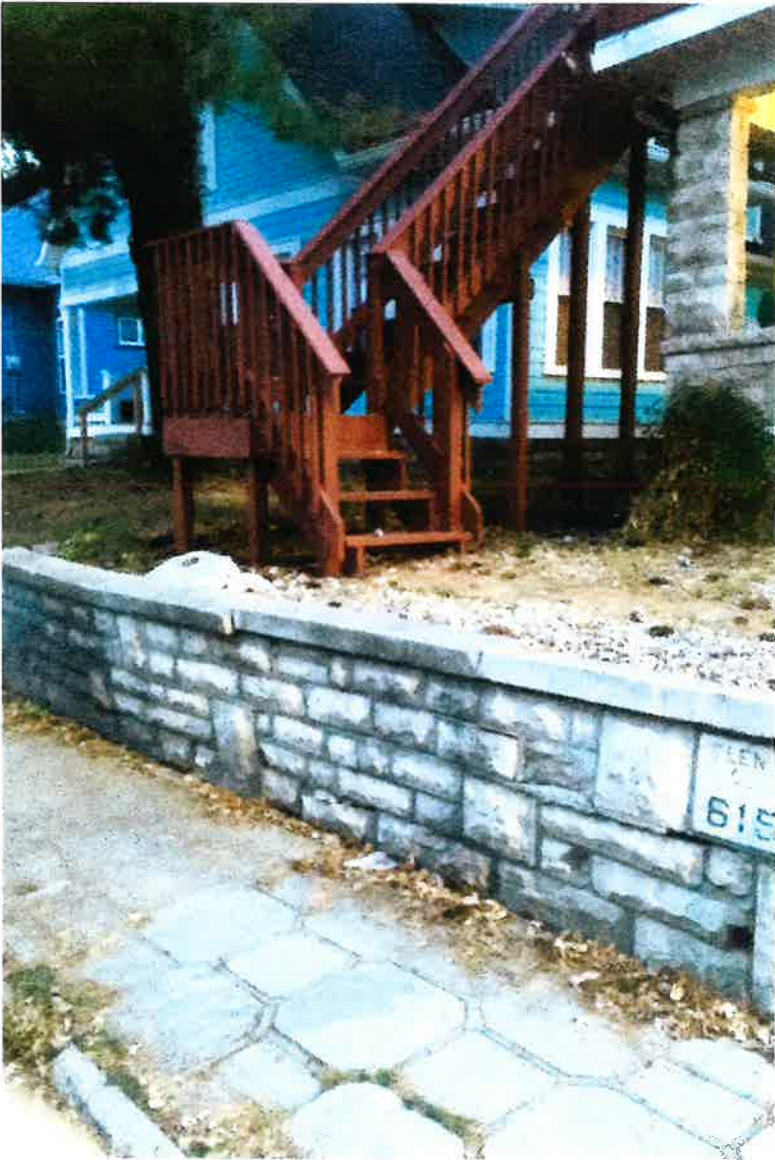
It is now my understanding that because of the modification I made by adding the steps and deck, the property was required to come into compliance with design standards. That is not possible. The wall of the residential structure cannot be moved nor the building come into compliance with the front yard setback on Cottage Grove unless the building is demolished and a new structure erected.

In addition to the encroachment into the setback area, I have been advised that the property does not meet the required minimum 40% maximum impervious surface requirement. The deck and steps that I added to the property did not increase the amount of impervious surface or at most a negligible amount. While the deck and steps are wood structures, it is not solid wood construction. It is planks, meaning there are gaps and spaces between all of the planks allowing rain water to run off the steps on the deck along the edges, but also between the planks and the boards that comprise the steps and the flooring of the deck. The deck is elevated and the ground beneath the deck is essentially undisturbed and remains the same surface as before with the exception of the support posts for the stairs and deck.

The steps and the deck/front porch are improvements to the property. The steps are a safety improvement. The creation of a landing at the top step is a safety improvement. Adding a front porch is a general amenity and I believe is consistent with planning philosophies to encourage front porches as a more pedestrian friendly development. A front porch allowing tenants/residents to sit and enjoy the front porch adds to the pedestrian friendly neighborhood.

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PETTYMORRIS'S PROPERTY



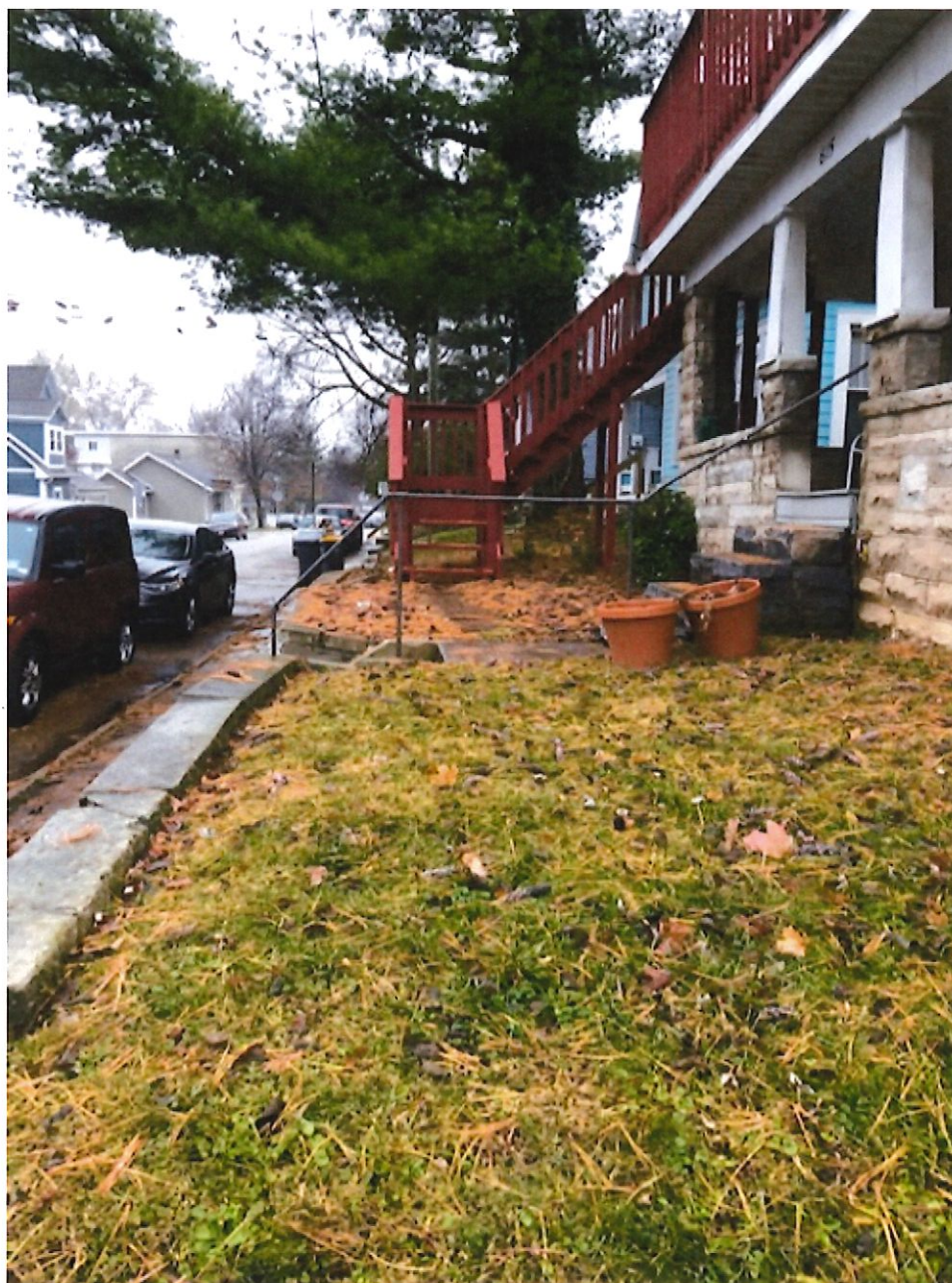
Petitioner's Property



Petitioner's Property



NEARBY PROPERTY





City of Bloomington
Planning and Transportation Department

September 12, 2019

Randall J. McGlothlin
 5891 W State Road 48
 Bloomington, IN 47404

Tenant
 621 N. Lincoln St.
 Bloomington, IN 47408

Re: **Notice of Violation (warning)**
 Development Standards – 621 N. Lincoln St.

Dear Sir or Madam:

This Notice of Violation (NOV) serves as a formal warning of non-compliance with Unified Development Ordinance Section 20.02.160 Residential Multifamily (RM); Development Standards at 621 N. Lincoln Street. Records show that you are the owner (or tenant) of this property.

The City of Bloomington Planning and Transportation Department received a complaint of a development standards violation at 621 N. Lincoln Street on 07/16/2019. On 07/16/2019 staff observed a porch being built at 621 N. Lincoln Street.

According to the City of Bloomington Unified Development Ordinance (UDO) **Section 20.02.160 Residential Multifamily (RM); Development Standards**: Maximum Impervious Surface Coverage: 40% of the Lot Area. The total area of the existing impervious surface does not allow for additional impervious surface (i.e. stairs and porch) to be added to the lot.

Additionally, according to the City of Bloomington Unified Development Ordinance (UDO) **Section 20.02.160 Residential Multifamily (RM); Development Standards**: Minimum Front Building Setback: 15 feet from the proposed right-of-way indicated on the Thoroughfare Plan; or the block face average setback of the existing primary structures on the same block face, whichever is more. The block face average on N. Lincoln Street is 22 feet from the right-of-way line, therefore, the minimum setback is 22 feet. The house on your property appears to be 20 feet from the front property line.

According to the City of Bloomington Unified Development Ordinance (UDO) to UDO **Section 20.05.077 SB-01 [Setback Standards; General]**;

- (b) The following site feature setback requirements or exemptions shall apply:
- (N) Porches (uncovered, open): May encroach up to six (6) feet into the setback.
 - (O) Steps: May encroach up to six (6) feet into the setback.

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

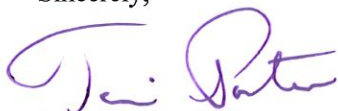
1. The Setback Standards as applied to your property would allow for a porch and stairs to extend 4 feet from the front of the building, however, the existing impervious surface coverage on your property does not allow for any additional impervious surface coverage (i.e. stairs and porch). Considering these factors, the remedy is to remove the stairs and porch by 09/26/2019, **OR;**
2. Make an appointment with a Planner to discuss filing a variance request. The appointment must be on or before 10/17/2019 for the 11/21/2019 Board of Zoning Appeals hearing.

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