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The Board of Zoning Appeals (BZA) met in a virtual (Zoom) meeting at 5:30 p.m. Members present: Klapper, Huskey, Throckmorton, and new member Flavia Burrell.

APPROVAL OF MINUTES: March 2020

****Throckmorton moved to approve the March 2020 minutes. Huskey seconded. Motion carried unanimously by voice vote.**

REPORTS, RESOLUTIONS, COMMUNICATIONS:

Barre Klapper, President, discussed the virtual meeting protocols.

PETITIONS CONTINUED TO: May 21, 2020

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

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

AA-08-20 **The Annex Group**
1100 N. Crescent Rd.
Request: Administrative Appeal of decision to enforce fines from 1/13/20 through 1/23/20.
Case Manager: Jackie Scanlan

PETITIONS:

UV-03-20 **Bobby Staggs**
1414 W. Arlington Rd.
Request: Use variance to allow for the expansion of a multi-family residential use in the Residential Single-family (RS) zoning district.
Case Manager: Keegan Gulick

Keegan Gulick presented the staff report. The petitioner is requesting a use variance to allow the expansion of a multi-family use in the Residential Single-family (RS) zoning district. The property is approximately 2.57 acres and located along Arlington Rd. The Comprehensive Plan designation for this site is *Neighborhood Residential*. The property

has been developed with three single-family residences on the same lot which makes the site a multi-family use. The petitioner would like to construct a 32' x 52' attached garage that would be connected to one of the single-family residences by an 8' x 8' addition. The garage would be used for parking and to store vehicles, including a backhoe and lawn mowers. The Plan Commission reviewed this request at their April 13th meeting and voted 6-2 to forward a recommendation of denial on to the BZA. Staff finds that the proposed addition does interfere with the Comprehensive Plan. Again, the Comprehensive Plan designates this property as *Neighborhood Residential*. Regarding land use approvals; the Plan also states that “*New and redevelopment activity for this zoning district is mostly limited to remodeling existing or constructing new single-family residences.*” To that end, this petition involves the expansion of a lawful non-conforming, multi-family use which is in direct conflict with the Comprehensive Plan. Gulick noted the site can continue to exist as a lawful non-conforming, multi-family use. However, expanding a lawful non-conforming use is prohibited by the UDO and no hardship or unique characteristics are found to require relief. Staff recommends that the BZA adopt the proposed findings outlined in the staff report and deny UV-03-20.

Jackie Staggs, petitioner, acknowledged this is a single-family area; however, there are several apartment buildings that back up to their property. She and her husband have various health issues; several personal items have been stolen by people who are trespassing on their property from nearby apartment complexes, so they would like to have the proposed garage for safety reasons and to provide coverage from the elements during inclement weather.

BZA Discussion:

Jo Throckmorton asked if it was appropriate to discuss the general consensus of the Plan Commission pertaining to their 6-2 denial in April 2020. Jackie Scanlan, Development Services Manager, asked Mike Rouker of City legal to weigh in. Rouker said it's appropriate for the BZA to ask questions because it was a public meeting. Throckmorton viewed the Plan Commission's vote of 6-2 to be a bit overwhelming and wondered what their denial was based upon. Rouker said it's absolutely acceptable to ask questions about what was discussed during the meeting, with the understanding that Plan Commission members vote individually so it's somewhat difficult to characterize the commission's general intent. Gulick added that the overall sentiment of the Plan Commission was that the proposal was in conflict with the goals and intents of the Comprehensive Plan, including the fact that it was in conflict with the Unified Development Ordinance (UDO) in terms of expanding the existing use. Scanlan explained the Comprehensive Plan designation for this area is *Neighborhood Residential* which is largely single-family with some pockets of multifamily or small commercial and it isn't ideal for multi-family use, which is what the Plan Commission focused on during their meeting which is good. Scanlan added that the Plan Commission doesn't look at the same findings as the BZA; the Plan Commission only looks at whether or not the proposal is “in line” with the Comprehensive Plan. Throckmorton asked if the property (with 3 living units) could be subdivided. Scanlan said they have enough land for all three but not enough frontage. The third house in the back wouldn't be able to be on one lot that had frontage on Arlington. She didn't think the petitioner would be allowed to do a subdivision where one of the lots would end up with two houses. Because even though this is non-conforming right now, the Staff would potentially be legitimizing that non-conformity by letting them do a subdivision where one

lot ends up being non-conforming. Throckmorton asked if a traditional 2-car garage were added to this property if it would be conforming or non-conforming. Scanlan said non-conforming. Any expansion of the multifamily use is not allowed. Throckmorton asked if the inability to build any kind of garage was found to be a peculiar hardship. Scanlan responded no because if they wanted to develop this lot as a single-family lot they could, but they would have to tear down two houses in order to do it which is highly unlikely. Again under the current code it's three units on one lot and therefore cannot be expanded. Throckmorton asked about the unit closest to the road. Jackie Staggs, petitioner, stated her daughter and granddaughter live in that unit. Throckmorton asked if there is still business going on there. Staggs said no. She explained that years ago they had a "Staggs Construction" sign in their yard; there was also a daycare sign on the premise. Those signs still remain but the businesses don't. Flavia Burrell said when this petition was discussed at the Plan Commission the specs of the building were of a pole barn. This isn't a traditional garage. The pole barn is metal siding; corrugated metal; charcoal in color; 52 x 32 feet wide so it's going to be a massive structure once it's built and probably bigger than the house. The plans show that it's smaller than the house. Burrell asked if this would be used for commercial space. Staggs said absolutely not. They need it to store their backhoe, lawnmowers, and general storage. The pole barn might look bigger but it's not—it's just taller. Huskey asked if Staff could produce a Comprehensive Plan map showing the residential area. Discussion ensued regarding the various zoning designations and the number of structures on-site. Throckmorton confirmed that no type of structure could be built (used to park cars) on this legal, non-conforming property. He asked Scanlan if that could be seen as a peculiar circumstance. Scanlan said it could if the Board thinks so. Barre Klapper asked Staff to speak on the surrounding uses, specifically Pinegrove Village and ongoing development to the east. Klapper said she's referring to the large parcel of land behind Pinegrove Village that is set for development. Scanlan responded immediately to the east of the petition site there is a large parcel that is currently being development as a large multifamily project—Nile Ridge. Pinegrove Village specifically has direct access from 17th Street to the south as opposed to Arlington to the west. Staff recommends that the BZA adopt the proposed findings outlined in the staff report and deny UV-03-20.

No public comments.

Staggs read a statement into the record regarding her husband's desire to have a pole barn for storage purposes.

Throckmorton wanted to discuss peculiar circumstance because none of the structures have anywhere to park. It's difficult to have a home where nothing can be built, which he thinks is peculiar. He's mainly concerned about the size of the structure because it isn't appropriate for single-family zoning. Klapper agreed. An accessory structure including the average storage needs for residential use; the fact that there are three houses and very limited storage; she thinks limiting the size and scale is appropriate given the residential zoning. In her opinion, this petition goes far beyond that and she doesn't think a variance is appropriate. Throckmorton encouraged the petitioner to reconsider and come forward with something more appropriate for the home rather than this giant structure. Further, he wouldn't have a problem with the other two homes making a request for a single-family garage either. Throckmorton explained he's more inclined to grant a variance for that because it's making the home more useful. The proposed

structure looks like a large building that someone plans to use to store a bunch of stuff in and not used for a home. Klapper added that it's an architectural scaled building. Throckmorton agreed. Burrell said this is a lawful non-conforming parcel right now and I'm looking at the entire parcel as a whole. This looks like a large commercial structure is going to be built in the space. She fears that a future buyer would like to have a business at this location due to the size of the structure and the way the property is setup. Burrell said the BZA has to follow the rules that are in the Comprehensive Plan and the new UDO (Unified Development Ordinance). She agreed with Throckmorton that a typical attached garage (21' x 24') would be an improvement to the home and she would be more inclined to approve a variance. Burrell thinks a structure of this size would eventually cause problems with the neighbors and future owners. Scanlan said those are all things to consider including the reasons that were stated in the staff report. The proposed use does interfere with the intents of the Comprehensive Plan and the UDO. The site is lawful non-conforming, zoned Residential Single-family (RS). Since the site is considered to be a lawful non-conforming use, it can exist as such in perpetuity. However, the proposed addition would expand a lawful non-conforming use which is prohibited by the UDO. In addition, there is no hardship or unique characteristics found to require relief by means of a variance. Again, Staff has to view the proposed structure based on the scale that has been put in place for the City. Burrell said we wouldn't be having this conversation if it were out in the County (Monroe County) because it would be allowed. Cassaundra Huskey agreed with Throckmorton in terms of peculiar condition and having additional residential garages could possibly improve the property. She, too, would be in favor of granting a variance for a garage suited to a single-family residence. Huskey asked about additional site requirements if a variance were granted for a smaller garage. Gulick said the petitioner would be required to pave/stripe the parking, install a sidewalk as well as landscaping. Klapper clarified that the Board is voting on the petition before the BZA which is a use variance and not a smaller version of the proposed structure. Scanlan said if the Board feels the petitioner meets the five *Findings of Fact*, then you could provide conditions on what type of expansion you think it should be. Rouker, City Legal, said the BZA is allowed to impose conditions as part of an approval like this. Scanlan added you're not dictating what they can do, you would be dictating that they couldn't expand. Klapper said we would also have to come up with alternative findings for pretty much all of them. Scanlan agreed. Klapper said we're not approving the project we're approving the use? Scanlan said yes. Klapper entertained a motion for a continuance. Huskey asked if there were any other options for the petitioner rather than having to come back and request another use variance. Scanlan said they could request a rezone through the Plan Commission and City Council. Scanlan explained that use variances are not in the new code (UDO), adopted 4/15/20, so this is the last use variance. If this use variance is denied, the only other option for the petitioner is to request a rezone of their property. Scanlan said Staff would not support a rezone either because the Comprehensive Plan doesn't support it. Discussion ensued regarding a set of alternative findings. Throckmorton said it really isn't that the City won't allow the petitioner to use their property the way they want to use it because they have done that for years, it's just that now this property isn't in a configuration that will allow them to do what they want to do based on the current zoning.

****Huskey moved to continue UV-03-20 to the next scheduled hearing and for Staff to provide alternative findings based on the current discussion. Motion died for lack of second.**

****Throckmorton moved to deny UV-03-20. Burrell seconded. Motion carried 3:1 (Huskey opposed)—petition denied.**

► Let the record reflect that Barre Klapper recused herself from the next petition because Springpoint is the architect on the project. Jo Throckmorton will now chair the meeting.

UV/V-09-20 **Bloomington Housing Authority**

1020 N. Monroe St.

Request: Use variance to allow a child daycare center and three multi-family residential units in a 4,970 square foot building. Also requested is a variance from side yard parking setback standards.

Case Manager: Eric Greulich

Eric Greulich presented the staff report. The petitioner is requesting a use variance to allow a daycare center and three (3) multi-family residences in the Residential Core (RC) zoning district. Also requested is a variance from side yard parking setback standards. The site is 0.32 acres and located at the corner of 14th and Monroe Streets. The Comprehensive Plan designation for this site is *Mixed Urban Residential*. The petitioner is proposing to enter into a long-term lease on this property with the Utilities Department (City of Bloomington Utilities still owns the property) and would construct a new two-story building on the site. The building would feature a daycare on the ground floor with three (3) multi-family residences on the upper floor. One vehicular entrance to the site is planned from Monroe St. to a parking area for 6 vehicles. A bike rack has been shown adjacent to the building entrance as well. There is an existing sidewalk and tree plot along Monroe St. but no street trees. A multi-use path is required instead of the existing sidewalk, so the sidewalk will be removed and the new, multi-use path will be installed. Also, a new sidewalk and minimum 5-foot wide tree plot with street trees must be installed along 14th St, as required. A Type 1 buffer yard, with required landscaping will be installed along the east and south property lines since the sides of the property are adjacent to single-family residences. This buffer yard adds an additional 10-foot setback onto the base 7-foot setback of the zoning district, hence the additional landscaping requirement and the requested variance from that 10-foot requirement. Greulich outlined the proposed floor plan. The Plan Commission reviewed the proposed use variance at their April 13, 2020 hearing and found that the proposed use does not substantially interfere with the goals of the Comprehensive Plan. The Plan Commission voted 6-0 to forward a positive recommendation to the BZA. The small size of the property, combined with the low number of units and low bedroom count limits negative impacts to adjacent properties. Peculiar condition is found in that this property has a history of non-residential uses and was previously used as a water tower by the Utilities Department. The location is unique given that it's on the edge of the neighborhood, located immediately adjacent to a classified street and adjacent to higher density, multi-family uses to the immediate west. Greulich noted that the Comprehensive Plan encourages a diversity of land uses and density at appropriate locations. With regard to the parking variance; the petitioner plans to install the required landscaping in addition to an opaque fence to hide the visual impact of the parking area and minimize impacts to the adjacent property to the south. Staff recommends that the BZA adopt the proposed findings outlined in the staff report and approve UV/V-09-20, including the following two conditions:

1. A multi-use path is required along the Monroe Street frontage. This must be shown on the grading plan.
2. All variances are for the submitted Bloomington Housing Authority project only.

Amber Scobey, Executive Director of the Bloomington Housing Authority, said they are hoping to partner with Head Start to provide an early Head Start classroom on the first floor for up to 18 infants and toddlers between the ages of 0 to 3 years old. This would help to serve a childcare gap in the Crestmont community where there are approximately 65 children who meet that age requirement needing this program. The only other Head Start program available is located in Ellettsville and they have a long waiting list. Regarding the apartments, the residential apartments on the second story will be utilized to house low-income families and will be extremely affordable.

No BZA discussion.

No public comments.

****Huskey moved to approve UV/V-09-20 based on the written findings including the two conditions outlined in the staff report. Burrell seconded. Motion carried 3:0—Approved.**

Meeting adjourned.