

CITY OF BLOOMINGTON



September 16, 2020 @ 2:00 p.m.

Zoom Meeting:

<https://bloomington.zoom.us/j/97929381298?pwd=dEZveIVxakxwNGNtWUI1UmZhb3EwZz09>

**CITY OF BLOOMINGTON
HEARING OFFICER
September 16, 2020 at 2:00 p.m.**

Virtual Meeting:

<https://bloomington.zoom.us/j/97929381298?pwd=dEZveIVxakxwNGNtWUI1UmZhb3EwZz09>

PETITIONS:

V-15-20

Karen Duffy

723 W. 9th St., and 418 N. Maple St.

Request: Variance from maximum footprint (cumulative total) of accessory structures in the R3 zoning district. Also requested is a variance from maximum gross floor area of an attached Accessory Dwelling Unit (ADU) in the R3 zoning district.

Case Manager: Ryan Robling

V-16-20

Tim Hanson

110 E. Hillside Dr.

Request: Variance from front yard building setbacks to allow for new steps to encroach.

Case Manager: Keegan Gulick

Petition Map: <https://arcg.is/bizv>

****Next Meeting: September 30, 2020**

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.

**BLOOMINGTON HEARING OFFICER
STAFF REPORT
LOCATION: 723 W. 9th St. & 418 N. Maple St.**

**CASE #: V-15-20
DATE: September 16, 2020**

PETITIONER: Karen Duffy
723 W. 9th St., Bloomington, IN

REQUEST: The petitioner is requesting a variance from the maximum footprint (cumulative total) of accessory structures in the R3 District, and is also requesting a variance from the maximum gross floor area of a detached ADU in the R3 District.

REPORT: The 6,098 square foot property is located at 723 W. 9th St. and 418 N. Maple St. and is zoned (R3) Residential Small Lot. The property has been developed with a detached garage and two dwelling units. The legally nonconforming second unit is located at 418 N. Maple St on the same lot. The properties to the east, south, and west are also zoned R3, and have been developed with single-family dwellings. The property to the north is zoned (MI) Mixed-use Institutional and is home to Reverend Butler Park. The property fronts along both W. 9th St. and N. Maple St. and abuts an unimproved alley to the south. The detached garage is on the southern end of the property and features a drive with an access point on N. Maple. Both 723 W. 9th St. and 418 N. Maple St. are listed as Contributing on the Bloomington Historic Sites & Structures Survey, and are within the Near West Side Conservation District.

The petitioner is proposing to convert the lawfully nonconforming second unit into an Accessory Dwelling Unit (ADU). ADUs are a permitted use in the R3 district. This proposed conversion into an ADU is being sought in order to allow for a structural alteration to be completed on the primary structure (723 W. 9th St.). The Unified Development Ordinance (UDO) has limitations on the continuation of nonconforming uses; these limitations include the prevention of structural alterations to buildings which contain a nonconforming use. The petitioner has applied for a building permit which proposes to convert an enclosed space into an unenclosed space. The proposed alteration will remove structural elements such as walls, windows, and a door. The alteration will also include adding railings, and an additional column. Because the property features a nonconforming use, determined by the Department to be “dwelling, multifamily,” structural alterations are not allowed. Converting the second unit into an ADU will establish the use on the property as a “dwelling, single-family” with an approved ADU and bring the property’s use into compliance with the terms of the UDO. Once in compliance the petitioner will be able to complete permitted structural alterations to the property.

The property is currently developed with three structures. A primary structure (723 W. 9th St.), a second primary structure (418 N. Maple St.), and a detached garage. The conversion of the second primary structure into an ADU will require the structure to conform to the UDO’s accessory structure standards. The R3 district allows for a maximum of two accessory structures with a maximum cumulative footprint of 580 square feet. The proposed ADU currently has a footprint of 592 square feet and the currently existing detached garage has a footprint of 160 square feet. The cumulative square footage is 172 square feet over the district’s maximum. The petitioner is seeking a variance to allow for a maximum cumulative footprint for accessory structures of 752 square feet.

The currently existing second unit, and proposed ADU, is in excess of the R3 district's maximum gross floor area for detached ADUs. The R3 district allows for a maximum of 580 square feet of gross floor area for ADUs. The current single story structure will be entirely dedicated to the ADU and has a gross floor area of 592 square feet. The petitioner is seeking a variance to allow for a maximum gross floor area of an ADU, in the R3 district, of 592 square feet.

CRITERIA AND FINDINGS FOR DEVELOPMENT STANDARDS VARIANCE

20.06.080 (b)(3)(E)(i) Development Standards Variance: Pursuant to Indiana Code 36-7-4-918.5, the Board of Zoning Appeals of Hearing Office may grant a variance from the development standards of this UDO if, after a public hearing, it makes findings of fact in writing, that:

[a] The approval will not be injurious to the public health, safety, morals, and general welfare of the community; and

PROPOSED FINDING: Accessory Structures Cumulative Square Footage: No injury is found with the requested variance from the maximum footprint (cumulative total) of accessory structures on the property. The detached garage, and proposed ADU have existed together on the property for over 50 years without incident. No changes to the footprint of any of the structures on the property is proposed with this variance. The variance seeks to legitimize the current footprint of the structures already established on the property, allowing the lawful nonconforming second dwelling unit to be converted into a permitted ADU.

ADU Maximum Square Footage: No injury is found with the requested variance from the maximum gross floor area of a detached ADU. The structure, which is proposed be converted into an ADU, has been established, as a dwelling unit, on the property for 100 years. The current size of the structure has caused no injury to the public while serving as a more intense use. The proposed variance will allow the property to seek an approval for an ADU. An ADU is a permitted use in the R3 district and will offer additional restrictions on the use of the property and structure. ADUs are limited in a number of ways more than multifamily dwellings including: limiting the structure to no more than two bedrooms, the property owner is required to occupy one of the units on the property, and a limit of no more than one family (as defined in the UDO) is permitted on single-family properties. These additional restrictions will help further ensure that no injury is caused by the dwelling unit.

[b] 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; and

PROPOSED FINDING: Accessory Structures Cumulative Square Footage: No adverse impacts to the use and value of the surrounding properties are found as a result of the requested variance from the maximum footprint (cumulative total) of accessory structures on the property. All of the structures on the property were established greater than 50 years ago and have caused no adverse impacts to the use and value of adjacent properties. The variance is being requested in order to allow the currently existing, historic, structure to be converted into an ADU. The petitioner is not proposing to increase the footprint of any of the structures, with this variance request.

ADU Maximum Square Footage: No adverse impacts to the use and value of the surrounding properties are found as a result of the requested variance from the maximum gross floor area of a detached ADU in the R3 district. The historic structure has existed as a second dwelling unit for several decades and has caused no adverse impact to the value of the surrounding properties. The structure's current use, as a multifamily dwelling, is not a permitted use in the district. The requested variance will allow the historic structure to remain on the property, unchanged, and become a permitted use in the district while reducing the intensity of the use on the property. ADUs are limited in a number of ways more than multifamily dwellings including: limiting the structure to no more than two bedrooms, the property owner is required to occupy one of the units on the property, and a limit of no more than one family (as defined in the UDO) is permitted on single-family properties.

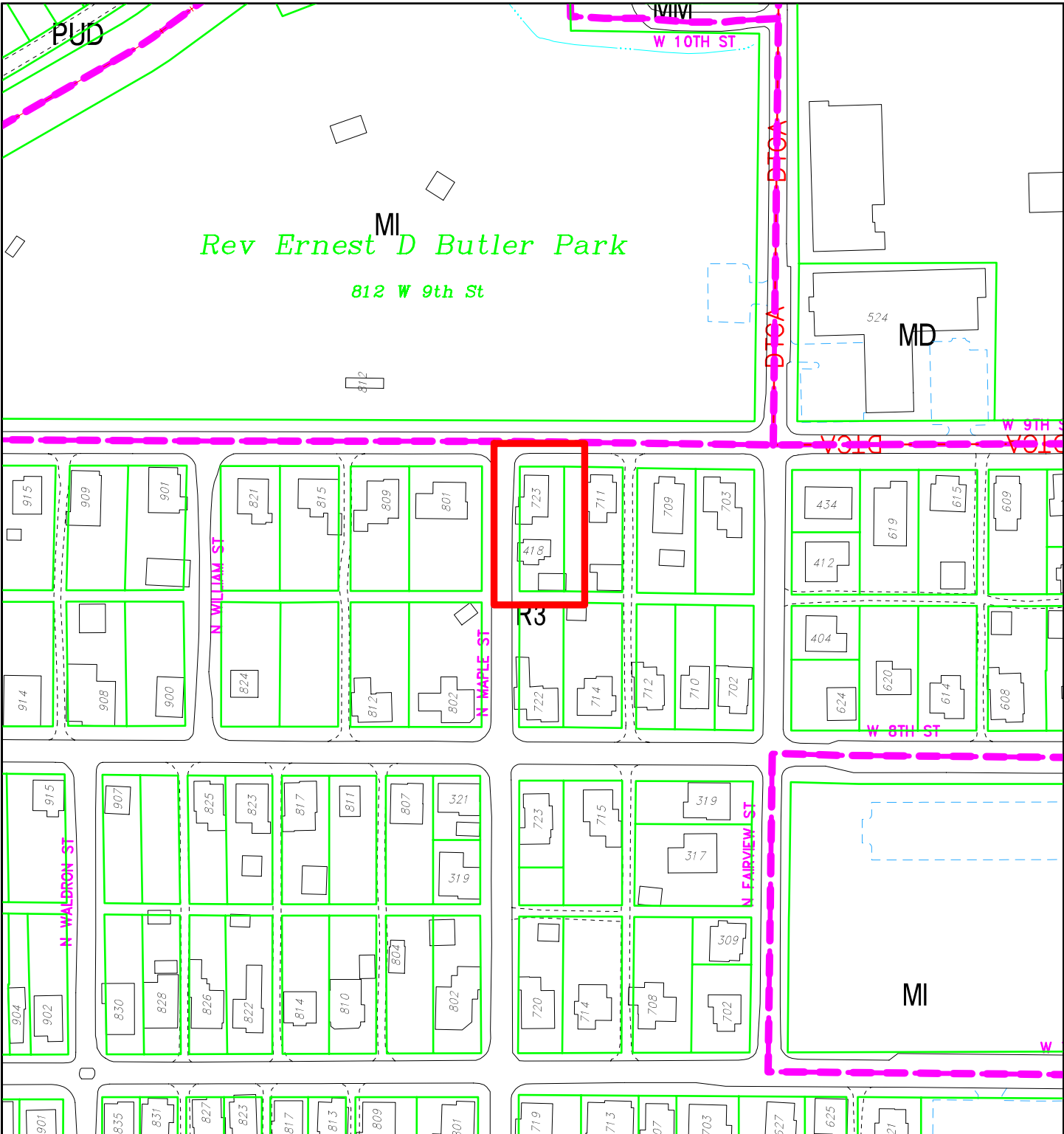
[c] The strict application of the terms of this UDO will result in practical difficulties in the use of the property; that the practical difficulties are peculiar to the property in question; that the development standards variance will relieve the practical difficulties.

PROPOSED FINDING: Accessory Structures Cumulative Square Footage: Practical difficulty is found in the restriction of the maximum footprint (cumulative total) of accessory structures in R3 district created by the historic establishment of the structures on the property. Peculiar condition is found in the historic nature of these structures. The detached garage, and proposed ADU were both established prior to the standards of the UDO, and have since become historically contributing structures and are located in a City of Bloomington Historic District. The petitioner is not proposing to modify the accessory structures. The variances only serves to allow the currently established structures to remain onsite, unchanged, allowing for the lawful nonconforming multifamily use to be abandoned and replaced by a conforming use.

ADU Maximum Square Footage: Practical difficult is found in the strict application of the UDO's limitation on gross floor area for ADUs. Peculiar condition is found in the historic use and size of the currently existing structure. 418 N. Maple St. is currently part of a lawful nonconforming multifamily use in the R3 district. The petitioner is proposing to abandon the nonconforming use in order to establish an ADU, which is a permitted use in the district. The previously established, and now historic, structure does not conform to the gross floor area limitations placed on newly established ADUs in the R3 district. The nonconforming use cannot be abandoned without either the removal of the historic structure, or the requested variances. Two existing historic residential structures on one lot is peculiar and removal of a portion of the building in order to meet ADU square footage requirements is not desired.

RECOMMENDATION: Based upon the written findings above, the Department recommends that the Hearing Officer adopt the proposed findings and recommends approval of V-15-20 with the following conditions:

1. The petitioner must apply for the creation of an ADU with the Planning and Transportation Department within 90 days of the approval of the requested variances.
2. This variance applies to the currently existing structures as proposed only. Any subsequent developments that do not meet UDO requirements would require an additional variance.



V-15-20

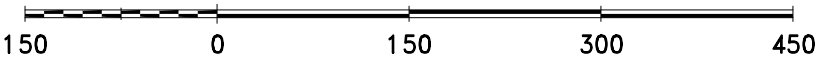
723 W. 9th St. Karen Duffy

Hearing Officer

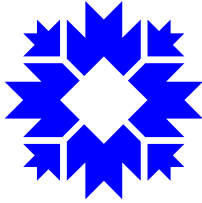
Site Location, Zoning, Parcels

By: roblingr

10 Sep 20



City of Bloomington
Planning & Transportation



Scale: 1" = 150'

For reference only; map information NOT warranted.

Rev Ernest D Butler Park

812 W 9th St

MI

MD

N WILLIAM ST

N MAPLE ST

N FAIRVIEW ST

MI

V-15-20 Karen Duffy

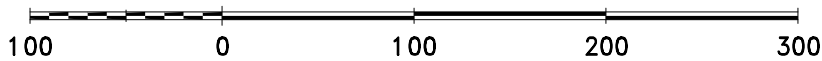
723 W. 9th St.

Hearing Officer

2016 Orthophoto

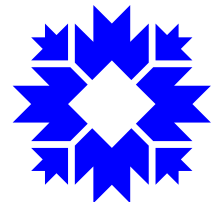
By: roblingr

10 Sep 20



For reference only; map information NOT warranted.

City of Bloomington
Planning & Transportation



Scale: 1" = 100'

N

August 23, 2020

City of Bloomington Hearing Officer
401 N Morton St
Bloomington IN 47404

Dear Hearing Officer,

I am respectfully requesting two variances for an existing multi-family property at 723 W 9th Street, Bloomington IN 47404. The variances relate to a) the maximum footprint (cumulative totals) of accessory structures in the R3 District and b) the maximum gross floor area of a detached ADU in the R3 District.

The property consists of three structures: the principle residence at 723 W 9th Street, a smaller residence with the separate address of 418 N Maple Street, and a single-vehicle garage. According to historical records, all three buildings were constructed and/or in place on the lot between around 1909 and 1915. When, decades later, the neighborhood was zoned R3 for single-family residence, the property was designated a nonconforming-use multi-family property within the district, allowing the second house to remain standing.

I now wish to make an alteration to the 723 W 9th Street house, namely, to open up the house's front porch, which was enclosed in the 1950s. My plan involves removing two short outer walls and replacing them with 3–4 square posts and a railing, similar to ones the original house would have had. The proposed alteration will not change the house's footprint, height, or roofline but nevertheless is not permissible by current City code 20.06.090(C)(1)/Limitations on Nonconformities, which explicitly prohibits any structural alteration of nonconforming buildings.

Shortly, I will seek to change the designation of the property to single-family use with an Accessory Dwelling Unit, a change that would allow me to modify my porch. The two variances I am requesting now are needed in order to bring my property into compliance with code regulations for ADUs because my existing accessory buildings (418 N Maple Street and the garage) exceed code limitations on square footage for such structures.

These limitations are set out in table 03-4 of the Unified Development Ordinance as 580 square feet for both a) the maximum footprint (cumulative totals) of accessory structures and b) the maximum gross floor area of a detached ADU.

I believe my request for variances for the accessory structures on my property is within the guidelines of the Development Standards Variance Criteria:

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

Response: The two accessory structures for which the variances are sought have been in place for over 100 years without causing injury to the public health, safety, morals, and general welfare of the community. I submit that this record offers solid evidence that they will not do so in the future.

- 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.

Response: The longstanding accessory buildings are not currently affecting the values of adjacent properties in an adverse manner. Granting the variances for these buildings will not impact the values of adjacent properties in the future, since no changes are being requested; rather, the variances are sought only to bring the buildings into compliance with the code in order to meet the standards for an ADU.

- 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.

Response: Strict application of the UDO terms would require removing, or substantially reducing, the existing accessory buildings. The resulting practical difficulties would be both excessively burdensome and highly undesirable due to the

historic nature of the structures: any reduction would threaten their historic form because they were built with the current square footage; moreover, partial demolition, full demolition, or removal of the structures to another location are likely impossible because the buildings are protected as part of the new Near West Side Conservation District, which was created to prohibit such actions. The practical difficulties described are peculiar to my property—indeed, I am not aware of another property in my neighborhood that resembles it in having two houses on one lot—and would be fully relieved by the variances that are hereby sought.

Thank you for your consideration of this variance request. If you have any questions or need additional information, please contact me by phone at 812-332-3468 or email kduffy@indiana.edu.

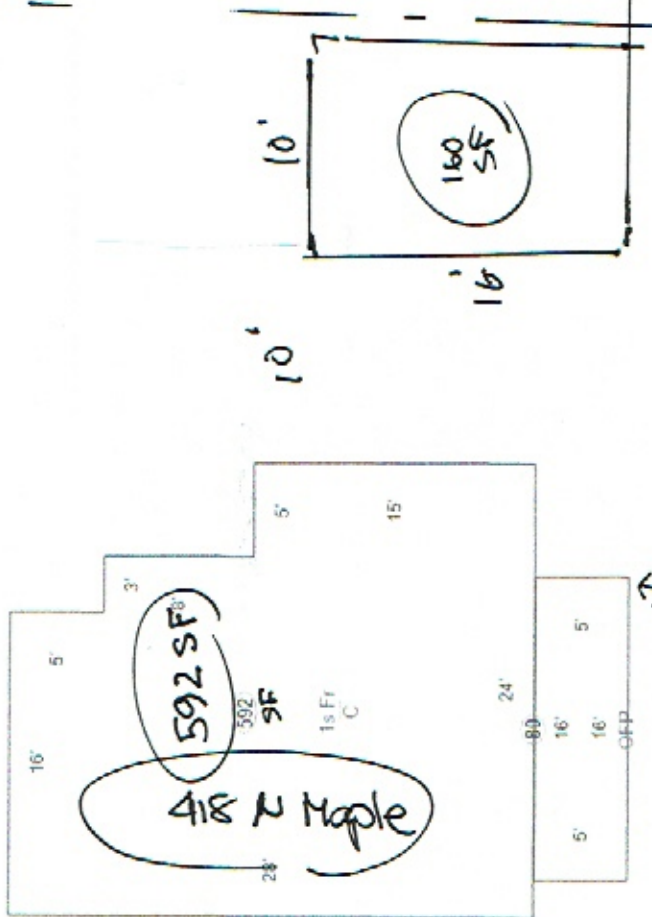
Sincerely,

Karen M. Duffy

ALLEY

$$\frac{2}{16} = \frac{1}{8}$$
$$\frac{4}{16} = \frac{1}{4}$$

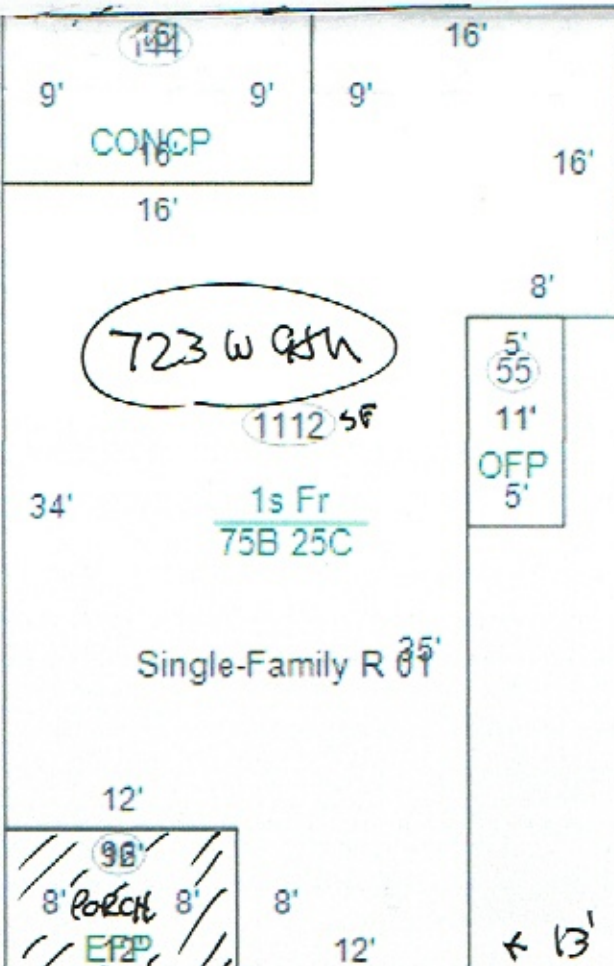
117 +/-



U-D E M-O-U

W F O D S

12'



U-D E M-O-U

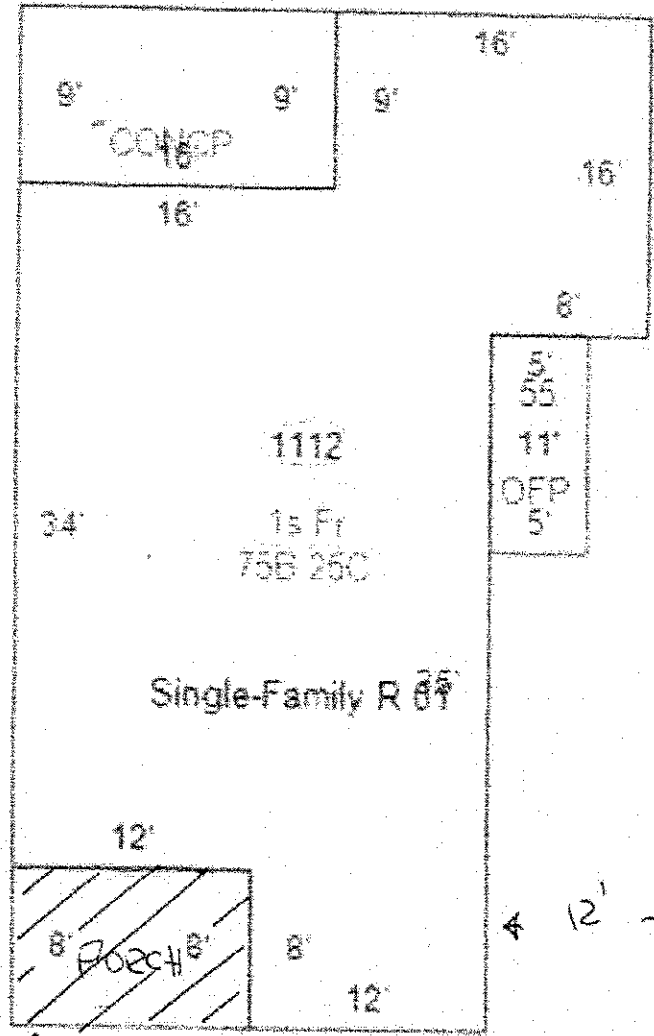
10'

5'

13'

Golden Hands Construction
334 S. Jackson Street
Bloomington, IN 47403

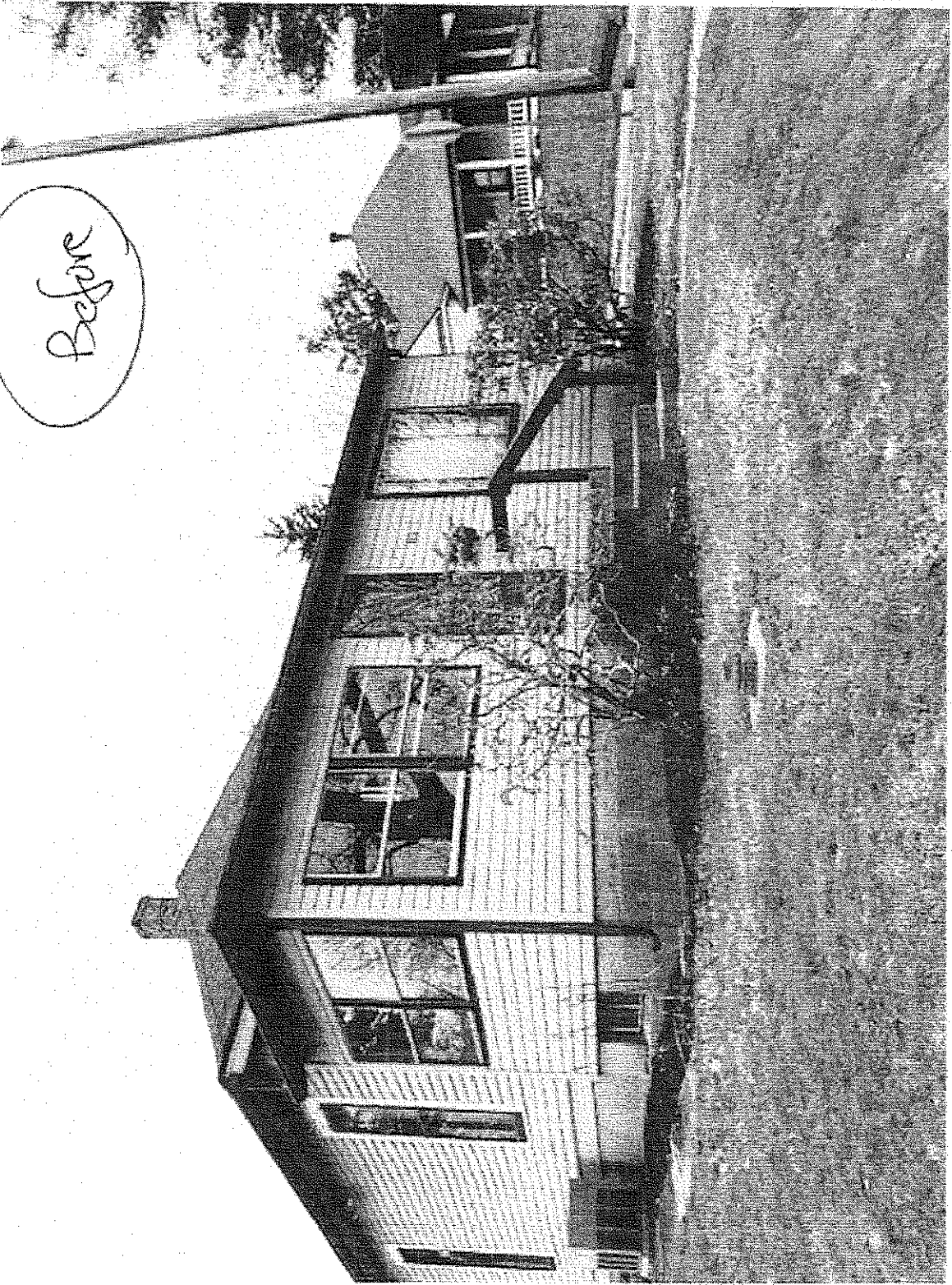
177-0-114



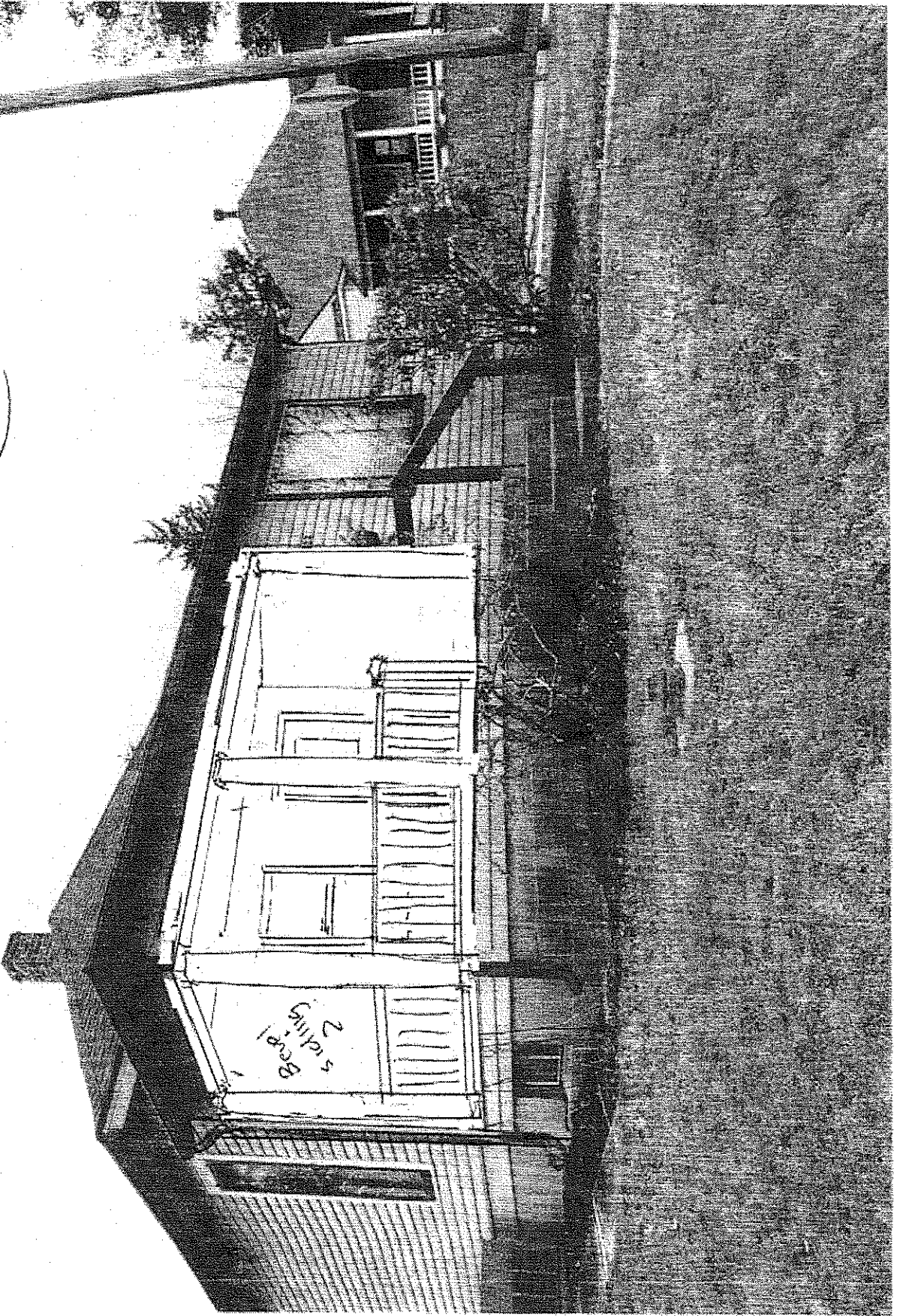
JOB: Open up
enclosed porch
Restore as
Open Porch

9th Street

Before



After



**BLOOMINGTON HEARING OFFICER
STAFF REPORT
LOCATION: 110 E Hillside Drive**

**CASE #: V-16-20
DATE: September 16, 2020**

PETITIONER: Tim Hanson
1507 S Piazza Drive, Bloomington, IN

REQUEST: The petitioner is requesting a variance from front yard setbacks to allow new steps to encroach.

REPORT: The property is located at 110 E Hillside Drive and is zoned Residential Multifamily (RM) and is currently vacant as the previous home was demolished. The properties to the east and south are also zoned RM and have been developed with single-family and multifamily dwellings. The properties to the north are zoned R3 and have been developed with detached single-family dwellings. The properties to the west are zoned MM and have been developed with single-family dwellings. Currently on the site there is a retaining wall that spans the entire site along Hillside Drive. The petitioner is proposing to construct a 10-unit multifamily structure on the site.

The Unified Development Ordinance (UDO) requires a new sidewalk and tree plot be installed along Hillside Drive. This will require the removal of the existing retaining wall.

The UDO also requires a minimum front building setback of 10 feet. Building steps are allowed to encroach up to 6 feet into a setback. Because of the topology of the site, the petitioner must construct steps leading down from the building to the sidewalk that encroach further than the allowed exception. The petitioner is requesting a variance from the required front building setback to allow the new steps to encroach.

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 as a result of this petition. The petitioner will be removing the existing retaining wall and improving the sidewalk which will create a more pedestrian friendly streetscape. In order to remove the retaining wall and still provide adequate pedestrian connections, the encroachment into the setback is necessary.

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 effect to the use or value of the adjacent properties is found as a result of this petition. The proposed use is multifamily which is permitted in this zoning

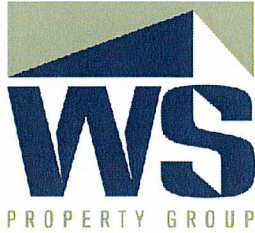
district. The improvements to the sidewalk and tree plot will provide a more pedestrian friendly sidewalk than what is currently existing. The site is currently a vacant lot.

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 existing conditions of the site would not allow for the construction of compliant steps. The current elevation of the parcel would put the apartment building at a higher grade than the street and lowering the entire parcel would likely have detrimental effects on the surrounding parcels. Since the existing retaining wall is being removed and a new sidewalk and tree plot are being constructed, new steps will be necessary. Allowing the steps to encroach will provide adequate access to the development.

RECOMMENDATION: Based upon the written findings above, the Department recommends that the Hearing Officer adopt the proposed findings and recommends approval of V-16-20 with the following conditions:

1. A Right-of-Way encroachment agreement must be approved for any encroachments into the ROW before occupancy will be issued for the building.
2. The petitioners must obtain a building permit prior to construction.
3. This variance is for the specific steps encroachment as shown in the package. Any additional encroachment would require variance approval.



WS Property Group
1507 South Piazza Drive
Bloomington, IN 47401
office: 812.332.9575
fax: 812.332.0261
www.WSPropertyGroup.com

September 1, 2020

Keegan Gulick
City of Bloomington Planning and Transportation Dept.
401 N. Morton Street
Bloomington, IN. 47402

RE: 110 Hillside Drive – Variance

Dear Keegan,

WS Property Group is proposing to redevelop a vacant lot at 110 E Hillside Drive. Certain unique site conditions exist regarding the redevelopment and we respectfully request a variance from the front yard setback to allow stairs to encroach more than six feet.

When Hillside Drive was improved with walks and storm sewer the property from 110 E Hillside Drive west to the intersection of S Walnut Street received a retaining wall to limit the disturbance to the adjacent properties. To further limit disturbance, the walk was placed adjacent to the curb.

The UDO requires that the sidewalk be separated from the curb by 5-feet and a new sidewalk be installed. It is not possible to lower the entire parcel and maintain reasonable access to the existing alley to the west, therefore stairs will be necessary to transition the grade between the new 7-foot sidewalk and the building.

We feel the approval of this variance will not be injurious to the public, nor adversely affect the use and value of the adjacent properties.

Please find attached the required information to render your approval.

Respectfully,
WSProperty Group

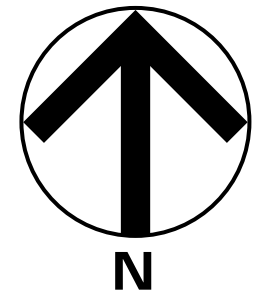
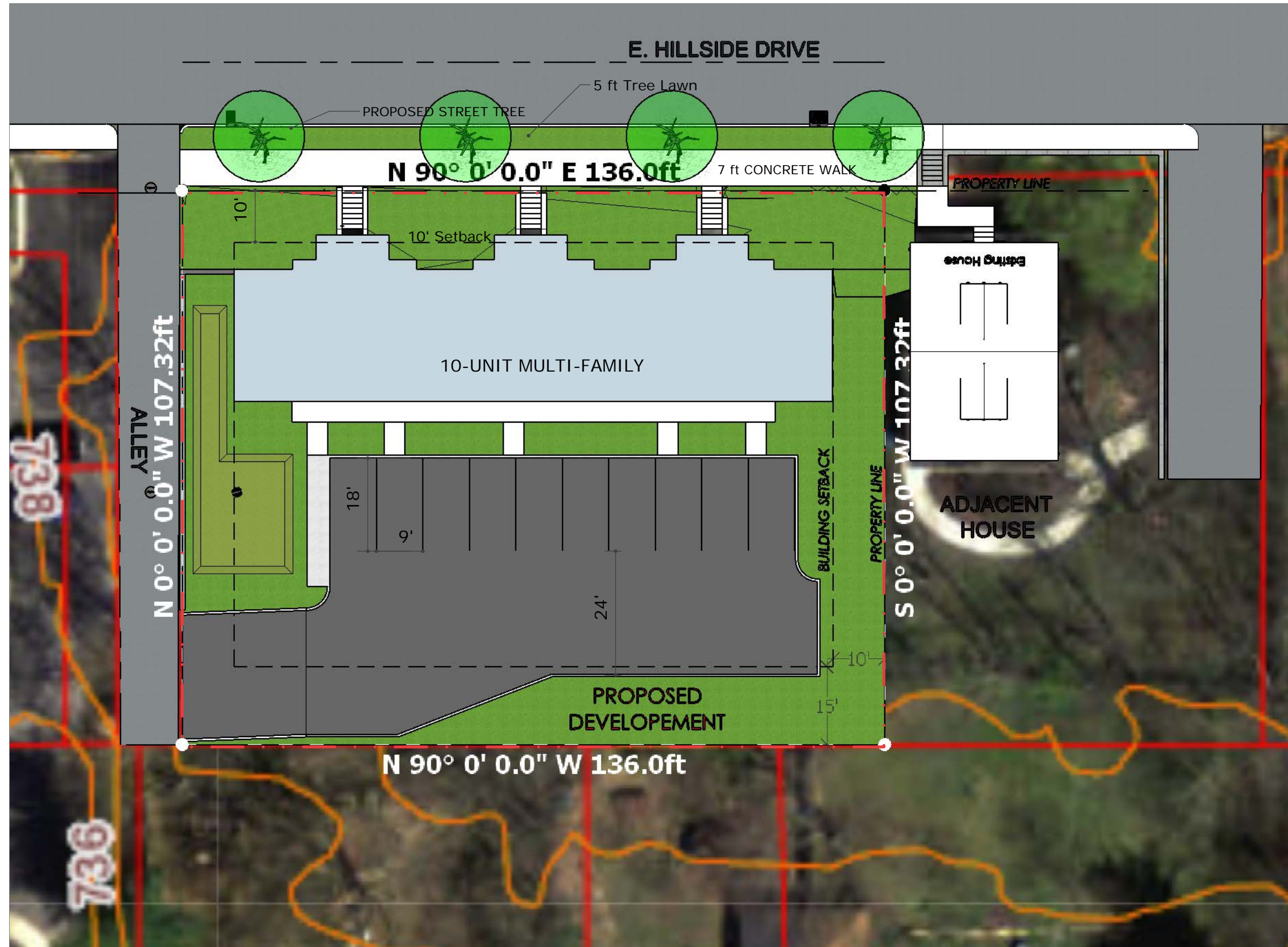
A handwritten signature in black ink, appearing to read 'Timothy A. Hanson', written over a white background.

Timothy A. Hanson
V.P. Development



110 E Hillside





Zoned - RM:
Residential Multifamily

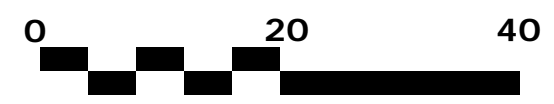
Proposed Development
10 - One Bedroom Units
on 0.33 Acres

Access from Existing
Alley

Hearing Officer Request:
Variance to Front Yard
Setback to allow Stair to
Encroach beyond 6 ft.

WS PROPERTY
GROUP

SITE LAYOUT





WS PROPERTY
GROUP

PERSPECTIVE



WS PROPERTY
GROUP

EXISTING
ALLEY

FRONT ELEVATION
3/32 SCALE



WS PROPERTY
GROUP