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

**REPORTS, RESOLUTIONS, COMMUNICATIONS:**

Jackie Scanlan, Development Services Manager, stated the Plan Commission (PC) heard a petition in October for the property located at 2670 E. 2nd St.; she thought a variance would be required for landscape standards but it's not due to how things are spelled out in the new UDO for site plan regulations. Therefore the site plan request can move forward as normal.

**APPROVAL OF MINUTES:** None at this time.

**PETITIONS CONTINUED TO:** December 17, 2020

CU/V-19-20    **Robert Iatarola**  
1504 W. Arlington Rd.  
Request: Conditional Use approval for a Home Occupation in the R2 zoning district. Also requested are variances to allow a Home Occupation to be located within an accessory structure and to allow deliveries (of pallets) to the property.  
*Case Manager: Ryan Robling*

**PETITIONS:**

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*

Jackie Scanlan presented the staff report. The petitioner is requesting an Administrative Appeal from a Notice of Violation (NOV) issued. The NOV is related to environmental protection compliance at 1100 N. Crescent Road. The property is located on the east side of N. Crescent Road, south of Marquis Drive. The property is zoned Planned Unit Development (PUD). The properties to the north, east, and south are zoned Residential Medium Lot (R2). Property to the west across Crescent is zoned PUD and Mixed-Use Employment (ME). This violation is a result of missing compliance deadlines for environmental standards. On December 30, 2019, Planning and Transportation issued an NOV for the site listing three sections of 20-05-040 EN-03 that were being violated.

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Upon re-inspection on January 6, 2020, the site was still non-compliant. A second NOV was sent on January 7, 2020, with a deadline for compliance of January 13, 2020. The violations were not remedied by the January 13<sup>th</sup> deadline and subsequent re-inspection. As a result, a third NOV was sent on January 13, 2020 citing the same three code references that were still being violated, as well as the addition of the violation for drain inlet protection. This violation was not remedied until January 24, 2020. The department fined the petitioner for the property in question per BMC 20.10.040, which allows for a \$2,500.00 (per environmental violation) per day. While the code allows each violation per day to count as a separate fine, the department only fined a total of \$2,500.00 per day. The owner has requested an appeal of the decision to enforce fines from January 13, 2020 through January 23, 2020. The site was out of compliance from at least December 13, 2019 until the time staff performed a requested occupancy inspection. Staff recommends that the BZA adopt the proposed findings outlined in the staff report and deny petition AA-08-20.

Christopher Lukehart, General Counsel for Annex Group, explained why the decision was made to appeal the violation and associated fines from January 13th through January 23rd. He said they didn't receive the first violation from December 30, 2020 until January 6, 2021 due to a company shut down. In his opinion, the photos weren't a true representation of the entire site. In addition, their superintendent was battling cancer at that time which also created issues. The project is now completed. He asked the Board for leniency given those circumstances.

**BZA Discussion:**

Jo Throckmorton said what are the grounds for the administrative appeal? Lukehart explained they didn't receive the first notice until Jan. 6, 2021, so they were trying to get compliance regarding the first NOV and then the second NOV was issued. Once they became compliant with one violation, they became non-compliant in another. Lukehart said he believed they did everything they could to stay in compliance. Their main priority was to get the job completed in a timely manner. Barre Klapper asked for clarification pertaining to the petitioner being cited for different issues on the same site. Elizabeth (Liz) Carter, Sr. Zoning Compliance Planner, explained that just because it's not happening on the same spot it doesn't mean the violation has stopped. There were consistent issues but in different areas of the site. Flavia Burrell asked Carter how she knew those issues were getting fixed. Carter said they walk every inch of the site and not just spot checking, so she would be able to tell if they really tried to fix the violation or not. Carter added that Staff is always willing to work with people if they contact the department and request an extension of the NOV deadlines; however, to her knowledge the petitioner didn't request any sort of extension in that regard. Cassaundra Huskey asked Staff to specifically define what the Board is making a decision on. Mike Rouker, City Attorney, said they are making a decision about whether or not the violations occurred. Lukehart said there was some discussion about whether or not they reached out to the City and requested an extension, but unfortunately he didn't know if that actually occurred or not.

*No public comments.*

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**\*\*Throckmorton moved to deny AA-08-20 based on the recommendation outlined in the staff report. Sandberg seconded.**

Throckmorton said the City gave the petitioner plenty of time to come into site compliance.

**ROLL CALL: Motion carried 5:0—petition denied.**

AA-17-20     **WDG Construction (Robert Tolle)**  
                  916 & 910 N. College Ave., and 913 N. Walnut St.  
                  Request: Administrative Appeal from a Notice of Violation (NOV) issued  
                  by Staff.  
                  *Case Manager: Jackie Scanlan*

Jackie Scanlan presented the staff report. The petitioner is requesting an Administrative Appeal from a Notice of Violation (NOV) issued. At the time of violation the subject property was under construction and zoned CG (Commercial General), then the zoning ordinance or UDO (Unified Development Ordinance) was updated and now the property is zoned MM (Mixed-Use Medium Scale) which is a middle commercial zoning district. This NOV was also issued for non-compliance with Environmental Standards for example: tracking out, improper drain inlet protection, and sediment leaving the site from improper installation of silt fencing; the petitioner appealed the May 26, 2020 NOV. On June 26, 2020, another violation was issued for the same environmental violations plus the addition of the waste and material disposal including the non-compliance with their grading permit. Scanlan noted the petitioner was consistently blocking sidewalks around the property making them impassible and therefore out of compliance with certain standards that the City follows for accessibility of sidewalks. As part of the May 26<sup>th</sup> NOV, a deadline was given of July 3, 2020 indicating that fines would begin to accrue at that time if the violation standards were not corrected. Staff didn't inspect the site until July 6, 2020 which was the following Monday, giving the petitioner an extra couple of days to comply. Full compliance wasn't found at this site until July 11, 2020. Scanlan noted that Staff actually had more direct contact with this contractor given that notices were sent out in the mail; the same notice (NOV) was immediately emailed to the contractor as well. Staff recommends denial of AA-17-20 based on the written findings detailed in the staff report.

Chris Deckard is representing the petitioner. They received the letter dated June 26<sup>th</sup> on June 30<sup>th</sup>. He was traveling out of state and was notified by Rob Tolle on July 1<sup>st</sup> at which time they tried to get Goodman Construction on-site to remedy the issues with the silt fence and some of the dirt areas. Unfortunately, due to the holidays he wasn't able to get Goodman on-site until July 6<sup>th</sup> and then the work was completed by July 10<sup>th</sup>. The site was re-inspected by the City on July 11, 2020 and was in full compliance at that time. He explained that it was a difficult site to work on; putting three buildings on a site that was really only big enough for two. They tried their best to maintain the silt fencing including the cleaning of sidewalks and the road. He said it felt like they were fighting a losing battle in terms of compliance.

**BZA Discussion:**

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Barre Klapper asked Staff for clarification as to when the NOV's were issued in May and July 2020. Scanlan clarified by saying that an NOV was sent in May, one month later (June) the petitioner still hadn't remedied those issues. In July, another NOV was issued with a fine date/deadline and fines started to accrue at that time, which ended up being 5-6 weeks after the original NOV was issued for this round. Scanlan noted the petitioner received two previous NOV's which involved similar environmental violations earlier in the construction season; both times the petitioner remedied those violations.

No public comments.

Deckard reiterated that it was a small site and they did their best to maintain it; however, there were constant issues with the silt fencing.

**\*\*Throckmorton moved to deny AA-17-20 based on the written findings and recommendation outlined in the staff report. Sandberg seconded.**

Discussion ensued between the BZA and Staff regarding City policies pertaining to Notices of Violation and levied fines.

**ROLL CALL: Motion carried 5-0—petition denied.**

V-24-20            **Catalent Indiana, LLC**  
1300 S. Patterson Dr.  
Request: Variance from fence height standards to allow the installation of a 6-foot high security fence with 7-foot columns.  
Case Manager: Eric Greulich

Eric Greulich presented the staff report. The petitioner is requesting a variance from fence height standards to allow for a 6-foot high security fence along their property. The site is part of the Thompson Planned Unit Development (PUD). Catalent moved to this site in the early 2000's and utilized the existing buildings with minor modifications. Catalent has been growing in terms of building size as well as employment size. Most recently, they were awarded a government contract to produce the vaccine for the COVID-19 crisis. To that end, the petitioner is now requesting to install a fence around the perimeter of their property to comply with the terms of the government contract to secure the overall site. When this property was initially developed, it only had road frontage directly onto Allen St. to the north. There was a driveway connection over to Rogers St., but for the most part the site was accessed from Allen Street. Patterson Dr. is actually an old railroad bed. This wasn't converted into the current site configuration until the early 2000's when Catalent moved to this location. Since that time, new public streets have been put in along its frontage. The Unified Development Ordinance (UDO) doesn't allow a fence between the building and a street to be taller than 4 feet which is why a variance is being requested. The site is very narrow in the front and much wider in the back so it makes it difficult to build along the front of the property. Although the fence will be 2 feet taller than allowed by code, the increased setback mitigates some of those impacts from adjacent road frontages. The fence will be a rod iron, pole design with limestone columns spaced a minimum of 12 feet apart. The open style of the fence also helps to mitigate impacts in addition to the increased setback. Practical difficulties and

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peculiar conditions are found in that the site has street frontages along three property lines; the lot shape is unique; the location of the existing building and parking areas make it difficult for the petitioner to come into site compliance. By granting the development standards variance, it will allow the petitioner to meet the stated safety standards for this facility in order to address the public health emergency. Staff recommends approval of V-24-20 based on the written findings in the staff report, including the following condition:

1. The areas of the fence facing a public street must be landscaped with a minimum of 5 shrubs at each column.

Bill Riggert of Bledsoe Riggert Cooper, and Brian Ford (Catalent) are present to speak to the petition. Riggert said the columns will probably be a little further apart, more like 50 feet, due to the property meandering along the Patterson road frontage. Ford added that the proposed 6-foot fence is an industry standard. The government has stipulated this height for security purposes. He expressed how important it is for Catalent to present a very clean and welcoming exterior in terms of overall aesthetics. He wholeheartedly believes that the proposed fence is going to improve their property line.

**BZA Discussion:**

Barre Klapper asked the petitioner to speak to the number of entrances they plan to have and how those entrances would be handled. Ford responded that point of entry #2 is the main gated entrance from Patterson Dr. Point of entry #3 is up for debate until after the traffic study is done to better understand traffic flow and if the number of entrances to the site needs to be restricted. Point of entry #4 will be another employee entrance off of Strong Dr. Point of entry #1 leads out to Rogers St., and entrances 5-8 are for commercial vehicles coming off of Strong Drive. Riggert said point of entry #8 is an exit only; entries 5 & 6 are oriented towards garbage pickup and that sort of utility. Klapper asked if point of entry #3 is the only area, as part of their traffic assessment, where there might be traffic impacts. Ford replied they are considering closing it; however, Catalent won't do anything that would cause traffic to back up onto Patterson Dr. because of safety reasons.

No public comments.

**\*\*Throckmorton moved to approve V-24-20 based on the written findings including the one condition outlined in the staff report. Sandberg seconded. Motion carried 5:0—Approved.**

V-25-20            **Mark Hood and Christine Haack**  
2420 E. Maxwell Lane  
Request: Variance from front yard building setback standards to allow for a front loaded garage.  
Case Manager: Eric Greulich

Eric Greulich presented the staff report. This is a request for a variance from front yard building setback standards to allow for a front loaded garage. The property has been

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developed as a single-family residence and it's surrounded by other single-family residences. It has a driveway and front loaded garage on the east side of the site that extends closer to the street than the existing house. The Unified Development Ordinance (UDO) requires that front-loaded garages must be 25 feet from the ROW or equal to the building façade whichever is greater. The design of the building already doesn't meet current code. The petitioner would like to add on to the structure—it is an open carport. They would like to enclose the carport into garage space and extend it 2 feet closer to the road (north) and would allow for an enclosed garage space. Staff didn't find any negative impacts or peculiar conditions. Staff found that the property is more than 4 times the minimum lot size of this district and is 115' wide. The denial of this variance does not prevent the property from being used in a manner consistent with the UDO or surrounding uses--the intent of the regulation. Staff recommends that the Board adopt the proposed findings and deny the requested variance.

Mark Hood and Christine Hack are both present. The two of them have owned their home for 17 years; it's located on a dead-end street. They intend to age in place and would like to convert their dilapidated 1952-1953 (flat roof) carport that consistently collects water, into garage space. Hood added that the existing carport sits at a 30 degree angle to the street. They hope to achieve the following goals with their proposed carport conversion: provide future accessibility options as they age; have additional storage space; improve security of the home and also improve the aesthetics of the existing structure; have a home that is a better "fit" in the neighborhood since they have a carport rather than a garage like other homes in the neighborhood. He explained that his carport sits at a 90 degree angle but it wasn't a design mistake. Carports like this one were designed at a 90 degree angle for aesthetic reasons and practical purposes. Hood disagreed with Staff's interpretation of a front loading garage. He said there isn't a definition in the code (the UDO) for front loading garages in terms of what that should look like (photo of the existing carport was shown to the Board). The carport presents a large face that *is not* the entry to the neighborhood as you approach. There is a big difference between the street view (which is the center of Maxwell St.) and what Staff provided which was an aerial view of the carport. He believes his property is compliant with the 30 degree angle and therefore no variance is necessary. He plans to have an enclosed garage that is slightly taller and closer to the street, including having it extend 4 feet to the east which is still within the allowed setback. Because the whole structure is being enlarged, Staff is opposed to granting a variance. He referred to *Google Maps* in terms of what pedestrians and cars passing by his property would see; neither would be able to see the front entrance of the garage at this angle. The 30 degree angle really does improve the street view and he thinks the variance should be approved.

Greulich reiterated that this is a variance request to allow for a front loaded garage. He explained that the petitioners should have filed and Administrative Appeal to that particular interpretation of code they happen to disagree with.

Hood said he and his wife disagree strongly with Staff's finding that the proposed garage would have negative impacts on the neighborhood. The abutting neighbors like this plan; it will look better and improve their property values. He continues to maintain this is not a front loading garage.

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**BZA Discussion:**

Susan Sandberg asked if the carport was in compliance when it was originally built. Greulich explained when the house and garage were constructed there wasn't a different setback for front loading garages; only one setback applied and the house itself met that setback. The 25 foot setback didn't come into play until 2007 but the home was built much earlier than that. Sandberg said the proposed, more secure garage, is really going to be in the same place as the existing structure which is a pre-existing condition. She asked Staff to revisit their objections "aesthetically" to having a front loading garage. Greulich said the purpose of the 25 foot setback requirement in the UDO for a front loaded garage, was to ensure there is enough room between the house and the property line to get a car in the garage so it isn't hanging out over the sidewalk; a typical car is 25 feet long. The other reason is aesthetics so you don't have a front loaded garage extending closer than the house. These are often referred to as "snout houses". Imagine if you're driving down a street and the first thing you see is a house with a front loaded garage sticking out first, that has a different visual impact than if you see the functional part of the house and the front loaded garage is set further back. Sandberg said she's thinking about how the house was designed from the get-go and therefore somewhat sympathetic to the petitioner. Barre Klapper added that the Board would have to come up with or devise alternative *Findings of Fact*. Klapper asked the petitioner if they could accomplish their goals without the proposed 2 ft. Hood said their main objective is to have room for an accessibility ramp and also to create more room in the garage since it's such a small garage to begin with since it was built in the 1950's. Klapper asked Greulich to clarify. Greulich said the issue isn't the width but the depth from north to south. Hood stated that in previous conversations with Staff, they indicated that even enlarging it only to the east would be increasing the footprint of the existing non-compliant structure and they could not support it. Burrell asked if the Historic Preservation Commission (HPC) reviewed this project since the carport was built in the 1950's. Greulich said this project has not gone through the demo-delay process. Sandberg asked if aging in place has any bearing on a variance. Greulich said the Comprehensive Plan provides broad guidance over the entire City as a whole. The variance process however has a different scope of review. What is unique about this property? Jo Throckmorton added that aging in place is a non-consideration for a variance. Throckmorton said isn't the design of the house the peculiar condition because of the way it was purposely designed? Greulich said it's unique to the property; however, we have to look at what are we trying to accomplish with the setback and say...is the denial of this variance going to take away from the reasonable use of the property that relates in some practical difficulty? There are a lot of properties built around Bloomington that were built prior to the current code, but when the codes change we want them to come into compliance not further from compliance. Discussion ensued regarding the design of the home and how it was designed at a time when it was allowed. Throckmorton said the petitioner's aren't asking to make a substantial change, they are asking to be able to improve an existing design. Throckmorton added the "30 degree angle" point previously made by Mr. Hood isn't stipulated in the code as being front facing, so isn't that a peculiar condition—yes or no? Greulich said it's hard to answer that question with a yes or no. The front loading garage question and interpretation is really something that is an Administrative Appeal then the Board could have a broader scope of making a decision on that aspect. Throckmorton asked if the owners would be

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allowed to request an Administrative Appeal if the variance is denied. Greulich said yes because the variance and Administrative Appeal are two separate things. Klapper asked if the nature of the street being dead-end and the design of it being displayed away from incoming traffic, could be construed as something specific to this property. Klapper said it seems like the architect didn't point the garage to the west on purpose. The architect pointed it to the east so that it would obscure the car, which speaks to the whole purpose of the code to begin with to try and mitigate less attractive garages that come at you. Greulich said the Board could cite those reasons as unique conditions. Flavia Burrell said this is an angled car garage aesthetically speaking. She thinks the peculiar condition stems from the historic value of this type of architecture and the carport goes with it. Sandberg wondered if other homes in the neighborhood have been allowed to enclose their carports. Hood said on their particular block they are the only original carport and still the only carport. Hood pointed out there are a bunch of houses along Covenanter that have very elegant carports from this era. Klapper asked for the depth of the slab. Hood said the slab is 20 feet deep. Discussion ensued regarding the language in the new UDO that was updated in April 2021 with respect to the required setback.

No public comments.

**\*\*Throckmorton moved to approve V-25-20 to grant the variance based on the following peculiar conditions: (1) The 30 degree angle and design, (2) The location on a dead-end street to which the 30 degree angle of the garage faces towards the dead-end. Sandberg seconded.** Klapper added that the orientation of the existing garage minimizes the visual impact on the street. **Throckmorton agreed and reinforced what Klapper said as part of his motion. It is the issue of the aesthetic design existing in a way that the front carport faces away from the entrance of the street and towards the dead-end street so it's already mitigated.** Burrell added that it's also an historic mid-century style with an angled garage. **Throckmorton restated his motion to include the following peculiar conditions: (1) The historic design, (2) The 30 degree angle of the garage, (3) The nature of the dead-end street.**

**BZA Discussion:**

Cassandra Huskey added that #2 of the *Findings of Fact* needed to be addressed as well.

**\*\*Throckmorton restated his motion to approve V-25-20 based on the following peculiar conditions: (1) The building is of mid-century modern design, (2) The 30 degree angled garage, (3) The nature of its configuration on a dead-end street.**

Greulich said Staff made a negative finding for #2 so Cassandra is just stating that you need to make a different finding because Staff's finding was a negative one. So the aspect of "orientation" already stated does address condition #2.

Sandberg asked if the letters of support from the neighborhood have any bearing on the *Findings of Fact* in terms of having "no negative impacts?" Klapper responded that it would support having no injury to adjacent property owners. Greulich added the Board could certainly reference those letters.

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**ROLL CALL: Huskey seconded. Motion carried 5:0—Approved.**

V-26-20      **ACE 318, LLC (Cedarview Management)**  
318 E. 3<sup>rd</sup> St.  
Request: Variance to allow ground floor dwelling units to not be located 20 ft. behind the front building façade.  
*Case Manager: Eric Greulich*

Ryan Robling presented the staff report. The subject property is located at 318 E. 3<sup>rd</sup> St., and zoned Mixed-Use Downtown. Properties to the north, west, and east are all in the same zoning district. The property directly to the south is located in the Residential High-density (RH) zoning district. This property received site plan approval for a mixed-use development in 2017. The petitioner is requesting a variance to allow ground floor dwelling units to not be located 20 feet behind the front building façade. When the original site plan was approved in 2017 the UDO at that time required a minimum of 50% of the ground floor to be non-residential uses. However, the Plan Commission allowed a deviation from that standard in 2017 and approved a minimum of 10% of the ground floor to be non-residential, which allowed roughly 757 square feet to be used for any permitted non-residential use. The petitioner is now proposing to convert that 757 sq. ft. of non-residential space into a residential unit; therefore the 20 foot “*behind the front building façade*” rule in the code would not be met which is why the variance is being requested. Staff finds no injury from this request. The use and value of the area adjacent to the site will not to be substantially affected from the requested variance. No practical difficulties are found with this request. Surrounding properties to the east and west support commercial uses. The site previously supported a commercial use with no known difficulties resulting from the property itself. Robling noted that Staff is currently working on a text amendment to the UDO which would allow for some flexibility in 1<sup>st</sup> floor/ground floor space because of the strain on commercial uses due to the current Covid-19 pandemic; however, that particular language is currently not in the code. Staff recommends denial of V-26-21 based on the written findings outlined in the staff report.

Tim Cover, Studio 3 Design, is representing the petitioner. The requested variance is to allow a residential unit to front on 3<sup>rd</sup> Street to be in alignment with the other two units currently approved on the site. The 757 sq. ft. represents 27 feet of frontage along 3<sup>rd</sup> St. The existing 3<sup>rd</sup> St. elevation has two other units that are full ADA units which is unique for this location. The proposed third unit would consist of 2-bedrooms which is adding to the mix and housing in the area. Staff found no practical difficulty and peculiar conditions; the City granted a previous reduction of 50% to 10% of the ground floor to be non-residential uses. Staff also cited success of a previous commercial use at this location. Regarding the commercial/retail use, it's been difficult to lease space from 2011-present. Also, there is no parking to support this small amount of space including a limited amount of pedestrian traffic. This is not unique to Covid-19, everyone is suffering from the pandemic. Cover said particularly small business offices are finding it easier to work from home rather than paying rent to save money.

**BZA Discussion:**

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Susan Sandberg asked if the concern was that this residential use could not be converted back to the percentage of retail space that would suit the UDO. Robling said no it isn't that it couldn't be converted back, it's just that the allowance of ground floor wasn't the intent of the MD zoning district. Sandberg questioned why Covid cannot be used as a peculiarity of our times. Robling said it isn't that Covid isn't peculiar of our times, it's just not peculiar to this location. Covid has an influence on every inch of Bloomington and not just this particular location or property. Cassaundra Huskey asked about the 2017 approval; was the 10% left because it was going to be used by the owner or would it have otherwise been allowed to be converted to residential? Robling said no, it could have been used for any allowed use. Huskey rephrased by asking, would they have been allowed 100% of ground floor use as residential? Robling said it would have been allowed if it was something the Plan Commission wanted to grant a waiver for at that time. Throckmorton asked Robling to clarify if the petitioner ever requested the full use of residential in 2017. Robling said it was never requested but it could have been granted. Barre Klapper asked Robling to speak on the importance that the City and code has placed on having ground floor residential uses. Robling said there are many reasons but the big one is general walkability. With areas that have public-facing commercial spaces, there are larger windows and things to look at. It also promotes safety because there are more eyes on the street at street level. It slows down traffic. The downtown is where commercial uses are located so the general idea is that you have commercial uses facing the street. Flavia Burrell added that this has been established in a downtown area and it's nothing new. Most of the multi-residential places are requested to have commercial spaces in the front on the first floor, and if they have any residential use it has to be 20 feet from the front. You can have residential in the back of the building if you need to. Burrell said it looks like they got away from the 50% when the petitioner donated/or had dealings with affordable housing, solar panels, and bicycle parking. The petitioner already got a waiver and now they are asking to get rid of all of the commercial on the first floor which is what the BZA should be looking at.

Culver explained that the current owner purchased the building and the project in 2019 from the previous owner, Mike Brahm. All of the previous requests from 50% to 10% occurred with a different owner. The current owner inherited all of the agreements which included the donation to the housing fund, the solar, etc., but the new owner is finding that this small amount of space is geared toward a very small tenant. This location doesn't have parking for commercial use and there is no requirement for parking in the UDO. Someone looking for commercial space has a lot of other locations to choose from with more space and available parking. Having someone live there is probably better than having a blank store front in the interim. Klapper confirmed the building has not been constructed yet. Robling stated that this request is not directly related to the Covid pandemic even though it was mentioned in the staff report. Tim Cover added that this small bit of retail isn't viable enough to attract a retail tenant. Huskey asked about changing the exterior of the building so it looks more residential in nature rather than commercial. Eric Greulich, Sr. Zoning Planner, stated that the petitioner would need to stick to the old elevations and what was approved in 2017. He said the small size of the commercial space is something they chose. This was a self-induced hardship on their part; the parking spaces that are in the garage is also self-induced. They could have designated some of those spaces for commercial. They didn't have to build all of the residential units they are proposing.

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No public comments.

**\*\*Throckmorton moved to deny V-26-20 based on the written findings and recommendation outlined in the staff report. Burrell seconded.**

Klapper, Throckmorton, and Huskey offered additional comments about this proposal in terms of the glass on the façade of the building being in conflict with the residential use. The building isn't elevated so there is no separation for residential privacy. The petitioner overbuilt the residence for this location; no parking is being provided. Throckmorton still believes there is a lack of this type of space for small business owners. Huskey thinks the 20 foot rule in the code is a good one because you don't want residential uses right on the street.

**ROLL CALL: Motion carried 5:0—petition denied.**

Meeting adjourned.