



**CITY OF URBANA
ZONING BOARD OF APPEALS REGULAR
MEETING**

DATE: Wednesday, January 17, 2024
TIME: 7:00 PM
PLACE: 400 South Vine Street, Urbana, IL 61801

AGENDA

A. Roll Call and Declaration of Quorum

B. Changes to the Agenda

C. Approval of Minutes

[Minutes](#) of the December 13, 2023 Special Meeting

[Minutes](#) of the December 20, 2023 Regular Meeting

D. Written Communications

E. Continued Public Hearings

F. New Public Hearings

[ZBA-2023-MAJ-05:](#) A request by Andrew Fell, on behalf of Yasmin Bobat, Trustee, for a Major Variance to reduce the required front yard along McCullough Street from 20 feet, 4 inches to 5 feet at 408 West Main Street in the R-4 (Medium Density Multiple-Family Residential) Zoning District.

[ZBA-2023-MIN-04:](#) A request by Tanner Shiley, on behalf of Aaron Haunhorst dba ECI Holdings, LLC, for a Minor Variance to reduce the required rear yard from 10 feet to 7 feet, 6 inches, at 805 and 809 Perkins Road in the B-3 (General Business) Zoning District.

G. Old Business

H. New Business

I. Audience Participation

J. Staff Report

K. Study Session

L. Adjournment

PUBLIC INPUT

The City of Urbana welcomes Public Input during open meetings of the City Council, the City Council's Committee of the Whole, City Boards and Commissions and other City-sponsored meetings. Our goal is to foster respect for the meeting process, and respect for all people participating as members of the public body, city staff, and general public. The City is required to conduct all business during public meetings. The presiding officer is responsible for conducting those meetings in an orderly and efficient manner.

Public Input will be taken in the following ways:

Email Input

In order to be incorporated into the record, emailed public comments must be received prior to 5:00 pm on the day preceding the meeting and sent to the following email address: Planning@urbanaininois.us. The subject line of the email must include the words "ZONING BOARD OF APPEALS - PUBLIC INPUT" and the meeting date. Emailed public comments labeled as such will be incorporated into the public meeting record, with personal identifying information redacted.

Written Input

Any member of the public may submit their comments addressed to the members of the public body in writing. If a person wishes their written comments to be included in the record of Public Input for the meeting, the writing should so state. Written comments must be received prior to the closing of the meeting record (at the time of adjournment unless otherwise noted).

Public Hearing

Any person desiring to appear at the public hearing and present testimony may speak during each public hearing at the time they appear on the agenda. This shall not count towards regular Public Input for the meeting. The Public Hearing is an opportunity for comments and questions to be addressed specific to each case. Board or Commission members are permitted to respond and engage during this time and/or the Chairperson may direct the applicant to respond during rebuttal. Comments unrelated to any of the public hearings listed on an agenda should be shared during the Public Input portion of the meeting where Verbal Input guidelines shall apply.

Verbal Input

Protocol for Public Input is one of respect for the process of addressing the business of the City. Obscene or profane language, or other conduct that threatens to impede the orderly progress of the business conducted at the meeting is unacceptable.

Verbal input is limited to no more than five (5) minutes per person. The Chair may extend this limit, or if the Chair does not enforce or extend the time limit, the extension shall be decided without debate by a motion approved by the majority vote of the members of the Board present. The Chairperson shall also have the authority to reduce the time limit to three (3) minutes or a shorter time agreed upon by the Zoning Board members.

The total time for Audience Participation is no more than one (1) hour unless adjusted by majority vote. A person may participate and provide input once during Audience Participation and may not cede time to another person, or split their time if Audience Participation is held at two (2) or more different times during a meeting.

The presiding officer or public body members shall not enter into a dialogue with citizens. Questions from the public body members shall be for clarification purposes only. Audience Participation shall not be used as a time for problem solving or reacting to comments made but, rather, for hearing citizens for informational purposes only.

In order to maintain the efficient and orderly conduct and progress of the public meeting, the presiding officer of the meeting shall have the authority to raise a point of order and provide a verbal warning to a speaker who engages in the conduct or behavior proscribed under “Verbal Input”. Any member of the public body participating in the meeting may also raise a point of order with the presiding officer and request that they provide a verbal warning to a speaker. If the speaker refuses to cease such conduct or behavior after being warned by the presiding officer, the presiding officer shall have the authority to mute the speaker’s microphone and/or video presence at the meeting. The presiding officer will inform the speaker that they may send the remainder of their remarks via e-mail to the public body for inclusion in the meeting record.

Accommodation

If an accommodation is needed to participate in a City meeting, please contact the City at least 48 hours in advance using one of the following methods:

Phone: 217.384.2440

Email: Planning@urbanaininois.us

Watching the Meeting via Streaming Services

All City meetings are broadcast on Urbana Public Television and live-streamed on the web. Details on how to watch are found on the UPTV webpage located at <https://urbanaininois.us/uptv>.

MINUTES OF A SPECIAL MEETING

URBANA ZONING BOARD OF APPEALS

DRAFT

DATE: December 13, 2023

TIME: 7:00 P.M.

PLACE: Council Chambers, City Building, 400 South Vine Street, Urbana, Illinois

MEMBERS ATTENDING: Joanne Chester, Matt Cho, Ashlee McLaughlin, Adam Rusch, Nancy Uchtmann, Charles Warmbrunn, Harvey Welch

STAFF PRESENT: Kimberly Smith, Director of Community Development Services; Kevin Garcia, Principal Planner and Zoning Administrator; Marcus Ricci, Planner II; Nick Olsen, Planner I; David Wesner, City Attorney

OTHERS PRESENT: Geoffrey Bant, Nancy Barenberg, Joanne Budde, Rose Dawoud, Kyle Emkes, Barbara Franzen, Grace Harshbarger, Jeffrey M. Harshbarger, Igor Kalnin, Richard Lampman, Lori Martinsek, Deb Newell, Joseph Nuckolls, Keith Pillischafske, Kim Pillschafske, Clint Stannard, Diane Stannard, Sara Stannard, Cindy Tsai, Eddie Tsai, Wes Taylor, Vicki Trimble, Jim Tucker, Marla Tucker, Don Uchtmann, Fred Wahlfeldt, Robert Withers, Cindy Zarbuck

A. CALL TO ORDER and ROLL CALL

Chair Welch called the meeting to order at 7:00 p.m. Roll call was taken, and he declared a quorum present with all members in attendance.

B. CHANGES TO THE AGENDA

There were none.

C. APPROVAL OF MINUTES of PREVIOUS MEETING

The minutes of the November 15, 2023, regular meeting were presented for approval. Ms. Chester moved that the Zoning Board of Appeals approve the minutes as written. Ms. Uchtmann seconded the motion. The minutes were approved by unanimous voice vote.

D. CONTINUED PUBLIC HEARINGS

ZBA-2023-C-05 – A request by Wes Taylor, on behalf of P.K. Elledge Development, LLC, for a Conditional Use Permit to allow a self-storage facility at 205 North High Cross Road, in the B-3 (General Business) Zoning District.

Chair Welch re-opened Case No. ZBA-2023-C-05 and summarized the previous public hearings on this case and described the proceedings for this public hearing. He swore in members of the audience that wanted to speak.

Kevin Garcia, Principal Planner, pointed out that a valid written protest has been submitted, which requires a two-thirds vote of the Zoning Board of Appeals members in favor of the request. He stated that there are seven members present, so five members would need to vote in favor for the proposed Conditional Use Permit to be approved.

Nick Olsen, Planner I, presented a brief update, noting there were revised conditions, which he would state. He first explained that any public input that was received after the November 15, 2023 public hearing was included in the written staff report for this meeting. He talked about one letter and one phone call that City staff received in support, and two phone calls in opposition, since the packet was sent out for the meeting.

Mr. Olsen presented City staff's recommended, revised conditions:

1. The self-storage facility shall generally conform to the submitted site plan,
2. The self-storage facility's operating hours shall be between the hours of 7:00 a.m. and 8:00 p.m.,
3. The self-storage facility shall be monitored by security cameras,
4. The applicant shall install fencing along the south and east sides of the property,
5. The self-storage facility shall include language in its customer contracts prohibiting unauthorized dumping of materials on the property, and
6. The self-storage facility shall have a customer service phone number posted in a clearly visible location on the property, which shall be monitored by on-call staff during business hours.

He stated that City staff feels that these six conditions should help to address some of the concerns expressed by the neighboring residents in Beringer Commons Subdivision, and noted staff's response to some other issues not being addressed in these conditions. He stated that the City of Urbana already has robust regulations in place regarding stormwater management and lighting. He mentioned that seven of the eleven storage facilities staff identified in the City of Urbana are located directly adjacent to a residential use. He noted that City staff does not have conclusive evidence showing whether storage units have a negative impact on neighboring residential uses.

Mr. Olsen reviewed the options of the Zoning Board of Appeals, and he presented City staff's recommendation for approval based on the findings in the written staff report dated October 13, 2023, and on the revised conditions as presented.

Chair Welch asked if any members of the Board had questions for City staff.

Mr. Warmbrunn asked for clarification on the difference between the "neighborhood" and the "district". Mr. Garcia explained that typically when City staff refers to "neighborhood", they are referring to the general area surrounding a subject property, not just the 250-foot notification area. When City staff refers to "district", they are referring to the specific zoning district which a subject property is located in. In this case, it would be the B-3 (General Business) Zoning District.

Mr. Warmbrunn inquired about signage and whether it would be illuminated. Mr. Olsen replied that the applicant has not currently proposed any signage. When they do, it would be reviewed by City staff to ensure that it meets the sign regulations in the Zoning Ordinance.

Ms. Uchtmann asked if the Zoning Board of Appeals would be able to ask the applicant to provide a monument style of sign so it would be non-obtrusive on the neighboring residential use. Mr. Garcia stated that any additional conditions that the Zoning Board of Appeals wished to impose on this request should tie back to the criteria (listed in the Zoning Ordinance) for a Conditional Use Permit. If the Board felt that a monument style sign would apply to one of the criteria, then they could propose it as a condition. Mr. Olsen then stated the types of conditions the Zoning Ordinance includes that can be imposed on a Conditional Use Permit.

Ms. Chester stated that she did not feel that any of the seven storage facilities in the City of Urbana compared to the proposed lot due to zoning or proximity to the residential use. She said that Route 150 separates the commercial and industrial zones from the Beringer Commons Subdivision. Mr. Garcia called point of order. He noted that the Board was at the point of asking questions of staff, not at the point for making statements or discussing the case.

Mr. Rusch asked City staff to review the rezoning of the subject property from B-1 (Neighborhood Business) to B-3 (General Business). Mr. Olsen responded that the rezoning occurred in 2021 in conjunction with a Special Use Permit that allows a clinic on the proposed site. He noted that typically a rezoning of a property is not based on a specific use, even though the rezoning may be prompted by a specific use. He could not recall any case where the rezoning was conditioned upon a use. Mr. Garcia added that City staff is very clear when they bring a rezoning case to the Plan Commission and to City Council that if a project that is prompting a rezoning request does not go through, the zoning will remain, so they should base their decision to rezone on the rezoning criteria, not on a proposed use.

Mr. Rusch asked for clarification on self-storage facilities requiring approval of a Conditional Use Permit in the B-3 Zoning District. Mr. Garcia said that is correct.

With no further questions for City staff, Chair Welch opened the hearing for public input. He invited the applicant and/or the applicant's representative to approach.

Kyle Emkes, Attorney representing the applicant, approached the Zoning Board of Appeals to speak in favor of the proposed Conditional Use Permit. He stated that the decision to not approve Case No. ZBA-2023-C-05 on October 18, 2023 was found to be legally insufficient, so the Board is being asked to reconsider the case at this meeting. He stated that any decision made regarding the Conditional Use Permit case must be made pursuant to the Zoning Ordinance, whereby the Board makes findings of fact regarding the application. He reviewed the criteria for a Conditional Use Permit and stated that if the case meets the criteria, then the Board must approve the case. He then reviewed how the proposed self-storage facility meets the criteria.

Mr. Emkes addressed other concerns expressed by residents of the neighboring subdivision with regards to a stormwater management plan, lighting, noise, security, dumping, and decreased property values. He said that the applicant is willing to meet all of the proposed conditions. He noted that almost 40 community members have expressed support for the proposed facility.

He advised the Zoning Board of Appeals to consider the community as a whole, not just the residents of Beringer Commons. He said that any decision must include an explanation of their

decision, including findings of fact. He pointed out that there is no evidence that the proposal does not meet the required criteria. He reviewed the options of the Zoning Board of Appeals and asked that they make their decisions based on the criteria.

Ms. Uchtmann said that she visited the storage facility at Tatman Court at 4:00 p.m., and it looks very nice with a wrought iron fence. There was no traffic at the time. She noticed two air conditioning units on the site and wondered if there would be any air units on the proposed site. Wes Taylor, applicant, approached the Board to respond. He explained that the air units were for climate-controlled storage units, and he would provide this service on one of his five buildings. Ms. Uchtmann asked if it would be possible to locate the climate-controlled building on the east side along High Cross Road or on the south side of the property so that the noise from the air conditioning units would not impact the adjacent residential neighbors. Mr. Taylor replied that when HVAC contractor designs the climate-controlled building, they would take this into consideration to avoid it being annoying to the neighbors. Ms. Uchtmann asked if the climate-controlled building would be the same height as the other storage buildings. Mr. Taylor said yes.

Ms. Uchtmann asked if Mr. Taylor would be willing to install a wrought iron fence. He said that he planned to install this type of fence. Ms. Uchtmann inquired about the gate. Mr. Taylor said that the gate would have the same characteristics of the fence. He understands that there is a lot of opposition; however, it is not his desire to do anything that would be injurious to the adjacent residential neighborhood or any other neighborhood. He mentioned that his business is located in Urbana, and he builds development in Urbana, so his interest is to benefit Urbana. The proposed facility would be automated so their clients would have a code to get through the gate, and there would be security cameras. It would be very well maintained.

Ms. Chester asked how tall the buildings would be. Mr. Taylor responded that the buildings at the eaves would measure around seven feet tall. Mr. Olsen said that the Site Plan shows the buildings to be eight feet in height. Ms. Chester commented that the residents of Beringer Commons would be able to see the buildings over the six-foot fence. Mr. Taylor said that is a possibility.

Ms. Uchtmann asked about the existing fence. Mr. Taylor said that he would not build a second fence where an existing fence already is as there would be no benefit in doing so and it would make it difficult for his company to maintain the existing fence.

Mr. Warmbrunn asked if the proposed facility would be closed at 8:00 pm, does this mean no one would have access. Mr. Taylor said that the only people who would have access after hours would be ownership, management, or public safety officials.

Ms. Uchtmann asked if overnight parking would be prohibited. Mr. Taylor said yes.

Chair Welch asked if anyone wanted to speak in favor of the proposed request. With there being none, he invited the audience wanting to speak in opposition to approach the Zoning Board of Appeals. He reminded them that questions should be directed to him, and if the question(s) are relative to the case, then he would direct them to the appropriate people.

Vicki Trimble approached the Zoning Board of Appeals to speak. She asked who the letters of support were from. Chair Welch stated that the letters were from people in the Urbana community and from outside the community, not necessarily living in Beringer Commons Subdivision.

Ms. Trimble asked why they are all here at this meeting. The case was heard in October and the Board voted and the application was denied. The only reason for this meeting is because the applicant filed an appeal and was informed that he was not eligible for an appeal. The applicant then implied a possible lawsuit. The City Attorney tried to mitigate the basis for a lawsuit by saying that the Board's reasons for denial at the October meeting were not legally sufficient. At that meeting, one of the board members said that a self-storage facility was not an appropriate use of the property, and another member stated that it was clear the audience was in opposition of the proposed request. Both of these responses could be the Zoning Board of Appeals' reasons for denial because it would not preserve the essential character of the neighborhood.

She stated that the applicant has bullied the residents of Beringer Commons by stating that if the self-storage facility is not approved that he could build something even more offensive to the neighboring subdivision. She noted that OSF, current property owners of the subject parcel, wants nothing more than to sell the property and that in the B-3 Zoning District, some of the people they may choose to sell to could also build something offensive and out of character for their neighborhood. The residents of Beringer Commons Subdivision were also threatened that the applicant and OSF have deep pockets and can outspend them in legal fees. She said that the residents of Beringer Commons are fighting this issue on their own as a neighborhood and a tight-knit community.

Ms. Trimble stated that 66% of the homeowners within 250 feet of the proposed site have signed a petition in protest to the proposed conditional use permit. In addition, 60% of all the homeowners within Beringer Commons Subdivision have also signed a petition in protest of this development. She stated that the Zoning Board of Appeals is required to gather public input, so it must be an important part of the decision-making process. She hoped that the Board values their input and protest over the proposed use.

She talked about tax revenue for the City and how self-storage facilities do not charge sales tax, which is more money that the City receives than property tax revenue. So, the income generated by the proposed use would be minimal for the City of Urbana.

Ms. Trimble talked about the other storage facilities located in Urbana and noted that how they are different from the proposed development. She talked about how storage warehouses do not add beauty to a lovely neighborhood. She wondered what recourse they would have if the applicant does not do what he says he plans to do.

Richard Lampman approached the Zoning Board of Appeals. He stated that he is the President of the Beringer Commons Homeowners Association. He addressed the supposed need for another self-storage facility. He noted that no survey was performed. He talked about there being 31 storage units located in Champaign County and said that almost half of them are located in the City of Urbana. Since there are an abundance of storage facilities in Urbana, there is not a need for any more. He did a search on the internet of how many open units are available in Urbana and found that there are 140, so the existing storage facilities are not at capacity as suggested in the application.

He talked about whether there is a need for a self-storage facility in the proposed area. He said that storage units are something that one drives to rather than walking to. When looking how many storage facilities are available in a 15-minute radius, they found about 9 or 10, so there is not a lack of storage facilities in the area.

Mr. Lampman stated that the application incorrectly characterizes the area as being office, business, industrial and agricultural. There is Aldi (zoned B-1), Beringer Commons (residential) and lots of agricultural farmland. There are no offices or industrial components. One would have to cross a major road to get into this aspect.

He talked about the percent of Beringer Commons home owners and residents who oppose the proposed use. So, the voice of the residents is clear in that they would like the Zoning Board members to vote no and use the facts as reasons for voting no. He stated that he was now happy to see the gate hours would be the same as the operating hours. However, we are still talking about taking an industrial looking use and plopping it down next to a major subdivision.

Bob Withers approached the Zoning Board of Appeals to speak. He addressed Criteria #2. He stated that the proposed self-storage facility would be very injurious and detrimental to the district and the public welfare of the residents and citizens boarding the facility.

He stated that there is evidence that there will be a negative effect on the market value of the surrounding homes. He said that after hearing of the possibility of a storage facility being in their backyard, two offers on a condominium were withdrawn. Eventually the condo sold for \$35,000 less than the original asking price.

Mr. Withers stated that there are many items stored in storage lockers that could increase the potential for fires. Sometimes people store hazardous chemicals, and sometimes people live in their units and use portable heaters and hot plates. There is a resident of Beringer Commons who owns a storage facility and acknowledges that people living in storage units does in fact occur, even if there is a clause in their lease prohibiting it. Also, this person has acknowledged the excess of trash.

He stated that when people live in their units, they have food which will potentially increase the number of vermin in their neighborhood. He added that the proposed storage buildings would not be a complement to Beringer Commons Subdivision as they would be metal buildings with metal roofs, which will be visible by many homeowners in Beringer Commons.

Mr. Withers stated that there will be trash left from people living in the units and from unwanted items left behind when someone moves their belongings out. Bigger items may even end up in the ditches just outside of the storage facility. He said that this will be detrimental to the public welfare.

He reiterated some of what Mr. Lampman said about the surrounding uses being residential, Aldi, and farmland. He said that the proposed development does not meet the requirements of Criteria #2.

Jim Tucker approached the Zoning Board of Appeals. He stated that he is the President of Homeowners Association 453, which borders the subject property. He addressed Criteria #3 by stating that the proposed use does not reflect the character of the neighborhood. The property would be bordered by Beringer Commons Subdivision, High Cross Road, and a B-1 parcel (Aldi). To encounter the industrial, office uses and a supermarket that are mentioned in Mr. Taylor's description in the application of the district in which the property lies, one would need to cross University Avenue. He said with a wall between Beringer Commons and the subject property, it would be a matter of only about ten feet from the closest condominium unit.

Mr. Tucker stated that it is not simply the unsightly view and other concerns that render the residents of Beringer Commons so opposed to it. He said that virtually every neighbor of the

subdivision value their neighborhood community and want to see it flourish and continue to grow. He stated that they believe a self-storage facility would make it less appealing to potential home buyers and new home builders. He added that it does not make sense that the City has a Build Urbana/Think Urbana program that is intended to grow Urbana's residential neighborhoods by providing perspective new home buyers and builders with five years of property tax abatement and sales tax relief on building materials. He mentioned that the 2005 Comprehensive Plan talks about quality of life and some of the key goals and objectives is to preserve and enhance the character of Urbana's established residential neighborhoods, to ensure appropriate zoning in established neighborhoods to help foster the overall goals for each unique area, to ensure that the site design for new developments in established neighborhoods is compatible with the built fabric of the neighborhood, and to promote development that residents and visitors recognize as being of high quality and aesthetically pleasing. He said that these goals and objectives are exactly what the residents of Beringer Commons is trying to achieve.

He asked that the Zoning Board of Appeals consider the fact that the Beringer Commons neighborhood came together to make a concerted effort to try to get the proposed use defeated. The residents are asking that the Zoning Board of Appeals deny the proposed request.

Mr. Warmbrunn asked Mr. Tucker how the proposed use would directly affect him. He stated that he would see the top two feet of the storage buildings. He stated that the landscaped trees were planted over 20 years ago and some of them have died. Beringer Commons is planning to request that Aldi replace the dead trees.

Mr. Warmbrunn asked when Mr. Tucker's townhome was constructed. Mr. Tucker said it was built in 2006. Mr. Warmbrunn asked when Aldi was built. Mr. Tucker said it was constructed in 2004. He knew Aldi was there when he purchased his townhome, but the trees were 12-foot tall.

Ms. Uchtmann asked if the Beringer Commons Homeowners Association (HOA) has considered buying the proposed lot. Mr. Tucker replied that the property has not been listed for sale. Mr. Taylor, the applicant, has been under contract to purchase it. The HOA cannot afford to retain a lawyer to represent them. How can they pay \$400,000 to purchase the lot if it was available?

Mr. Rusch asked how Mr. Tucker accessed his street. Mr. Tucker stated that he frequently uses High Cross Road to get on Rutherford Drive. They talked about the history of the corner piece where Aldi and the proposed parcel are located.

Joanne Budde approached the Zoning Board of Appeals to speak. She had poster boards with photos to share with the Zoning Board of Appeals.

Dave Wesner, City Attorney, asked if Ms. Budde would be submitting them to the Board as part of the record with some clarifying text since other speakers and herself have made reference to them.

Ms. Budde stated that she believed the photos will support the neighborhood's claim that the proposed use does not meet the requirement for preserving the essential character of the residential neighborhood. She said that some of the photos show the view the residents of Beringer Commons will have of looking at metal storage sheds and roofs. She stated that the proposal does not meet any of the required criteria for approval of a conditional use permit.

She said that there is no need for another self-storage facility in Urbana, especially in this area, so it is not conducive to public convenience. She stated that because of the proposed self-storage facility,

market values of adjacent homes will decrease, and it will reduce the interest of future home builders to purchase empty lots in Beringer Commons and build homes. If lots do not get sold and homes do not get built, then it is a loss of tax revenue for Champaign County and the City of Urbana. She added that people will be dumping trash and furniture that they no longer wish to keep. People also store food in their storage units, especially if they live in them; so, there will be an increase in pests, bugs, rodents and other animals from the storage units into Beringer Commons.

Ms. Budde stated that the proposed self-storage facility will not preserve the essential character of the neighborhood. Metal storage buildings do not belong adjacent to single family homes. It will not be compatible with existing land uses in the area. Referring to the concentric map, she showed that any commercial and industrial districts are at least 1,600 feet away from the subject property. The majority of the surrounding land uses around the proposed site are residential.

She talked about the height of the proposed self-storage buildings. She pointed out that there is not a height restriction in the B-3 Zoning District. At some point in the future, the applicant could build a multi-story warehouse. She pointed out that even the City Council agrees that many of the uses allowed in a B-3 Zoning District would not be appropriate for this area, and they have started working on rezoning the proposed site back to B-1, Neighborhood Business, Zoning District.

She discussed the other storage facilities in Urbana that the Planning staff had mentioned earlier. She talked about a study that the Planning staff had conducted about precedence at the request of the Zoning Board of Appeals. A memo was written in result of the study stating that the findings of fact for a case should never be based on facts from another case or on the notion of precedence. The Zoning Board of Appeals has the power to deal freely with each new case regardless of how they may have addressed a similar case in the past. In order for Zoning Board members to approve a conditional use permit, the application must meet all three of the criteria listed. The proposed case does not meet any of the criteria, so she respectfully asked the Board to deny the permit.

Mr. Emkes and Mr. Taylor re-approached the Board to address the concerns of those who testified. Mr. Emkes stated that their concerns have been heard by his client, who is the applicant, and heard by City staff. Some of their concerns are sought to be addressed with some of the conditions that are being met in the proposed application, as well as with the changes that Mr. Taylor has proposed. He stated that the opponents have presented a number of fears, speculations, and concerns; some of which they allude to some evidence of, but none of the evidence relates directly to Mr. Taylor or his management of the proposed facility. Further, a number of the concerns seem to be directed more at a zoning issue rather than a conditional use permit application. He noticed that a majority of the homes were purchased prior to the rezoning of the subject property, and the rezoning went through without objection. The B-3 zoning that continues today and the proposed use has, as it relates to some of the more or some of the less intrusive uses, are potentially available for this particular parcel. The opponents' concerns have been addressed by the applicant's willingness to entertain the conditions that City staff have recommended, so they request that the conditional use permit be granted.

Mr. Taylor thanked the Zoning Board of Appeals for taking time out of their holiday schedule to hold a special meeting for his case. He said that his motive, objective, and purpose is not to get into any argument with any of the homeowners. He stated that he proposed a self-storage facility because he felt it would be a good use for the subject parcel, and he was directed to this parcel. He mentioned that he did market research and studies and found that there is a demand for self-storage units.

Mr. Taylor went on to say that he understands that his proposed use will border a residential neighborhood. The unfortunate thing about cities and zoning is that no matter how careful you are, there is always going to be a situation where zones interconnect. He stated that after hearing how much objection there was at the first meeting, he did some research and found that many of the homes on Rutherford Drive, specifically the addresses for the letters that were sent out were owned when the subject parcel was rezoned from B-1 (Neighborhood Business) to B-3 (General Business), and most of the homes were purchased after the construction of Aldi's, so the knowledge that this is a commercial lot was there.

He addressed a comment made about veiled threats by the applicant. He stated that he has not made any veiled threats of any kind. He said that he is not the type of person that is going to build something that would be purposefully injurious to the neighborhood. If threats were made, it did not come from him or anyone who works for him or anyone who speaks on his behalf. He stated that he never said that, "he has deeper pockets than the residents in Beringer Commons", and it is not his goal or purpose to have to spend \$100,000 in attorney fees. He added that he has not been in communication with anyone in Beringer Commons since this case started. The only people he has spoken with are his attorney and his office, City staff, and different communications about this case as a whole.

Ms. Uchtmann asked if the applicant would be willing to build a less intense structure, say five units less, so that the buildings would be further away from the wall separating the subject property from Beringer Commons. She commented that 300 units is a lot. Mr. Taylor responded by saying that the proposed development is for about 270 units.

Ms. Budde re-approached the Zoning Board of Appeals. With regards to no one objecting to the subject property being rezoned to B-3, she stated that it occurred during the height of COVID and no residents recall being notified of the rezoning. In addition, a medical center was being proposed, which is a big difference than having a self-storage facility. She said that the applicant claims he did a market study; however, nothing has been provided to anybody to show what that study revealed. As for the veiled threats, the applicant stood at the podium at the October 18, 2023 meeting and said that the residents should be happy that he was building a self-storage facility because he could build something much worse. She explained that the comment about "deep pockets" came from his attorney to Beringer Commons' attorney right before they fired their attorney.

With there being no further input from the audience, Chair Welch closed the public input portion of the hearing and announced that they would take a five-minute break. He called the meeting back to order at 8:32 p.m.

Chair Welch opened the hearing for discussion and/or motion(s) by the Zoning Board of Appeals.

Mr. Warmbrunn stated that there has been tremendous discussion about "need," and "conducive" is being defined as need. He stated that he could not recall telling a businessman what type of business he could put in a particular zoning. He asked for clarification. Mr. Garcia stated that "need" and "conducive" are not the same. Mr. Rusch asked what the definition of "conducive to the public convenience" would entail. Mr. Garcia stated that there is not a good definition, so City staff goes by whether a use would be convenient for the public.

Mr. Rusch stated that he did not feel like the subject property is part of the Beringer Commons neighborhood. It is not inside their walls and does not access their driveways. Every lot in Beringer Commons faces away from the proposed site. However, the lot was zoned B-1 and was rezoned to

B-3, and the proposed storage facility would only be allowed in the B-3 Zoning District if it is meeting a higher bar. He stated that he felt if they are only barely passing the bar for a B-3 district to begin with, is it passing a higher bar to get a conditional use permit for a storage unit in this area? He stated that part of the reasoning staff gave the Zoning Board of Appeals for why the storage units have to go through a conditional use permit is because we do not want to have an area being taken up by a storage unit facility when a use more conducive to public convenience could go there instead. So, he asked if the applicant has met the standard of evidence to show the Board that the proposed use is the most conducive use? Mr. Warmbrunn responded that his interpretation is that many uses could be conducive, and City staff believes that the proposed use is conducive according to the written staff report.

Ms. Uchtmann stated that she read the minutes of the 2004 meeting of the Zoning Board of Appeals when there was a discussion about Aldi being allowed to build. She said that the minutes stated that there was hope of an upscale restaurant or shops being constructed north of the Aldi lot. In the almost 20 years since Aldi was built, nothing has happened. Ms. McLaughlin added that during the 2004 meeting, residents of Beringer Commons were also vehemently opposed to Aldi at the time. Now, Aldi seems to be a good fit and the opposing fears were unfounded. Ms. Uchtmann pointed out that none of the fears of trash accumulation, excess traffic, and theft have actually come true with the Aldi store being there. Ms. Chester thought the concerns at that time was the hours of operation, because some grocery stores were open 24 hours a day, and also the fence.

Ms. Chester stated that having worked as an assessor when Beringer Commons was platted and constructed, the proposed use would be injurious to property tax values of properties close to it. She felt the proposed use would be a problem for lots along High Cross Road and on Rutherford Drive. Ms. McLaughlin stated that there are other uses allowed in a B-3 Zoning District that would cause more of a problem (this is not a threat; it is just a fact). Both High Cross Road and University Avenue are arterial roads with a lot of traffic, so it is a good location for a business. She stated that she looked up other self-storage facilities that were referenced and mentioned by other folks, and found a lot of them to be comparably close to residential areas, even if they are not the same types of residential areas. Some of them were near multi-family and apartments. She stated that just because they are different types of residential areas does not mean that they don't still impact residents. So, there is a lot of precedent already for these types of uses being adjacent to residential areas without documented problems.

Ms. Uchtmann moved that the Zoning Board of Appeals approve Case No. ZBA-2023-C-05 with the following conditions:

1. The self-storage facility will generally conform to the submitted plan but that we decrease the number of units and the intensity of the building so that there is more green space and more space available for planting trees and so it would be further back from Rutherford Avenue.
2. The operating hours be between 7:00 a.m. and 8:00 p.m.
3. No vehicle storage or vehicles permitted on the property between 8:00 pm and 7:00 am.
4. The storage facility be monitored by cameras.
5. Any air conditioning units installed would not be located on the side that would cause noise to the neighbors.
6. The applicant install fencing around the south and east sides of the property. The fencing should be similar to the fencing at Tatman Court, which is a wrought iron fence and the gate would be matching.
7. The signage would be a monument sign conforming to the signage at the Aldi site.

8. Lighting would be as previously described.
9. Building height would be limited to 10 feet maximum.
10. An outdoor water spigot would be installed for plantings.

With there being no second on the motion, the motion died.

Ms. McLaughlin moved that the Zoning Board of Appeals approve Case No. ZBA-2023-C-05 with the following conditions:

1. The self-storage facility shall generally conform to the submitted site plan,
2. The self-storage facility's operating hours shall be between the hours of 7:00 a.m. and 8:00 p.m.,
3. The self-storage facility shall be monitored by security cameras,
4. The applicant shall install fencing along the south and east sides of the property,
5. The self-storage facility shall include language in its customer contracts prohibiting unauthorized dumping of materials on the property, and
6. The self-storage facility shall have a customer service phone number posted in a clearly visible location on the property, which shall be monitored by on-call staff during business hours.

Mr. Warmbrunn seconded the motion.

Ms. Uchtmann stated that the motion does not mention anything about reducing the intensity or size of the buildings. Ms. McLaughlin said that one condition requires the development to conform to the submitted site plan.

Mr. Warmbrunn asked if the reduced site plan, when it goes from 300 units to 270 units, would be reviewed by the water company for drainage. Mr. Garcia replied that there will also be a stormwater management plan that has to be reviewed and approved by the City Engineer. He added that he was unclear about the reduction being shown on a site plan though. Mr. Olsen noted that the current Site Plan shows building dimensions, not a number of units. The applicant reported approximately 300 units to City staff. If the Zoning Board is wanting to hold the applicant to 270 units, then that would need to be made a condition on the approval. Ms. Uchtmann and Mr. Rusch agreed that the Board should be considering the square feet of the buildings rather than the number of units.

Mr. Rusch said that he would also like to see an amendment to the motion to require a buffer on the northern side of the property. Ms. McLaughlin noted that setback on the northern side is at the smallest 22-1/2 feet. She said that she does not have the perfect number of what the correct setback should be, so she felt there would need to be some sort of rationale for justifying putting in an additional condition. Mr. Warmbrunn stated that it should be up to the applicant to be able to utilize the lot the best way he can to design the units that he wants.

Mr. Rusch stated that someone voting against the motion might be objecting to the detrimental effect that it could have on the district, and they could be voting against it because there is not enough evidence provided that a self-storage facility would be a conducive use of the property. Mr. Warmbrunn responded that if the motion does not pass, then another motion could be made with conditions that someone likes. Mr. Rusch said he was just stating the reasons why someone could vote against the motion.

Roll call on the motion was as follows:

Mr. Rusch	-	Abstain	Ms. Uchtmann	-	Abstain
Mr. Warmbrunn	-	Yes	Mr. Welch	-	Yes
Ms. Chester	-	No	Mr. Cho	-	Yes
Ms. McLaughlin	-	Yes			

Mr. Wesner stated that generally abstentions go with the majority vote. Mr. Garcia stated that the motion was passed by a vote of 6-1. He asked that the members voting in favor state the reasons for voting the way they did.

Ms. McLaughlin stated that she moved to approve because she agrees that the proposed use is conducive to the public convenience at that location, that the proposed use is designed, located, and proposed to be operated so that it will not be unreasonably injurious or detrimental given its location, and that the proposed use conforms to the applicable regulations and standards of the district in which it is located.

Mr. Wesner called a point of order to clarify that his interpretation of Findings of Fact is more of a “why” than a recitation of the criteria. Ms. McLaughlin noted that she talked about the location being at the two arterial roadways. It is an existing underutilized property that has been vacant for over 20 years. So, she believes the proposed use is conducive to the public convenience. She stated that the proposed use is a relatively low traffic use and the owners have made accommodations to be in line with the existing commercial facilities using the same hours of operation and by conforming to other City regulations. So, she believes it will not be unreasonably injurious or detrimental to the district in which it shall be located, or otherwise injurious to the public welfare. She stated that the applicant has not requested any additional special permits or variances and in comparison to other uses that could be there, she felt that a self-storage facility is a good use that is not contradictory to the other uses around it given the traffic, given the other commercial uses, and given the residential neighborhood, so she believes the proposed use would conform to the applicable regulations and standards of, and preserves the essential character of the district in which it will be located.

E. NEW PUBLIC HEARINGS

There were none.

F. UNFINISHED BUSINESS

There was none.

G. NEW BUSINESS

There was none.

H. PUBLIC INPUT

Chair Welch summarized the rules for public input.

Sarah Stannard approached the Zoning Board of Appeals. She talked about the traffic and a huge ravine potentially causing problems at the intersection of High Cross Road and University Avenue. She noted that this pertains to criteria #2 – public safety.

Joanne Budde approached the Zoning Board of Appeals. She asked if there is an appeal process. Mr. Wesner replied that as an administrative decision, the decision will be subject to appeal under the Administrative Review Act over to the Circuit Court. An appeal would need to follow that procedure.

Ms. Budde asked if they could put the City on notice that the residents of Beringer Commons plan to appeal so that the applicant does not run out and buy his storage units.

I. STAFF REPORT

There was none.

J. STUDY SESSION

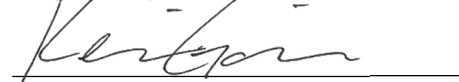
There was none.

Ms. Uchtmann proposed that the Zoning Board of Appeals have a study session to look at potential areas where the communication is not clear about what is allowed or not allowed in a B-3 or B-1 area. Mr. Garcia replied that what is allowed in the B-1 and in the B-3 districts are listed in the Table of Uses in the Urbana Zoning Ordinance and on the Zoning Description sheets. Ms. Uchtmann asked if they could discuss what a self-storage facility is classified under at a future meeting.

K. ADJOURNMENT

The meeting was adjourned at 9:05 p.m.

Respectfully submitted,



Kevin Garcia, Secretary
Zoning Board of Appeals

MINUTES OF A REGULAR MEETING

URBANA ZONING BOARD OF APPEALS

DRAFT

DATE: December 20, 2023

TIME: 7:00 P.M.

PLACE: Council Chambers, City Building, 400 South Vine Street, Urbana, Illinois

MEMBERS ATTENDING: Joanne Chester, Ashlee McLaughlin, Adam Rusch, Charles Warmbrunn, Harvey Welch

MEMBERS EXCUSED: Matt Cho, Nancy Uchtmann

STAFF PRESENT: Kimberly Smith, Director of Community Development Services; Kevin Garcia, Principal Planner and Zoning Administrator; Marcus Ricci, Planner II; David Wesner, City Attorney

OTHERS PRESENT: Geoff Bant, Joanne Budde, Chien-Yu Chen, Dan Davis, Christy Donovan, Frithjof Gressmaivv, Grace Harshbarger, Jeff Harshbarger, Igor Kalnin, Dannie Otto, Kris Pendl, Lauren Senoff, Evelyn Shapiro, Noelyn Stephens, Wes Taylor

A. CALL TO ORDER and ROLL CALL

Chair Welch called the meeting to order at 7:00 p.m. Roll call was taken, and he declared a quorum present.

B. CHANGES TO THE AGENDA

There were none.

Chair Welch swore in members of the audience who wished to speak on a case.

C. APPROVAL OF MINUTES OF PREVIOUS MEETING

Ms. Chester moved to approve the minutes of the previous meeting. Ms. McLaughlin seconded the motion. The motion was approved by unanimous voice vote.

D. CONTINUED PUBLIC HEARINGS

There were none.

E. NEW PUBLIC HEARINGS

ZBA-2023-C-07 – A request by Wes Taylor, on behalf of PK Elledge Development, LLC, for a Conditional Use Permit to allow a self-storage facility at 1601 East Colorado Avenue, in the B-3 (General Business) Zoning District.

Chair Welch opened Case No. ZBA-2023-C-07. He reviewed the procedure for a public hearing.

Marcus Ricci, Planner II, presented the case to the Zoning Board of Appeals. He gave a brief history of the proposed site. He noted the land uses, zoning and future land use designations of the subject property and of the surrounding properties. He showed photos of the subject property and a Concept Plan of the proposed self-storage facility. He talked about the proposed development. He reviewed the criteria for a Conditional Use Permit according to Section VII-2 of the Urbana Zoning Ordinance. He presented staff's recommendation for approval of Case No. ZBA-2023-C-07 with the following conditions:

1. The self-storage facility shall generally conform to the concept plan attached to the application.
2. The self-storage facility's operating hours shall be between the hours of 7 am – 10 pm.

He stated that the applicant is available to answer questions.

Chair Welch asked if any members of the Zoning Board of Appeals had questions for City staff.

Mr. Warmbrunn asked if there was a fence around the entire property [in the proposed plans]. Mr. Ricci said yes. Mr. Warmbrunn noticed that one side is a solid six-foot fence. He asked about the other three sides. Mr. Ricci replied that it depends on what the applicant wanted to provide. He explained that a fence is not required on the other three sides. It is only required on the east side because of the R-2 differing zoning district. The property to the south is zoned R-4, so it requires a five-foot landscape buffer.

Mr. Warmbrunn asked how deep the average stormwater detention pond would be. Mr. Ricci said that this would be calculated by the City Engineer based on the impervious area that would be drained off the site prior to and after development. The applicant has pre-calculated that this size should meet it; however, it has not been reviewed by the City Engineer.

Mr. Warmbrunn asked if the detention pond should be fenced off so no children have access. Mr. Ricci explained that the City's newly adopted Manual of Practice prohibits the fencing off of detention ponds. He stated that they are only concerned with the application meeting the Zoning Ordinance requirements at this point. All of the other building codes and engineering codes would be taken up by the relevant City agencies.

With there being no additional questions for City staff, Chair Welch opened the public hearing for public input. He invited the applicant to speak.

Wes Taylor, applicant, approached the Zoning Board of Appeals to speak on behalf of his application. He addressed Mr. Warmbrunn's question by stating that they intend to install a fence all around the property. The fence on the east side would be a different style than what they propose

for the north, south and west sides. They would also install a landscape buffer on the south side as required.

He stated that the detention would be a dry basin, so there will not be water continuously in the detention area. It will be meant to handle any storm water that runs through the property. He explained that while the Assisted Living Facility to the east has their own detention pond, the townhouses to the west does not have a drainage system so stormwater runs through a swale to the proposed site, and he would be required to manage that stormwater as well.

With there being no further input from the audience, Chair Welch closed the public input portion of the hearing and opened it up for discussion and/or motion(s).

Mr. Rusch moved that the Zoning Board of Appeals approve Case No. ZBA-2023-C-07 with the following conditions:

1. The self-storage facility shall generally conform to the concept plan attached to the application.
2. The self-storage facility’s operating hours shall be between the hours of 7 am – 10 pm.

Ms. McLaughlin seconded the motion.

Kevin Garcia, Principal Planner, asked the Board to provide some findings of fact.

Mr. Rusch stated that the reason for his motion to approve are as follows:

1. The proposed use is conducive to the public convenience at the location. It will serve people who want this kind of business.
2. The proposed facility is designed, located and proposed to be operated so that it will not be unreasonably injurious or detrimental to the district in which it shall be located.
3. The proposed use conforms to the applicable regulations and standards and preserves the essential character of the district in which it shall be located.

Roll call on the motion was as follows:

Ms. Chester	-	Yes	Ms. McLaughlin	-	Yes
Mr. Rusch	-	Yes	Mr. Warmbrunn	-	Yes
Mr. Welch	-	Yes			

The motion was passed by unanimous vote.

Requests by Chien-Yu Chen and Pei-Hsiu Tan Regarding 312 West Illinois Street in the R-2 (Single-Family Residential) Zoning District:

ZBA-2023-C-06 - A request for a Conditional Use Permit to allow a duplex.

ZBA-2023-MAJ-03 - A request for Major Variances to reduce the required front yard along Illinois Street from 15 to 9 feet, reduce the minimum open space ratio from 0.4 to 0, and increase the maximum floor area ratio from 0.4 to 0.52.

ZBA-2023-MAJ-04 - A request for Major Variances to reduce the required lot area for a duplex from 6,000 to 3,607 square feet, and reduce the required number of parking spaces for a duplex from four to two.

ZBA-2023-MIN-03 - A request for a Minor Variance to reduce the required front yard along Birch Street from 15 to 12 feet.

Chair Welch opened the public hearing for all four cases together, since they are related. Marcus Ricci, Planner II, presented the written staff report. Mr. Ricci reviewed each case and how it relates to the Zoning Ordinance requirements. He showed plans of the existing site and the proposed site, and showed floor plans for the proposed duplex. He presented a history of the existing property and existing structure. He talked about the setbacks, the open space ratio (OSR), and the floor area ratio (FAR) for the proposed duplex. Mr. Ricci explained the request for reduced parking. He showed photos that the applicant supplied to show that street parking is not fully-occupied.

Mr. Ricci reviewed criteria according to Section VII-2 of the Urbana Zoning Ordinance that pertains to conditional use permits, and explained how the proposed request meets the criteria. He then reviewed the criteria according to Section XI-3 of the Urbana Zoning Ordinance that pertains to variances, and explained how the requests meet the criteria.

He described the public input process, and indicated that staff received eight letters of support, three letters of objection to all requests, and three letters objecting to the duplex-related requests. He stated that there were revised letters and new letters that he had distributed at the beginning of the meeting.

Mr. Ricci summarized the staff findings and presented staff's recommendation for approval of the conditional use and major and minor variance requests in Case Nos. ZBA-2023-C-06, ZBA-2023-MAJ-03, ZBA-2023-MAJ-04 and ZBA-2023-MIN-03. He mentioned that the applicant was available to answer questions.

Chair Welch asked if any of the members of the Zoning Board of Appeals had questions for City staff.

Ms. Chester stated that, in this neighborhood, there were a number of homes that had been converted into duplexes or triplexes, and were required to be converted back to single-family houses. She asked if the owner of a single-family home in the area could apply for a conditional use permit [to create a duplex]. Mr. Ricci said yes, because a duplex is permitted with approval of a conditional use permit in the R-2 (Single Family Residential) Zoning District.

With there being no additional questions for staff, Chair Welch opened the hearing for public input. He invited the applicant to speak.

Chien-Yu Chen, applicant, approached the Zoning Board of Appeals to speak. He asked Ms. Chester to clarify about duplexes being required to convert back to single-family homes. Mr. Garcia clarified that Ms. Chester was referring to an effort back in the 1980s where the Planning staff surveyed all of the houses in the neighborhood and required property owners of illegally-converted duplexes or more units to return back to single-family use.

Mr. Chen stated that he is seeking approval of his requests so he can build a duplex by law that would meet the standards for a duplex. The proposed duplex would be built on the same footprint as the existing structure, with a full two-story construction.

Dan Davis approached the Zoning Board of Appeals to speak in favor of the requests. He commented that the existing structure is an eyesore, and with the caution tape, it is not great for property values of surrounding properties. This is an opportunity to significantly improve the neighborhood. The proposed duplex will have a porch, which improves street appearance on Illinois Street. He stated that he supports the proposal and all of the variances. The current structure is an embarrassment as it is, and the proposed duplex will provide needed density. It would be owner-occupied, which is a benefit. It is not any bigger than nearby homes and not overshadowing any neighbors. So, he strongly encouraged the Zoning Board members to approve the project.

Dannie Otto approached the Zoning Board of Appeals to speak. Chair Welch swore in Mr. Otto. Mr. Otto stated that he has watched the existing structure on the subject property decay over the years. In recent years, it has been vacant and then have short-term renters and then become vacant again. He mentioned that as a hobby, he has restored and renovated eight homes, and he thought that he had never seen a home that could not be salvaged until he and two other people (one being a contractor) saw the extensive termite damage and realized that the termite damage was too extensive and there was no place to start a renovation.

He stated that after seeing what the applicant is proposing, he feels that the proposed duplex would fit into the scheme of the neighborhood. He stated that he measured the setbacks of the houses on the block; many were only four feet less from the front property line than is being proposed. He talked about parking being an issue; however, the applicant intends to use the garage for parking spaces. He encouraged the Zoning Board of Appeals members to grant the applicant's requests.

Kevin Garcia, Principal Planner and Zoning Administrator, read a letter in opposition that was handed to staff at the beginning of the meeting. The letter was from Lauren Senoff,

Evelyn Shapiro approached the Zoning Board of Appeals to speak in opposition. She expressed concern about the number of variances and about whether it will be an owner-occupied duplex. She stated that she believes that the garage would be used as a ceramics studio, not for parking, so there would only be one parking space. She asked how many parking spaces are available along Birch Street. At the direction of Chair Welch, Mr. Ricci responded that he thought there were four parking spaces north of Illinois, and there are approximately six parking spaces on the south side of Birch Street. Ms. Shapiro stated that it is not safe to park your vehicle on Illinois Street because of how fast people drive down the street.

She talked about the bump out of the enclosed porch. She mentioned that the sidewalk obstruction has been a huge issue with not having an egress in front of the house and on the corner. She said that she would support single-family but not the duplex.

Mr. Chen reapproached the Zoning Board of Appeals to respond. He stated that he lives about one mile south of the subject property on Race Street and Florida Avenue. He intends to use part of the building as a studio; not the garage. With regards to parking, he said that there are four parking spaces along Birch Street and four or five parking spaces on Illinois Street. The only time he noticed many cars parked along Birch Street is on Sunday mornings when people are going to church.

Mr. Warmbrunn asked for clarification on the use of the garage. Mr. Chen said that he plans to use the garage for parking. Mr. Chen said that he intends to use one of the units of the duplex as his personal studio. Mr. Warmbrunn said that the applicant would need to use the garage for parking one vehicle and the space in front of the garage as a second parking space. Mr. Chen said he intends to use the garage for parking.

Ms. Shapiro reapproached the Zoning Board of Appeals. She stated that it is surprising to her that he intends to live nearby and use one unit of the proposed duplex as a studio. Is it still considered an owner-occupied duplex if he does not live in the building? Ms. McLaughlin asked staff if the duplex being owner-occupied was a condition of the approval of a Conditional Use Permit. Mr. Garcia said no. The application does state that the proposed duplex will be owner-occupied, so this is irrelevant.

With there being no further input from the audience, Chair Welch closed the public input portion of the hearing and opened it for discussion and/or motions by the Zoning Board of Appeals.

Mr. Warmbrunn moved that the Zoning Board of Appeals approve Case No. ZBA-2023-C-06 based on the Summary of Findings in the written staff report. Ms. McLaughlin seconded the motion. Roll call on the motion was as follows:

Mr. Rusch	-	Yes	Mr. Warmbrunn	-	Yes
Mr. Welch	-	Yes	Ms. Chester	-	Yes
Ms. McLaughlin	-	Yes			

The motion passed by a vote of 5-0.

Ms. McLaughlin moved that the Zoning Board of Appeals approve Case No. ZBA-2023-MIN-03 based on staff findings and based on the proposed duplex being in conformance with other properties in the neighborhood.

Kim Smith, Director of Community Development Services, called point of order. She requested that the Board vote on the cases in order as they appear on the agenda.

Ms. McLaughlin moved to strike her motion for Case No. ZBA-2023-MIN-03.

Ms. McLaughlin moved that the Zoning Board of Appeals forward Case No. ZBA-2023-MAJ-03 to the City Council with a recommendation for approval based on staff findings and on its conformity with the essential character of the existing neighborhood. Mr. Warmbrunn seconded the motion. Mr. Welch noted that approval would require a 2/3 majority vote of the Board members. Roll call was as follows:

Mr. Welch	-	Yes	Ms. Chester	-	Yes
Ms. McLaughlin	-	Yes	Mr. Warmbrunn	-	Yes
Mr. Welch	-	Yes			

The motion passed by unanimous vote.

Mr. Rusch moved that the Zoning Board of Appeals forward Case No. ZBA-2023-MAJ-04 to the City Council with a recommendation for approval based on the Summary of Findings outlined in the written staff report. Ms. McLaughlin seconded the motion.

Ms. McLaughlin stated that she believes that increased density is appropriate for this area given the location and the good accessibility to walking, biking and transit in the area as well as conformity with surrounding properties.

Mr. Rusch stated that he lives two blocks away and has never seen a lack of parking on Illinois Street. With there being four parking spaces on Birch Street and an additional four to six parking spaces if you go past High Street towards Green Street, he felt that there was sufficient parking available.

Roll call on the motion was as follows:

Ms. Chester	-	Yes	Ms. McLaughlin	-	Yes
Mr. Rusch	-	Yes	Mr. Warmbrunn	-	Yes
Mr. Welch	-	Yes			

The motion passed by unanimous vote. Mr. Garcia stated that Case Nos. ZBA-2023-MAJ-03 and ZBA-2023-MAJ-04 would be forwarded to Committee of the Whole on January 16, 2024.

Mr. Warmbrunn moved that the Zoning Board of Appeals approve Case No. ZBA-2023-MIN-03 as outlined and based on the Summary of Findings in the written staff report. Mr. Rusch seconded the motion. Roll call on the motion was as follows:

Mr. Rush	-	Yes	Mr. Warmbrunn	-	Yes
Mr. Welch	-	Yes	Ms. Chester	-	Yes
Ms. McLaughlin	-	Yes			

The motion passed by unanimous vote.

Ms. Smith called a point of order regarding the approval of minutes. Minutes were not specifically listed on the agenda and were not included in the packet on the website; therefore, nothing was approved as minutes in this meeting. The minutes will be listed on the next meeting agenda and will be included in the next packet for approval by the Board.

F. UNFINISHED BUSINESS

There was none.

G. NEW BUSINESS

There was none.

H. PUBLIC INPUT

Joanne Budde approached the Zoning Board of Appeals to speak. She spoke about Case No. ZBA-2023-C-05 regarding the approval of a Conditional Use Permit for a self-storage facility at 205 North

High Cross Road. She said that the only logical and legal action for the Zoning Board of Appeals to take is to rescind their motion from November 15, 2023 to reopen the case and instead insert their findings of fact from October 18, 2023 for their denial into the record. She said that the process has been flawed from the beginning, and it looks like everyone is making up rules as they go along. She said she realized that it is very unusual for the Zoning Board of Appeals to have disagreements on how to vote, so she is sure that this is all new ground for them. She recapped her interpretation of the steps of the case that occurred. She urged the Zoning Board of Appeals to rescind their motion from November 15, 2023 to reopen the case and instead insert their findings of fact from October 18, 2023 for their denial into the record. She asked if the City Attorney had issued a response regarding the Zoning Board of Appeal's invalid vote on December 13, 2023. Ms. Smith replied that a letter was sent to the Zoning Board of Appeals and to City Council earlier in the day. If Ms. Budde gives her email address to City staff, then we can send the letter to her.

Mr. Rusch stated that he received the letter today and wanted this to be reflected in the minutes. Ms. Budde asked if the homeowners had to wait until the minutes of this meeting were made available to get a copy of the City Attorney's letter. Ms. Smith called point of order. This item on the agenda is for taking public comments. If Ms. Budde or other homeowners would like a copy of the letter, they can provide their email addresses and City staff will forward the letter to them.

I. STAFF REPORT

There was none.

J. STUDY SESSION

There was none.

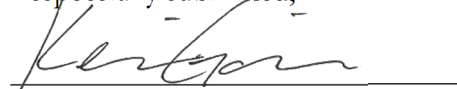
Mr. Warmbrunn requested that the Zoning Board of Appeals review their bylaws. Mr. Garcia said that it is in the works and City staff will be presenting the bylaws for the Board's review in the near future.

Mr. Warmbrunn asked if a Conditional Use Permit is different for a business than it is for a resident. Mr. Garcia said no. Mr. Warmbrunn talked about the language for "need" of a proposed use on the application. He noticed that one recent application had it and another did not. Mr. Garcia stated that City staff would look at the language in the application.

K. ADJOURNMENT

The meeting was adjourned at 9:47 p.m.

Respectfully submitted,



Kevin Garcia, Secretary
Zoning Board of Appeals



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: Urbana Zoning Board of Appeals
FROM: Marcus Ricci, AICP, Planner II
DATE: January 17, 2024
SUBJECT: **ZBA-2023-MAJ-05:** A request by Andrew Fell, on behalf of Yasmin Bobat, Trustee, for a Major Variance to reduce the required front yard along McCullough Street from 20 feet, 4 inches to 5 feet at 408 West Main Street in the R-4 (Medium Density Multiple-Family Residential) Zoning District.

Introduction

On behalf of Yasmin Bobat, Trustee, Andrew Fell requests a major variance to reduce the required front yard along McCullough Street from 20 feet, 4 inches to 5 feet at 408 West Main Street, to allow the construction of a duplex, a by-right use in the R-4 Zoning District.

The Urbana Zoning Ordinance requires the Zoning Board of Appeals (“ZBA”) to review the variance application and hold a public hearing. The Board may recommend approval to City Council by a 2/3 majority vote, or approval with conditions to City Council by a 2/3 majority vote, or deny the request. The Board should either accept the specific staff findings or articulate their own specific findings based on that application’s criteria.

Staff recommend the ZBA forward a recommendation to City Council to approve the major variance with one condition.

Background

The original two-story house at this property was built prior to 1909; it had an approximately 1,200 sq ft footprint. It was used as a residence until 1934, and then used as a house of worship until 2017. The most recent use was as the Children’s Church of the Canaan Baptist Church. The applicant purchased the vacant property in 2018. The building was in poor condition, with several building code violations, and was demolished in 2021. The applicant plans to build a new duplex on the lot, which is a permitted use in the R-4 district. The applicant also owns and renovated the duplex property to the east, and will provide parking spaces at this adjacent site for the proposed duplex.

Description of Site and Area

The property is located at the northeast corner of West Main and McCullough Streets. It is currently vacant.¹ The lot was originally platted in 1872 as part of Lot 12 of C.W. Smith’s Subdivision; at some point before 1980, Lot 12 was subdivided into two lots: 408 West Main Street, the western lot, which is 3,526 sq ft, and 406 West Main Street, the eastern lot, which is 4,872 sq ft. The lot has a legally

¹ Exhibit A – Location and Land Use; Exhibit E – Site Photos.

conforming width, but is only 59 percent of the 6,000 sq ft minimum lot size required in the R-4 district.²

The chart below identifies the current zoning, and existing and future land use of the site and surrounding properties (see Exhibits A, B, and C).

Direction	Zoning	Existing Land Use	Future Land Use
Site	R-4 (Medium Density Multiple-Family Residential)	Undeveloped	Residential
North	R-4 (Medium Density Multiple-Family Residential)	Single- & Two-Family Residential	Residential
East	R-4 & R-5 (Medium & Medium High Density Multiple-Family Residential)	Multifamily Residential; Church	Residential
South	R-2 (Single-Family Residential)	Single-Family & Multifamily Residential	Residential
West	R-5 (Medium High Density Multiple-Family Residential))	Multifamily Residential (Element on Main)	Residential

Table 1. Zoning and Land Use

Discussion

The applicant would like to build a two-story duplex of approximately 2,000 sq ft, with an approximate 1,000 sq ft footprint, which is a smaller footprint than the previous house. It would be built in the same general location as the previous house, but would be five feet further from Main Street – the primary street – and five feet closer to McCullough Street – the secondary street.³ Parking for the proposed duplex would be provided along the proposed access drive off McCullough (two spaces) and in the parking area north of 406 West Main Street (two spaces).

The required front yard along McCullough Street is 20 feet, 4 inches, the average of the yards of the houses on that block face. The west property line along McCullough Street is approximately ten feet east of the east edge of the sidewalk: this creates a smaller buildable area than most parcels of similar platting date. The applicant proposes to have the main portion of the house encroach approximately eight feet into the required front yard, with an enclosed vestibule wrapping around an open porch, encroaching the full 15 feet four inches. This vestibule and porch would be at least five feet from the west property line. This “step-back” approach of open and closed areas would reduce the perception of “crowding” at the corner of the block.

Variance Criteria

Section XI-3 of the Urbana Zoning Ordinance requires the Zoning Board of Appeals to make findings based on variance criteria. The Zoning Board of Appeals must first determine, based on the evidence presented, whether there are special circumstances or special practical difficulties with reference to the parcel concerned, in carrying out the strict application of the ordinance. This criterion is intended to serve as a minimum threshold that must be met before a variance request may be evaluated.

² Section VI-3.A. Lot Area and Width.

³ Exhibit D.B – Application – Proposed Site Plan and Close-up

The following is a review of the criteria outlined in the ordinance, followed by staff analysis for this case:

1. *The proposed variance will not serve as a special privilege because the variance requested is necessary due to special circumstances relating to the land or structure involved or to be used for occupancy thereof which is not generally applicable to other lands or structures in the same district.*

The requested yard variance will not serve as a special privilege because it is necessary for three reasons. First, the lot is only 3,526 sq ft (59 percent of the minimum required lot size). Second, the small lot size is complicated by the fact that it is a corner lot and must provide *two* required front yards, unlike most lots. Finally, the lot begins ten feet east of the sidewalk along McCullough Street, so the effective setback from the sidewalk and street is ten feet further than the request suggests.

Staff find this criterion met.

2. *The variance requested is not the result of a situation or condition having been knowingly or deliberately created by the Petitioner.*

The requested variance would allow construction of a new duplex on the lot, and would remedy the above situations, which were created prior to the applicant's purchase of the lot in 2018.

Staff find this criterion met.

3. *The variance will not alter the essential character of the neighborhood.*

The proposed duplex would be consistent with the essential character of the neighborhood, as it would be of similar size and style to nearby homes. The submitted plans show a "stepping-back" of the face of the home, which would reduce the perception of "crowding" the corner of the block, as it would not present a continuous, flat wall near the property line.

Staff find this criterion met.

4. *The variance will not cause a nuisance to the adjacent property.*

Granting the variance would not create a nuisance at this time or in the future. The building will still be set back to allow plenty of visibility for people driving on McCullough Street and Main Street. In addition, *not* granting the variance might cause a nuisance to the neighborhood, as it would leave a vacant, essentially undevelopable, lot at a street corner. The variance would also make on-site parking easier, and will allow access to the parking spaces at 406 West Main Street. This would reduce the need to park on the street, and would be less of a nuisance to the neighborhood.

Staff find this criterion met.

5. *The variance represents generally the minimum deviation from requirements of the Zoning Ordinance necessary to accommodate the request.*

The requested variance would allow building a home in the same general location as the previous home, and would keep the property in conformity with the Urbana Zoning Ordinance. The building would be similar in size and footprint as the previous structure. The applicant had previously designed a building that would meet the required yard setbacks, but doing so would result in no on-site parking, and would also cut off access to the parking area to the east, at 406 West Main Street.

Staff find this criterion met.

Overall, staff find that all five criteria weigh in favor of granting the major variance.

Public Notice and Input

Staff published a legal ad in The News-Gazette to notify the public of the request and public hearing 15 days prior to the Zoning Board of Appeals meeting. Staff sent letters to 26 neighboring property owners (within 250 feet of the subject property) notifying them of the request, and posted a public hearing sign on the property. Staff received one letter of support.

Summary of Findings

On behalf of Yasmin Bobat, Trustee, Andrew Fell requests a major variance to reduce the required front yard along McCullough Street from 20 feet, 4 inches to 5 feet at 408 West Main Street in the R-4 (Medium Density Multiple-Family Residential) Zoning District.

1. The requested variance will not serve as a special privilege because it is necessary due to the small size of the lot, which is compounded by it being a corner lot, and because the lot begins ten feet east of the sidewalk along McCullough Streets.
2. The requested variance would remedy the above situations, which were created prior to the applicant's purchase of the lot in 2018..
3. The proposed building would be consistent with the essential character of the neighborhood, as it would be of similar intensity, size, and style, and would be "stepped back" from the corner of the block.
4. The variance would not create a nuisance, as it will allow plenty of visibility for people driving by, will make on-site parking easier and reduce on-street parking, and it might prevent a future nuisance by filling in an otherwise undevelopable lot at a street corner.
5. The variance represents the minimum deviation from requirements of the Zoning Ordinance necessary to accommodate the request, as the building would be similar in size and footprint as the previous structure, and because building in a way that would meet the required yard setbacks would result in no on-site parking and would cut off access to the parking area to the east.

Options

The Zoning Board of Appeals has the following options in Case No. ZBA-2023-MAJ-05: a major variance to reduce a required front yard:

1. Forward the case to City Council with a recommendation to **approve** the variance as requested based on the findings outlined in this memo; or
1. Forward the case to City Council with a recommendation to **approve the variance with certain terms and conditions**; or
2. **Deny** the variance request.

If the Urbana Zoning Board of Appeals elects to recommend conditions or recommend approval of the variances on findings other than those articulated herein, they should articulate findings accordingly.

Recommendation

Based on the evidence presented in the discussion above, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommends that the Zoning Board of Appeals recommend **APPROVAL** of the proposed Major Variance in case ZBA-2020-MAJ-05 with one condition:

1. Construction must be in general conformance with the attached site plan, entitled “408 West Main – New Duplex,” (Attachment 1).

Attachments: Exhibit A: Location Map

Exhibit B: Zoning Map

Exhibit C: Future Land Use Map

Exhibit D: Variance Application with Site Plan

Exhibit E: Site Photos

Exhibit F: Public Input

cc: Andrew Fell, Applicant
Yasmin Bobat, Trustee, Owner

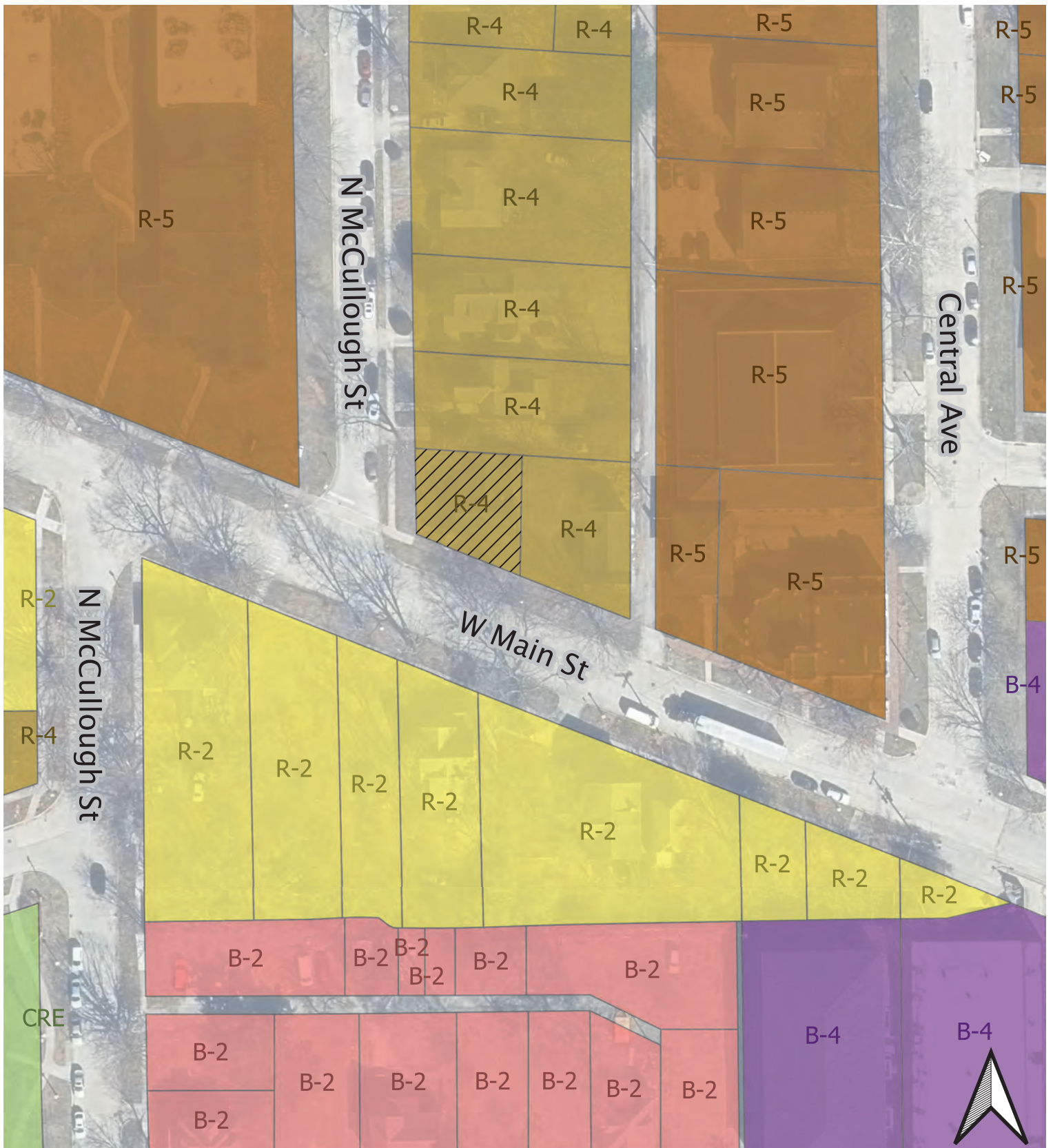
Exhibit A - Location & Land Use



Case: ZBA-2023-MAJ-05
 Subject: Front Yard Major Variance
 Location: 408 West Main Street
 Applicant: Andrew Fell, on behalf of Yasmin Bobat

- Subject Property
- Residential
- Shopping or business
- Social or institutional
- Travel or movement
- Mass assembly
- Leisure

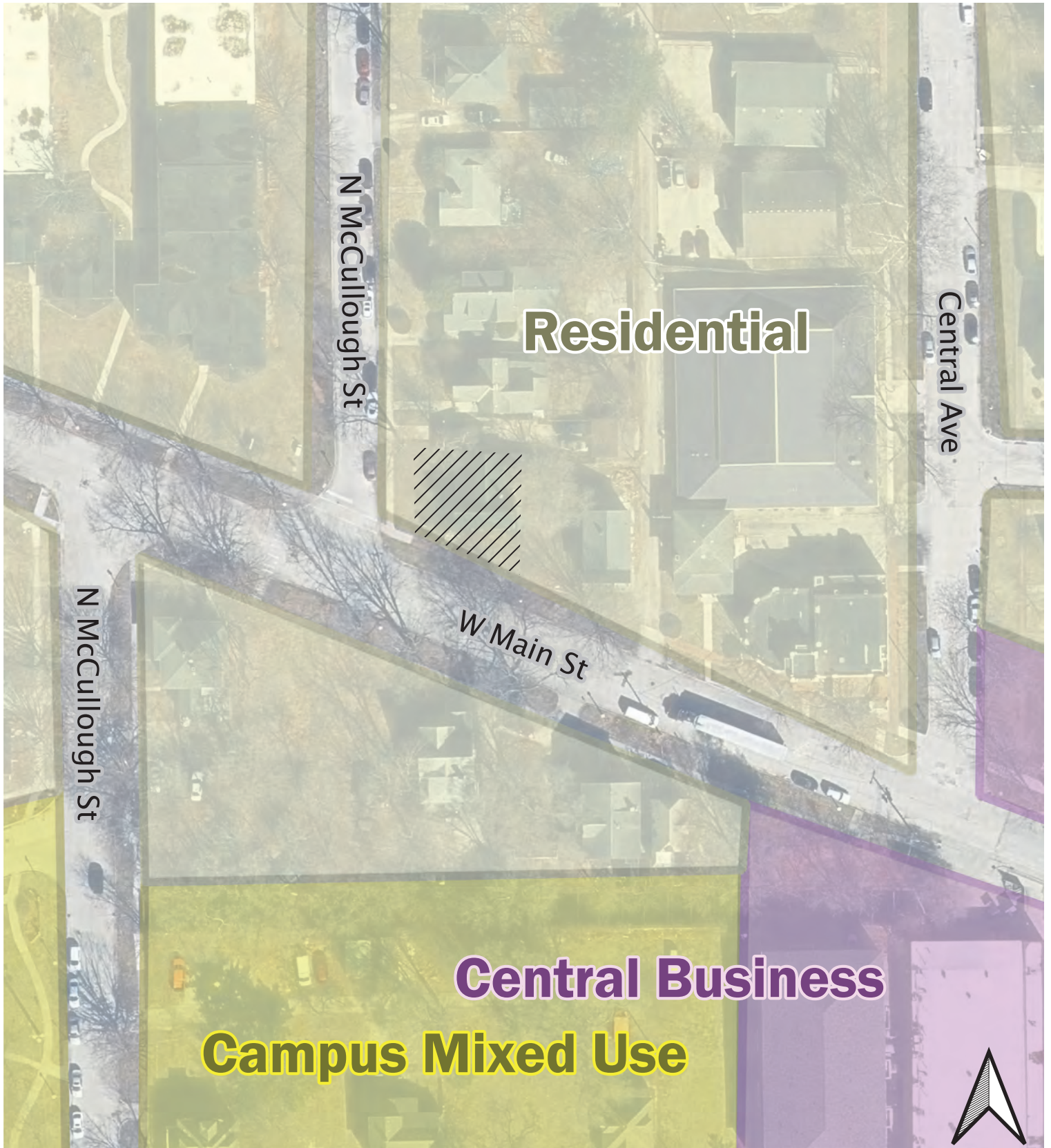
Exhibit B - Zoning



Case: ZBA-2023-MAJ-05
Subject: Front Yard Major Variance
Location: 408 West Main Street
Applicant: Andrew Fell, on behalf of Yasmin Bobat

//// Subject Property

Exhibit C - Future Land Use



Case: ZBA-2023-MAJ-05
Subject: Front Yard Major Variance
Location: 408 West Main Street
Applicant: Andrew Fell, on behalf of Yasmin Bobat

//// Subject Property

Exhibit D - Variance Application with Site Plan

CASE NUMBER: ZBA-2023-MAJ-05



APPLICATION FOR ZONING BOARD OF APPEALS

The application fee must accompany the application when submitted for processing. For the current fee, please refer to the most recent version of the City's "Schedule of Fees - Excluding Liquor License Fees", which can be found at <http://www.urbanaininois.us/fees>.

The Applicant is also responsible for paying the cost of **legal publication fees**. The News-Gazette will bill the applicant directly. Legal ad publication fees vary from \$75.00 and up.

PROPERTY INFORMATION

Address/Location of Subject Site **408 West Main**
Parcel/PIN # of Subject Site **91-21-08-380-013**
Lot Size **51' x 62' (irregular)**
Current Zoning Designation **R-4**
Current Land Use (*vacant, residence, grocery, factory, etc*) **vacant**
Proposed Land Use **duplex**
Legal Description (*If additional space is needed, please attach on a separate document.*)
See Attached

APPLICANT INFORMATION

Name of Applicant **Andrew Fell**
Applicant Business Name **Andrew Fell Architecture and Design**
Applicant Mailing Address
Street # **515** Street Name **North Hickory**
Apartment #, Suite #, Etc. **101**
City **Champaign** State **IL** Zip **61820**
Applicant Email Address [REDACTED]
Applicant Phone [REDACTED]

Multiple Applicant(s) No Yes
Please attach documentation of additional applicants names and contact information.

Property Interest of Applicant(s) **Architect**

Exhibit D - Variance Application with Site Plan

REQUEST INFORMATION

Permit Type: **Major Variance**

Purpose for Request **to Fit Builfiding on the lot and maintain a north side driveway**

Describe the proposed use and its activities. In other words, what do you plan to do? Are there existing buildings you will use, change, or demolish? Will you build new buildings? What activities will take place on site, and where? If you're planning a business, what will your hours of operation be?

Seeking approval to reduce the front yard setback in order to be able to provide a drive along the north side of the building to access parking spaces.

The new building is a duplex with similar units on each of two floors. It replaces a deteriorating Church structure which was demolished a few years ago. The parcel is currently vacant.

For Appeals, please proceed to page 6.

For Conditional Use Permits, please proceed to page 7.

For Variances, please proceed to page 8.

Exhibit D - Variance Application with Site Plan

REASONS FOR VARIANCE

(Continued from page 5)

Identify and explain any special circumstances or practical difficulties in carrying out the strict application of the Zoning Ordinance with respect to the subject parcel.

1. - The lot is extremely small.
2. - The lot is on a corner - so subject to two front yard setback requirements, making the allowable building footprint very small.
3. - The west property line is approximately 10' inside the sidewalk.
4. - The property is subject to the 'Average Setback' requirement and the existing structures on the

Explain how the variance is necessary due to special conditions relating to the land or structure involved which are not generally applicable to other property in the same district.

The geometry of the lot (reasons above) make it difficult to provide a drive on the north side of the building. This combined with the desire to access parking spaces, necessitate the Variance

Explain how the variance is not the result of a situation or condition that was knowingly or deliberately created by you (the Petitioner).

The lot is existing in this form - so these restrictions apply to this site no matter how it is ultimately developed. Having two front yard setback restrictions also make it very difficult to include any parking on the site. This solution allows for residents to park off of the street.

Explain why the variance will not alter the essential character of the neighborhood.

The new duplex maintains the current housing type in the neighborhood (a mix of owner occupied and rental homes and multi-family), and does not impose a high level of occupancy.

Explain why the variance will not cause a nuisance to adjacent property.

The duplex is a continuation of the existing uses and is not as densely occupied as some neighboring properties.

Does the variance represent the minimum deviation necessary from the requirements of the Zoning Ordinance? Explain.

This does represent what we feel is the minimum variance to obtain our goals for the site and safe parking of residents vehicles.

Exhibit D - Variance Application with Site Plan

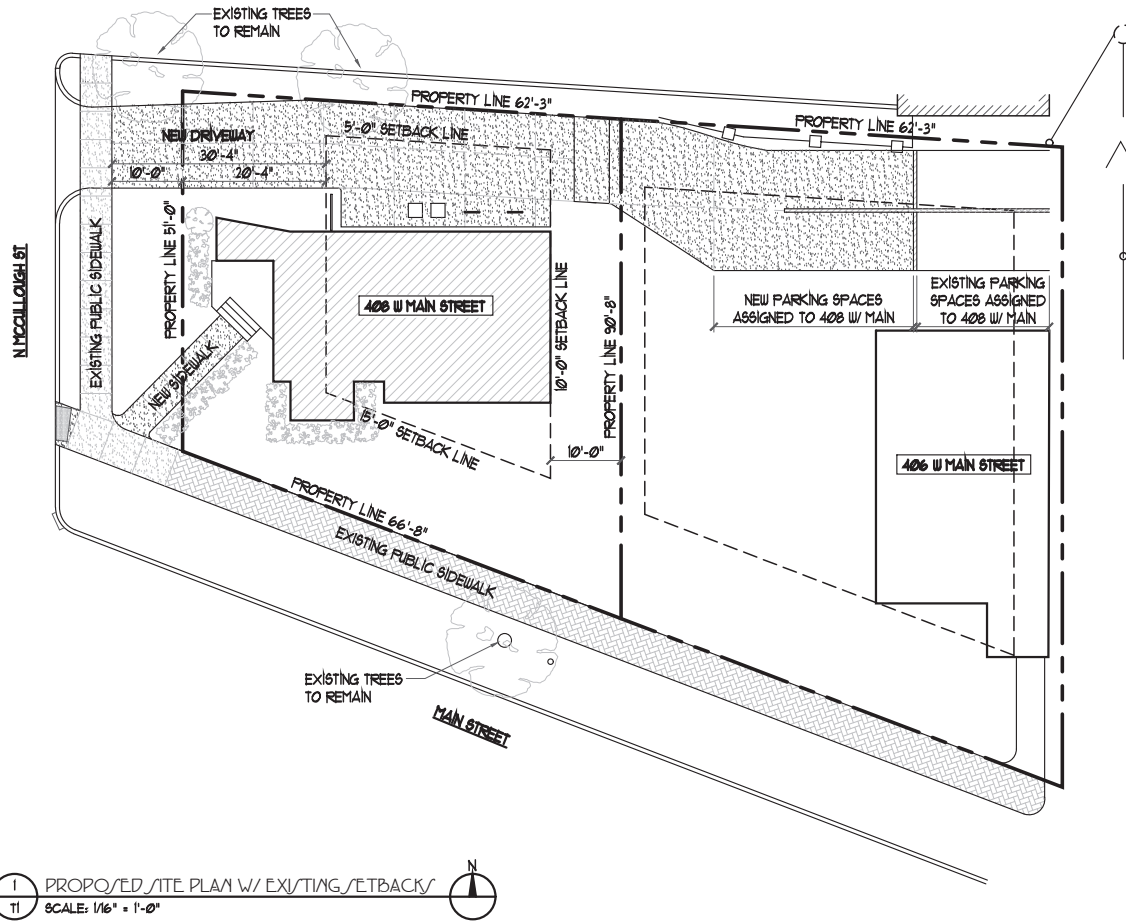
408 WEST MAIN

NEW DUPLEX

408 WEST MAIN STREET
URBANA, ILLINOIS 61801

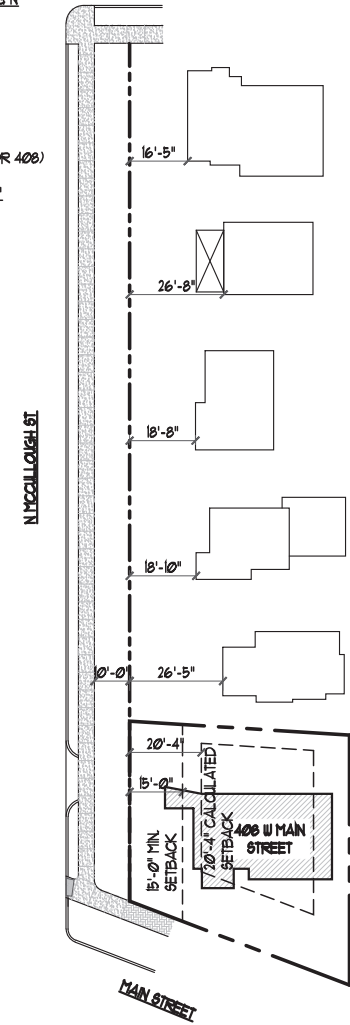
ANDREW FELL
ARCHITECTURE AND DESIGN

616 North Hickory, Suite 101
Champaign, Illinois 61820
Phone: 217.263.5269
email: andrew.fell@andrewfell.com



408 W MAIN SETBACK
CALCULATION BASED ON THE
AVERAGE SETBACK ALONG N
MCCULLOUGH ST

AVERAGE SETBACK =
16'-5"
26'-8"
18'-8"
18'-10"
26'-5"
15'-0" (MINIMUM FOR 408)
TOTAL = 122'-0"
122'-0" / 6 = 20'-4"



2 AVERAGE BLOCK / SETBACK /
T1 SCALE: 1/32" = 1'-0"



T1

1 PROPO/ED SITE PLAN W/ EX/TING /ETBACK/
T1 SCALE: 1/16" = 1'-0"



Exhibit D - Site Plan - Area of Variance

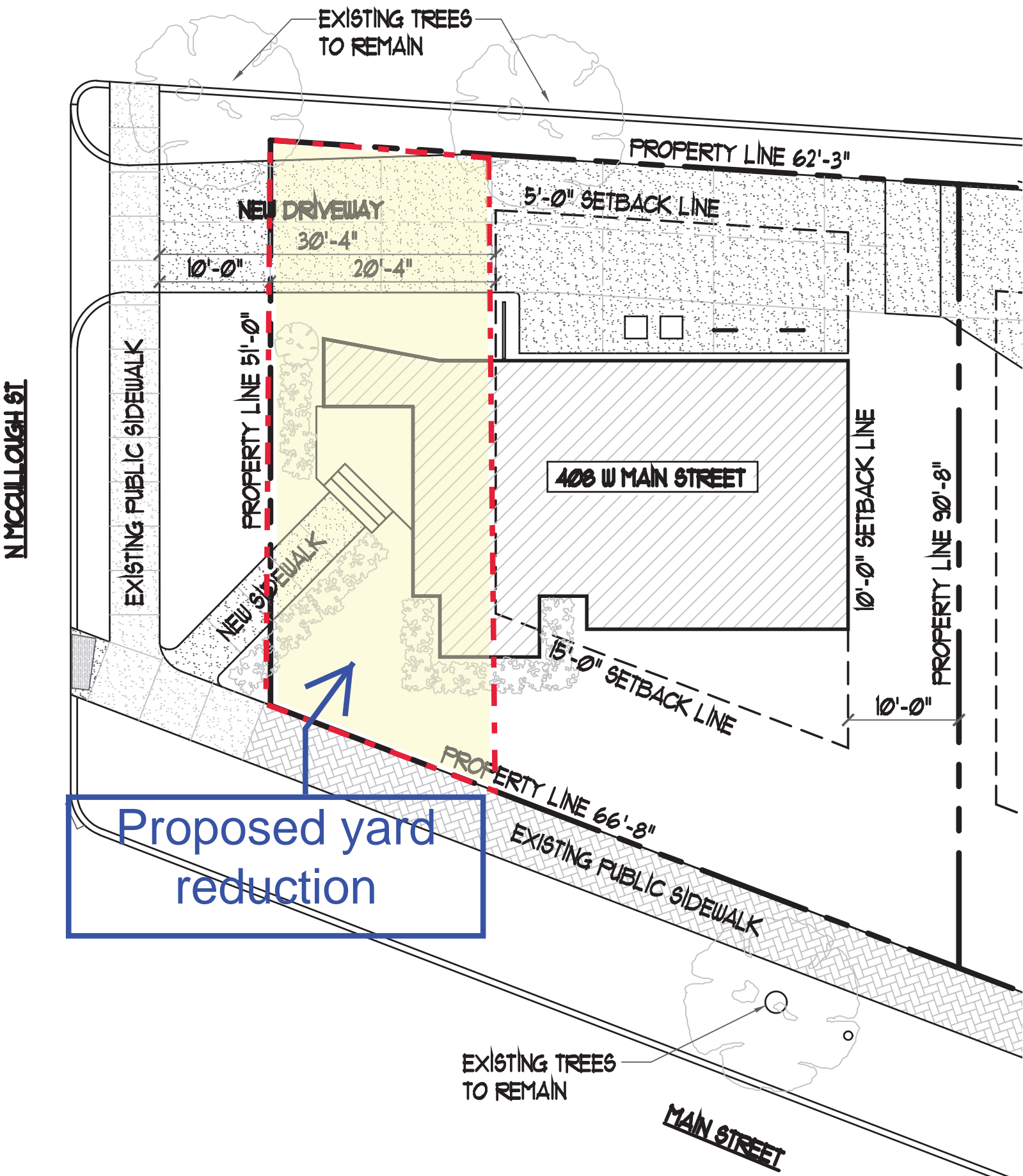


Exhibit E - Site Photos



Fig. 1: Looking north from Main Street to subject property.



Fig. 2: Looking east from McCullough Street to subject property.

Exhibit E - Site Photos



Fig. 3: Aerial looking northeast onto subject property.



Fig. 4: Photo of former church (Google Streetview, 2017).

Exhibit F - Public Input

Ricci, Marcus

From: Julie R. Laut <xx>
Sent: Monday, January 8, 2024 10:06 AM
To: Ricci, Marcus
Subject: ZBA-2023-MAJ-05 - Major Variance Request

***** Email From An External Source *****

Use caution when clicking on links or opening attachments.

Hello,

I am writing in response to the letter dated Jan 3, 2024, regarding the request for a major variance at 408 W. Main St. I support approval of this request and am pleased that one of the many empty lots in our neighborhood will be in-filled with a new duplex.

I respectfully request that my comments be read into the record.

Julie Laut

[address redacted], Urbana



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: Urbana Zoning Board of Appeals
FROM: Marcus Ricci, AICP, Planner II
DATE: January 17, 2024
SUBJECT: **ZBA-2023-MIN-04:** A request by Tanner Shiley, on behalf of Aaron Haunhorst dba ECI Holdings, LLC, for a Minor Variance to reduce the required rear yard from 10 feet to 7 feet, 6 inches, at 805 and 809 Perkins Road in the B-3 (General Business) Zoning District.

Introduction

On behalf of Aaron Haunhorst, dba ECI Holdings, LLC, Tanner Shiley requests a minor variance to reduce the required rear yard from 10 feet to 7 feet, 6 inches, at 805 and 809 Perkins Road in the B-3 (General Business) Zoning District, to allow an existing, open-frame accessory structure to remain in its current location.

The Urbana Zoning Ordinance requires the Zoning Board of Appeals (“ZBA”) to review the variance application and hold a public hearing. The Board may approve the request, or approve the request with conditions, or deny the request. The Board should either accept the specific staff findings or articulate their own specific findings based on that application’s criteria.

Staff recommend the ZBA forward a recommendation to City Council to approve the minor variance as presented.

Background

The existing principal structure on the site was built in 1983-84, and was used by Tatman Collision in 1989. It is now used by ECI Construction and A.T.S. Construction.¹ It replaced an earlier structure built sometime between 1940 and 1973. The current L-shaped structure has had the same building footprint since 1989. In November 2023, the applicant/tenant built a detached accessory storage structure next to it, to the east, without realizing that accessory structures require building permits.² Building Safety staff informed the applicant that he needed to get a building permit, and after he submitted an application, Planning staff informed him that the structure was within the required rear yard and he would need to obtain a minor variance to allow the structure to remain in its current location. The applicant built the accessory structure further from the rear property line than the principal structure, so they had presumed that it met the minimum rear yard requirement.³ He did not realize that the principal structure encroaches into the required rear yard by approximately five feet.

¹ Cunningham Township Assessor Property Tax Card

² Exhibit D – Variance Application with Site Plan

³ Exhibit E – Site Photos and Aerials

Description of Site and Area

The property is located on the south side of Perkins Road, east of Cunningham Avenue, just inside the City of Urbana corporate limits.⁴ The following table identifies the current zoning, and existing and future land use of the site and surrounding properties (see Exhibits A, B, and C).

Direction	Zoning	Existing Land Use	Future Land Use
Site	B-3 (General Business)	Contractor Shops	Community Business
North	B-3 (General Business)	Auto Repair; Vehicle Towing	Community Business
East	County R-3 (Two-Family Residence)	Single-Family Residential	Multifamily
South	B-3 PUD (General Business, Planned Unit Development)	Shopping Mall – Various Commercial Uses	Community Business
West	B-3 PUD (General Business, Planned Unit Development)	Bank	Community Business

Table 1. Zoning and Land Use

Discussion

The applicant built a 430 sq ft accessory storage structure, and requests a minor variance to bring the structure into legal conformity with the Zoning Ordinance. It is an open post-and-frame structure with metal siding on the south side and a metal roof.⁵ It is open on the east and north sides to provide access for loading and unloading in the parking lot. It was built east of the principal structure, approximately two feet further from the rear property line than the principal structure. It encroaches two feet, six inches into the minimum required ten-foot rear yard.

Accessory structures are permitted by right in the B-3 zoning district, and must meet the development regulations required by Table VI-3, including the minimum required ten-foot rear yard. The storage structure meets all other development regulations for the B-3 district.

Variance Criteria

Section XI-3 of the Urbana Zoning Ordinance requires the Zoning Board of Appeals to make findings based on variance criteria. The Zoning Board of Appeals must first determine, based on the evidence presented, whether there are special circumstances or special practical difficulties with reference to the parcel concerned, in carrying out the strict application of the ordinance. This criterion is intended to serve as a minimum threshold that must be met before a variance request may be evaluated.

The following is a review of the criteria outlined in the ordinance, followed by staff analysis for this case:

1. *The proposed variance will not serve as a special privilege because the variance requested is necessary due to special circumstances relating to the land or structure involved or to be used for occupancy thereof which is not generally applicable to other lands or structures in the same district.*

The requested variance will not serve as a special privilege that is not generally applicable to other lands or structures for three reasons. First, it addresses the fact that the existing principal structure itself is nonconforming in that it encroaches into the required rear yard. Second, the accessory

⁴ Exhibit A – Location and Land Use; Exhibit E – Site Photos and Aerial

⁵ Exhibit E – Site Photos and Aerials

structure's current location provides good access to the principal structure's bay door and staff entrance door. Third, outdoor storage has been occurring in this location for decades without reported incident. Moving the accessory structure outside the required yard would waste valuable space without providing any benefit to the district, as the rear yard abuts only a rear parking lot of the adjacent shopping center.

Staff find this criterion met.

2. *The variance requested is not the result of a situation or condition having been knowingly or deliberately created by the Petitioner.*

The applicant built the accessory structure further away from the rear property line than the principal structure, without realizing that they would need a building permit, and without realizing that the principal structure itself was legally nonconforming, and that the storage structure was therefore within a required yard.

Staff find this criterion met.

3. *The variance will not alter the essential character of the neighborhood.*

The accessory structure is consistent with the essential character of the neighborhood, which includes other large commercial businesses with outdoor storage: a vehicle towing company with a very large storage yard, and two vehicle body repair companies with outdoor vehicle storage. These buildings are a mix of concrete block and metal-sided frame buildings, with outdoor storage areas with open chain-link and/or solid board fencing. The accessory structure itself is a much smaller, open-shed design situated at the rear of the property, next to the principal structure, behind the main outdoor storage area.

Staff find this criterion met.

4. *The variance will not cause a nuisance to the adjacent property.*

The accessory storage structure will not create a nuisance at this time or in the future, as its sole purpose is to protect construction material from the elements, reducing the probability of the accumulation of damaged materials. As stated above, there has been outdoor storage on this site for decades.

Staff find this criterion met.

5. *The variance represents generally the minimum deviation from requirements of the Zoning Ordinance necessary to accommodate the request.*

The applicant could move the structure two feet, six inches to the north, and that would bring the structure in compliance with the ordinance.

Staff find this criterion not met.

Overall, staff find that all five criteria weigh in favor of granting the major variance.

Public Notice and Input

Staff published a legal ad in The News-Gazette to notify the public of the request and public hearing 15 days prior to the Zoning Board of Appeals meeting. Staff sent letters to 12 neighboring property owners (within 250 feet of the subject property) notifying them of the request, and posted a public hearing sign on the property. Staff received no public input.

Summary of Findings

On behalf of Aaron Haunhorst dba ECI Holdings, LLC, Tanner Shiley requests a minor variance to reduce the required rear yard from 10 feet to 7 feet, 6 inches, at 805 and 809 Perkins Road in the B-3 (General Business) Zoning District

1. The requested variance will not serve as a special privilege because it will provide good access to the parking area and building and the principal structure itself is legally nonconforming.
2. The requested variance would remedy a situation created by applicant unknowingly building the accessory structure in the required rear yard.
3. The accessory structure would be consistent with the essential character of the neighborhood, which includes large commercial buildings with outdoor storage areas.
4. The accessory structure will not create a nuisance, as its sole purpose is to protect construction material from the elements, as has been occurring in this location for decades.
5. The variance is the minimum deviation from requirements of the Zoning Ordinance necessary to bring the accessory structure into legal conformance.

Options

The Zoning Board of Appeals has the following options in Case No. ZBA-2023-MIN-04: a minor variance to reduce a required rear yard:

1. **Approve** the variance as requested based on the findings outlined in this memo; or
1. **Approve the variance with certain terms and conditions;** or
2. **Deny** the variance request.

If the Urbana Zoning Board of Appeals elects to recommend conditions or recommend approval of the variances on findings other than those articulated herein, they should articulate findings accordingly.

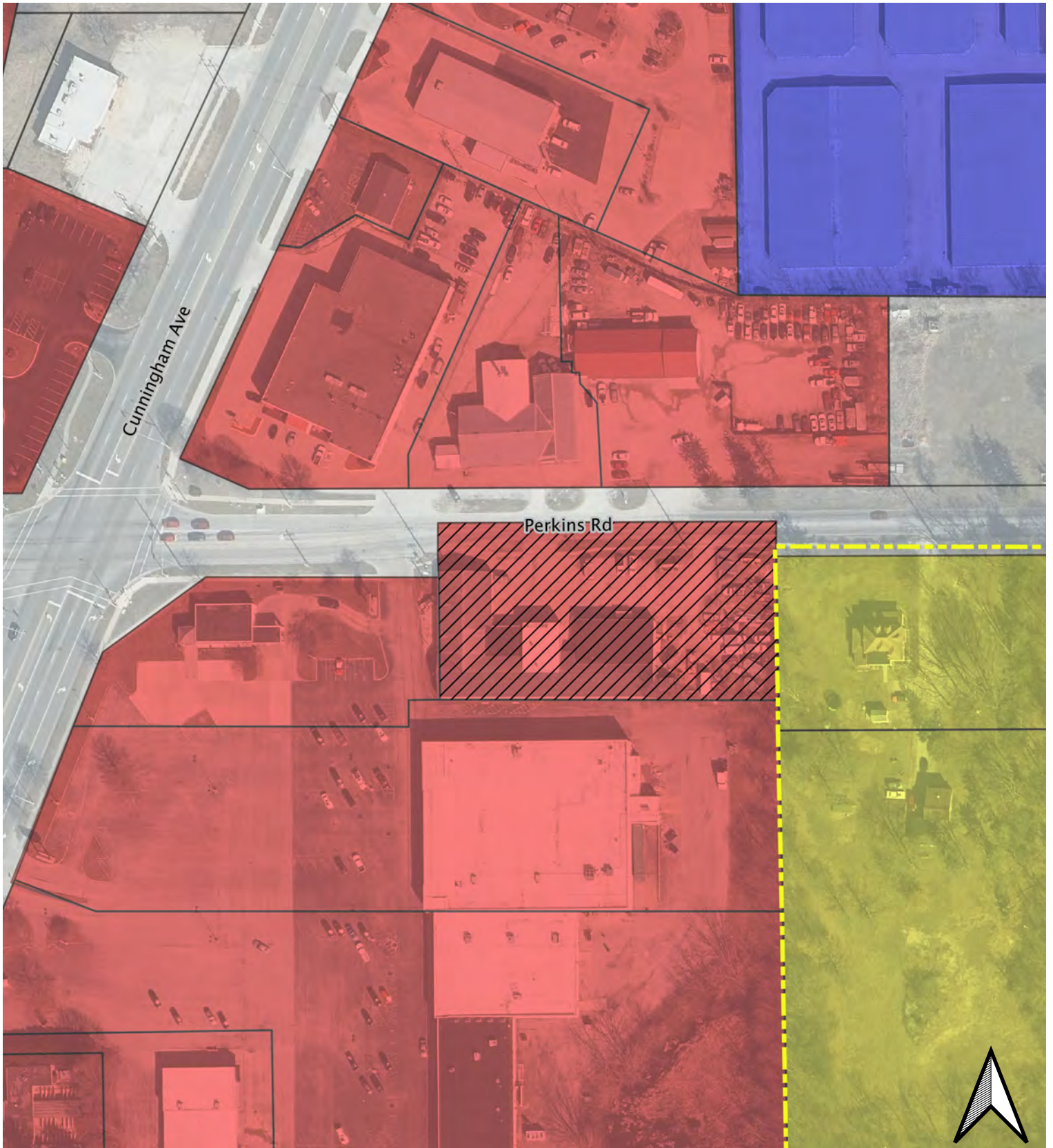
Recommendation

Based on the evidence presented in the discussion above, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommends that the Zoning Board of Appeals recommend **APPROVAL** of the proposed Minor Variance in case ZBA-2023-MIN-04, as presented.

Attachments: Exhibit A – Location Map
Exhibit B – Zoning Map
Exhibit C – Future Land Use Map
Exhibit D – Variance Application with Site Plan
Exhibit E – Site Photos and Aerials

cc: Tanner Shiley, Applicant/Tenant
Aaron Haunhorst dba ECI Holdings, LLC, Owner

Exhibit A - Location & Land Use



Case: ZBA-2023-MIN-04
Subject: Rear Yard Minor Variance
Location: 805 & 809 Perkins Road
Applicant: Tanner Shiley, on behalf of Aaron Haunhorst

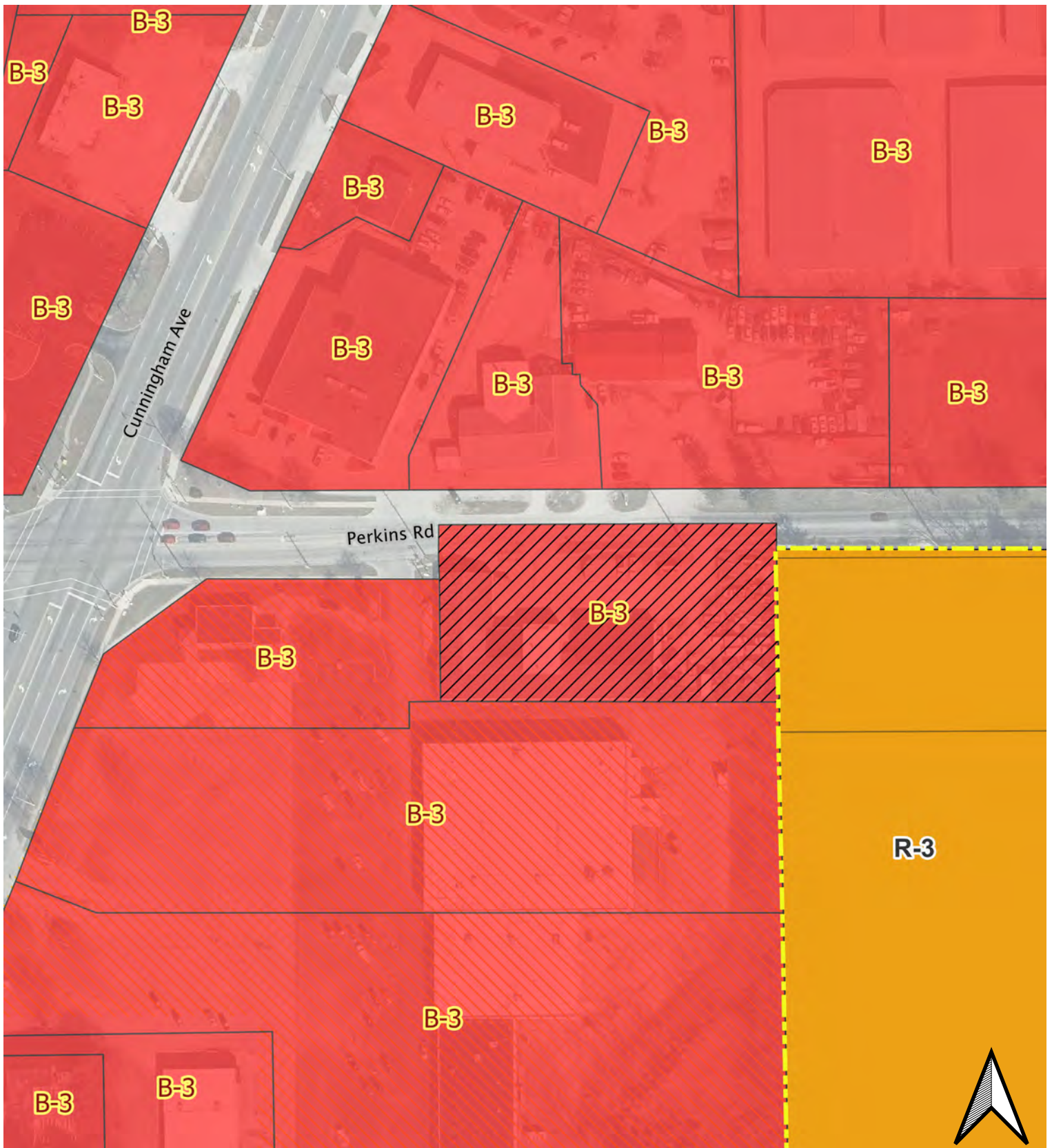
//// Subject Property

Residential

Shopping, business, or trade

Social, institutional, or infrastructure-related

Exhibit B - Zoning



Case: ZBA-2023-MIN-04
Subject: Rear Yard Minor Variance
Location: 805 & 809 Perkins Road
Applicant: Tanner Shiley, on behalf of Aaron Haunhorst

- Subject Property
- City B-3
- County R-3

Exhibit C - Future Land Use



Case: ZBA-2023-MIN-04
Subject: Rear Yard Minor Variance
Location: 805 & 809 Perkins Road
Applicant: Tanner Shiley, on behalf of Aaron Haunhorst

//// Subject Property

Exhibit D - Variance Application with Site Plan



APPLICATION FOR ZONING BOARD OF APPEALS

The application fee must accompany the application when submitted for processing. For the current fee, please refer to the most recent version of the City's "Schedule of Fees - Excluding Liquor License Fees", which can be found at <http://www.urbanaininois.us/fees>.

The Applicant is also responsible for paying the cost of **legal publication fees**. The News-Gazette will bill the applicant directly. Legal ad publication fees vary from \$75.00 and up.

PROPERTY INFORMATION

Address/Location of Subject Site **805/809 E Perkins Road Urbana Il**
Parcel/PIN # of Subject Site **91-21-09-103-024**
Lot Size **1.23 acres**
Current Zoning Designation
Current Land Use (*vacant, residence, grocery, factory, etc*) **Commercial**
Proposed Land Use **Commercial**
Legal Description (*If additional space is needed, please attach on a separate document.*)

APPLICANT INFORMATION

Name of Applicant **TannerShiley**
Applicant Business Name **A.T.S. Custom Construction, LLC**
Applicant Mailing Address
Street # **809** Street Name **Perkins Rd**
Apartment #, Suite #, Etc.
City **Urbana** State **IL** Zip **61802**
Applicant Email Address
Applicant Phone

Multiple Applicant(s) No Yes
Please attach documentation of additional applicants names and contact information.

Property Interest of Applicant(s)

Exhibit D - Variance Application with Site Plan

OWNER INFORMATION

This property has one owner.

This property has multiple owners *Please attach documentation of additional owners names and contact information.*

Owner Name **Aaron Haunhorst**

Owner Business Name **ECI Construction Services**

Owner Mailing Address

Owner Street # **805** Street Name **Perkins Rd**

Owner Apartment #, Suite #, Etc.

Owner City **Urbana** State **IL** Zip **61802**

Owner Email Address

Owner Phone

CONSULTANT INFORMATION

If you are working with an architect, engineer, surveyor, site planner, or attorney, please fill in their information below.

Architect Name

Architect Company

Architect Mailing Address

Architect Email Address

Phone

Engineer Name

Engineer Company

Engineer Mailing Address

Engineer Email Address

Phone

Surveyor Name

Surveyor Company

Surveyor Mailing Address

Surveyor Email Address

Phone

Attorney Name

Attorney Company

Attorney Mailing Address

Attorney Email Address

Phone

Exhibit D - Variance Application with Site Plan

REQUEST INFORMATION

Permit Type: **Variance - Unsure Major or Minor**

Purpose for Request

Describe the proposed use and its activities. In other words, what do you plan to do? Are there existing buildings you will use, change, or demolish? Will you build new buildings? What activities will take place on site, and where? If you're planning a business, what will your hours of operation be?

The use for this structure is for covered storage of small quantity construction materials.

For Appeals, please proceed to page 6.

For Conditional Use Permits, please proceed to page 7.

For Variances, please proceed to page 8.

Exhibit D - Variance Application with Site Plan

REASONS FOR VARIANCE

(Continued from page 5)

Identify and explain any special circumstances or practical difficulties in carrying out the strict application of the Zoning Ordinance with respect to the subject parcel.

Moving the structure further in from the property line would cause it to be more visible from the road and neighboring properties. It will also cause us to significantly lose usable square footage.

Explain how the variance is necessary due to special conditions relating to the land or structure involved which are not generally applicable to other property in the same district.

We are attempting to utilizing every square foot of the property that we lease.

Explain how the variance is not the result of a situation or condition that was knowingly or deliberately created by you (the Petitioner).

When constructing this storage area, we were unaware that it needed to conform to any setback regulations as it is simply a roof covering for our stock materials.

Explain why the variance will not alter the essential character of the neighborhood.

Explain why the variance will not cause a nuisance to adjacent property.

The structure is placed in a manner that is is not easily visible from the road or from neighboring properties.

Does the variance represent the minimum deviation necessary from the requirements of the Zoning Ordinance? Explain.

We are conforming to previously existing property line setbacks.



Man's Perkin's
School Sub

Perkins Rd

Sub of NE 1/4 Sec. 330
8, & W 1/2 NW 1/4
Sec. 9-19-9 - aka -
W. T. Weber Estate

165.52

103-024
1.22'

Existing building is
2.5' off property line

Structure in
question

5' off property line

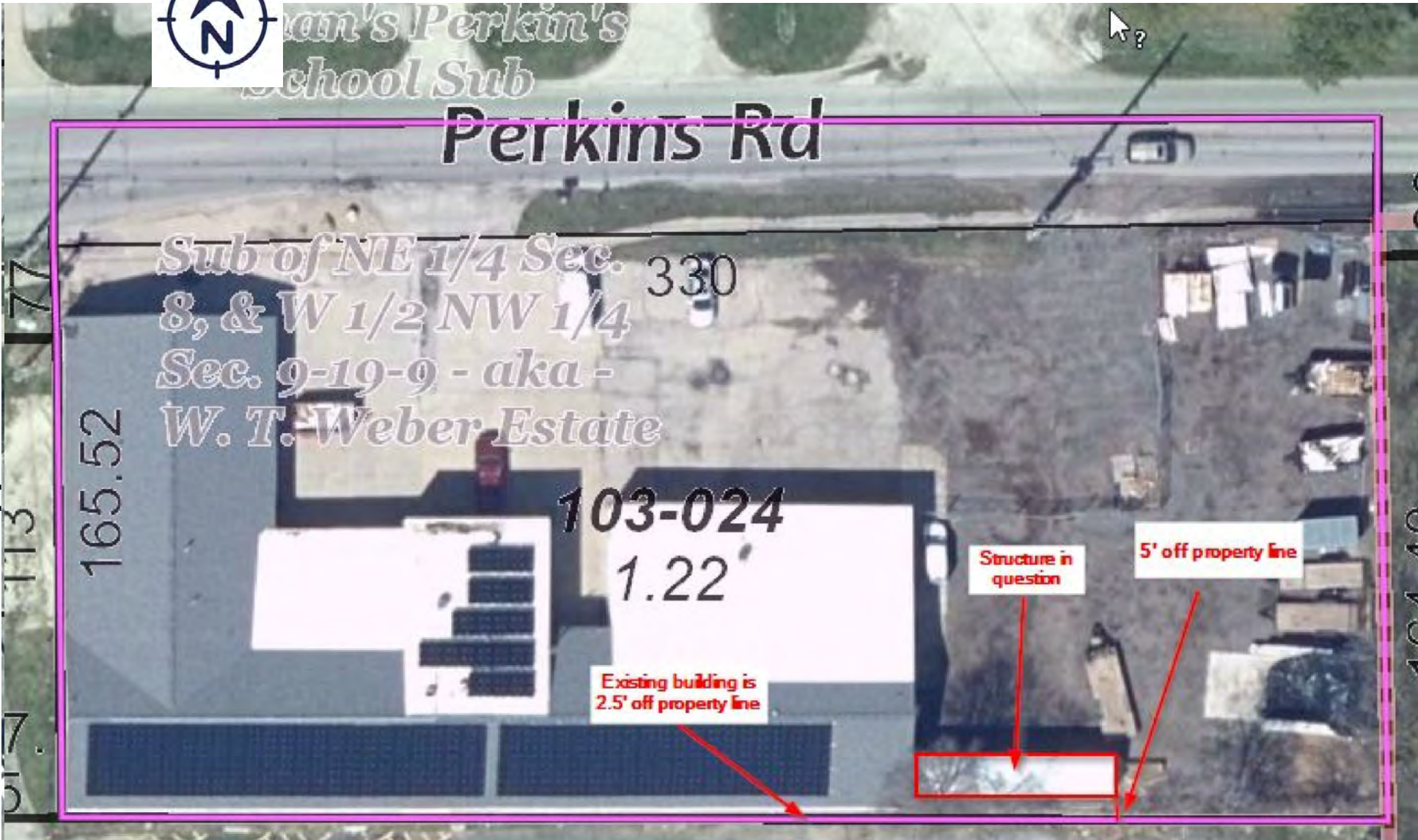


Exhibit E - Site Photos and Aerials



Fig. 1: Looking south from Perkins Road to subject property (accessory structure's location noted by yellow block).



Fig. 2: Looking north from Perkins Road onto site (accessory structure's location noted by yellow block).

Exhibit E - Site Photos and Aerials

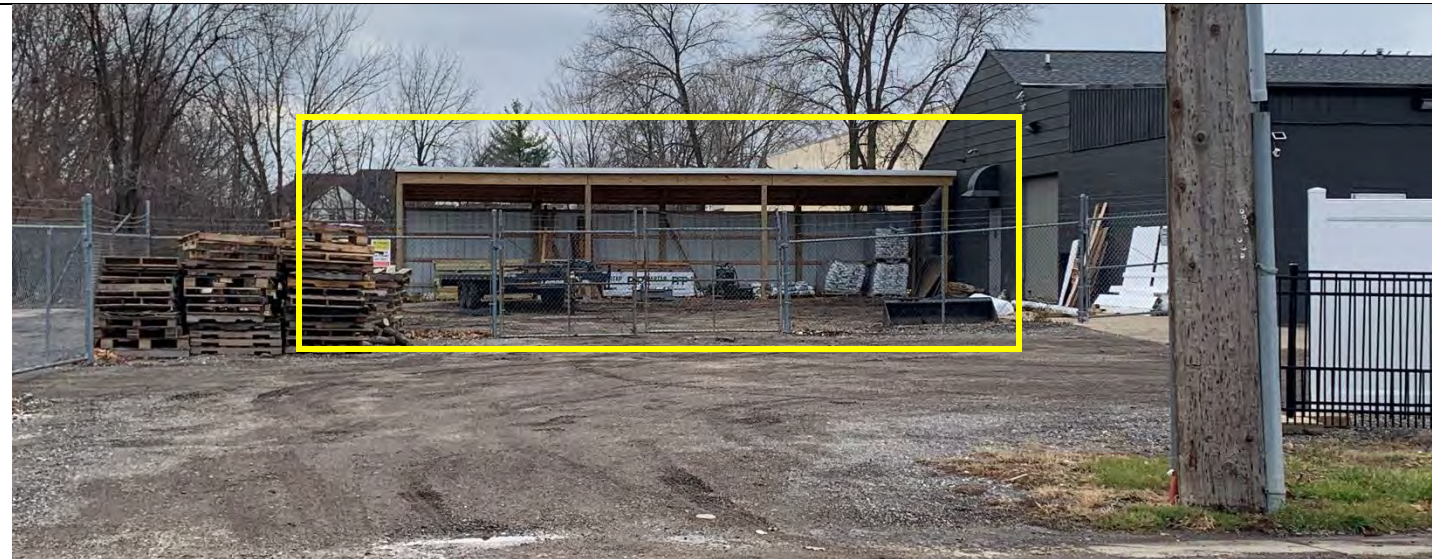


Fig. 3: Streetview looking south towards accessory structure (yellow box).



Fig. 4: Looking west towards south side of accessory structure: note principal structure further south than accessory structure (yellow box).