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The Board of Zoning Appeals (BZA) met on February 20, 2025 at 5:30 pm; a hybrid meeting was held both in the Council Chambers, located in Room 115, at 401 N. Morton Street, City Hall – Bloomington, IN 47404 and remotely via Zoom. Members present in the Council Chambers: Tim Ballard, Flavia Burrell, John Fernandez, and Jo Throckmorton.

**APPROVAL OF MINUTES:** January 23, 2025

**Fernandez made a motion to approve the meeting minutes. Burrell seconded. Motion passes 4-0.**

**PETITIONS CONTINUED TO:** March 27, 2025

- AA-17-22      **Joe Kemp Construction, LLC & Blackwell Construction, Inc.**  
Summit Woods (Sudbury Farm Parcel O) W. Ezekiel Dr.  
Parcel(s): 53-08-07-400-008.002-009, 53-08-07-400-008.004-009...  
Request: Administrative Appeal of the Notice of Violation (NOV) issued March 25, 2022. Case Manager: Jackie Scanlan
- V-27-22      **Cutters Kirkwood 123, LLC**  
113 E. Kirkwood Ave.  
Parcel: 53-05-33-310-062.000-005  
Request: Variances from Downtown Character Overlay standards to allow less non-residential area and less large display windows; and a variance from the requirement to align with the front setback of an adjacent historic structure in the Mixed-Use Downtown zoning district with the Courthouse Square Character Overlay (MD-CS). Case Manager: Jackie Scanlan
- CU-33-24/ USE2024-11-0068      **Hat Rentals, LLC**  
202 N. Walnut Street  
Parcel: 53-05-33-310-028.000-005  
Request: Request for conditional use approval of "student housing or dormitory" to allow one four-bedroom unit in the Mixed-Use Downtown (MD) zoning district. Case Manager: Jackie Scanlan

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**PETITIONS:**

V-36-24/ VAR2024-12-0053

**Tariq Khan**

1314 N Lincoln Street

Parcel: 53-05-28-300-065.000-005

Request: Variance from side and rear setback standards and a determinate sidewalk variance to allow the conversion of an existing accessory structure to a primary structure by adding a dwelling unit in the structure without changing the existing setbacks and without constructing a new sidewalk in the Mixed-Use Student Housing (MS) zoning district. Case Manager: Gabriel Holbrow

Gabriel Holbrow, case manager, presented V-36-24. See meeting packet for more details. The Department recommends that the Board of Zoning Appeals adopts the proposed findings and deny both requested variances.

Dave Kerber, consultant, presented the request for a variance on behalf of the petitioners.

Alex Khan, petitioner, explained the layout of the property and the reason for their request for a side and rear setback variance.

Tariq Khan, petitioner, stated that if the side and rear setback variance gets denied, he will not be able to do anything further with the property.

**Ballard made a motion to approve the side and rear setback variance with the *Proposed Findings of Fact* for criteria #1 and #2 and *Alternate Findings of Fact* for criteria #3, and deny the determinate sidewalk variance with the *Proposed Findings for Fact* for all three criteria. Fernandez seconded. Motion passes by roll call – 4:0.**

\*Adopted and amended Alternate Findings of Fact for criteria #3 for the side and rear setback variance:

Bringing the current side setback into compliance would necessitate the demolition of a majority of the existing building to accommodate, which would create an unreasonable financial hardship. The cost of demolition and reconstruction would be prohibitive. The existing building is structurally sound and functional. Maintaining the existing setback has minimal impact on neighboring properties, which are significantly taller and currently share the same setback as the existing structure.

V-38-24/ VAR2024-12-005

**Justin Fox**

1419 S. Sare Road

Parcel: 53-01-55-315-000.000-009

Request: Variance from front setback standards and riparian buffer standards to allow construction of a new detached accessory structure containing a garage and an accessory dwelling unit (ADU) in the Residential Medium Lot (R2) zoning district. Case Manager: Gabriel Holbrow

Holbrow presented V-38-24. See meeting packet for more details. The Department recommends that the Board of Zoning Appeals adopt the proposed findings and approve the requested variance with the following conditions:

1. This variance approves the proposed location of the accessory structure as shown in the submitted site plan. Minor changes to the size, shape, and location of the structure that arise during architectural design review or actual construction shall be considered consistent with this variance approval so long as the structure complies with all size standards applicable to an accessory structure and a detached ADU, complies with front setback standards from Sare Road to the west, is completely outside the 25-foot streamside zone riparian buffer and regulated floodplain to the east, and is located at least 50 feet from Moores Pike to the south.
2. This variance grants relief from the requirements of the intermediate zone and fringe zone riparian buffers on the west side of the stream adjacent to the property. The property remains subject to all requirements related to the 25-foot streamside zone riparian buffer on both sides of the stream as well as the requirements of all riparian buffer zones on the east side of the stream in the case that any portions of the property extend more than 25 feet east of the stream. The property remains subject to all floodplain development standards.
3. Prior to issuance of a certificate of zoning compliance for any building construction on the property, the property owner shall record an easement in a form approved by the Planning and Transportation Department and in accordance with UDO section 20.04.030(f)(3) that covers all land on the lot within 25 feet west of the stream and within 75 feet east of the stream.

Justin Fox, petitioner, presented his request for a variance from front setback standards and riparian buffer standards.

**Ballard made a motion to approve V-38-24 and adopt the *Proposed Findings of Fact* and with the three conditions listed in the staff report. Fernandez seconded. Motion passes by roll call – 4:0.**

V-01-25/ VAR2025-01-0058

**Paul and Jeanette Smedberg**

517 N. Colony Court

Parcel: 53-05-36-302-064.000-005

Request: Variance from front setback standards for an attached front-loading carport in the Residential Medium Lot (R2) zoning district. Case Manager: Gabriel Holbrow

Holbrow presented V-01-25. See meeting packet for more detail. The Department recommends that the Board of Zoning Appeals adopt the proposed findings and deny the requested variance.

Paul Smedberg, petitioner, presented his request for a variance.

Russ Herndon, Architect, presented information about the carport design on behalf of the petitioner.

**Burrell made a motion to adopt the *Proposed Findings of Fact* and deny V-01-25. Fernandez seconded. Motion denied by roll call – 4:0.**

V-02-25/ VAR2025-01-0059

**Patrick Riggs**

2415 W. Fountain Drive

Parcel: 53-05-31-100-018.000-005

Request: Variances from accessory dwelling unit (ADU) front setback standard and karst geology standards to allow construction of a new single-family dwelling and conversion of an existing residential structure to an ADU in the Mixed-Use Employment (ME) zoning district. Case Manager: Gabriel Holbrow

Holbrow presented V-02-25. See meeting packet for more detail. The Department recommends that the Board of Zoning Appeals adopt the proposed findings and deny both requested variances.

Patrick Riggs, petitioner, presented his request for variances. Riggs stated he could not get the formal full report from the civil engineer in time for this meeting.

**Fernandez made a motion adopt the *Proposed Findings of Fact* and deny V-02-25. Ballard seconded. Motion fails by roll call – 2:2. (Fernandez and Ballard denied)**

**Burrell made a motion to continue V-02-25 to the March 27, 2025 meeting. Fernandez seconded. Motion passes by roll call – 4:0.**

V-03-25/ VAR2025-01-0060

**David Parsch**

1200 N. Lincoln Street

Parcel: 53-05-33-201-008.000-005

Request: Variance from side and rear setback standards to allow a vertical addition to an existing detached single-family dwelling structure by adding a second floor with the same setbacks as the existing first floor in the Mixed-Use Student Housing (MS) zoning district. Case Manager: Gabriel Holbrow

Holbrow presented V-03-25. See meeting packet for more detail. The Department recommends that the Board of Zoning Appeals adopt the proposed findings and deny the requested variance.

Blake Rowe, petitioner, filling in on behalf of David Parsch, presented the request for a variance.

**Ballard made a motion to adopt *Proposed Findings of Fact #1 and #2 with Amended Findings of Fact* for criteria #3 approve V-03-25. Motion passes by roll call – 4:0.**

\*Amended Findings of Fact for criteria #3 for the side and rear setback variance:

The small size of the property is a peculiar feature. The property dimensions are 62 feet by 50 feet, containing 3,100 square feet, compared to the minimum lot area standard for the MS zoning district of 5,000 square feet. The small lot size limits the size of any potential structure on the property, and the terms of the UDO as applied to the existing structure result in a practical limit of no more than the existing two bedrooms.

V-04-25/ VAR2025-01-0061

**CRMR 2, LLC**

3333 E. 3<sup>rd</sup> Street

Parcel: 53-05-35-300-053.000-005

Request: Variance from landscaping standards and front, side, and rear parking setback standards to allow for a 2,403 square foot addition for a "vehicle sales or rental" use in the Mixed-Use Corridor (MC) zoning district. Case Manager: Eric Greulich

Eric Greulich, case manager, presented V-04-25. See meeting packet for more detail. The Department recommends that the Board of Zoning Appeals adopt the proposed findings and deny the tall canopy tree portion of the variance and approve the remainder of V-04-25 with the following conditions:

1. These variances are for this addition only, any future development must meet all UDO requirements.
2. All trees within islands and endcaps shown must be a tall, canopy tree species.

3. Additional landscaping is required within the buffer yard along the east property line to the extent practical, to be determined in conjunction with Planning & Transportation staff.
4. No variance from entrance and drive standards is approved, all entrances must meet UDO requirements.
5. Petitioner will continue to work with staff on incorporating small/medium trees along the west property line.
6. Site plan approval is required prior to issuance of any permits.

Andy Long, President of Royal on the Eastside Subaru, presented his request for a variance. Subaru Corporate is requiring an increase in the size of the showroom and other interior building areas.

Daniel Butler, Civil Engineer, presented information on their study of this site. Butler stated that introducing 18 new tall canopy trees on every island is difficult due to the type of business that is in this location.

Mike Carmen, Consultant, spoke about the practical difficulties that would result in requiring the 18 tall canopy trees. Carmen stated that tall canopy trees could cause potential damage to the vehicles on the lot like sap, bird droppings, berries, nuts, branches, and twigs.

**PUBLIC COMMENT:**

Matt Sargent, bought at least a dozen cars from Royal on the Eastside Subaru. Sargent stated how generous of a supporter this company is to the community. Royal on the Eastside Subaru supports youth sports, does outreach for the animal shelter, and helps raise funds and gather supplies for the community. Sargent is in full support of expanding the site.

Josh Alley, asked the board to take in consideration that the east side of Bloomington is not short on trees. Alley stated that the maintenance and upkeep of the existing trees are not up to par, that most of the trees in that area are overgrown.

David Schunk, representing Bloomington South Football, wanted to show his support for the Subaru family. Schunk states that Subaru has been a top tier sponsor for Bloomington South athletics. Schunk said that the Royal family has done a significant impact for the community and is in favor of allowing Subaru to grow and prosper in the capacity they are requesting.

Leslie Abshier, CEO of the Boys and Girls Club, spoke in favor of the petition. Abshier stated that Royal Subaru have been long time supporters of the Boys and Girls Club. Abshier is very thankful for their partnership with Subaru as they have been one of the biggest supports of the Boys and Girls Club.

**BACK TO BZA:**

**Ballard made a motion to approve the entirety of V-04-25 with *Proposed Findings of Fact* for criteria #2 with *Amended Findings of Fact* for criteria #1 and #3 and removing condition #2. The updated conditions are as follows:**

1. These variances are for this addition only, any future development must meet all UDO requirements.
2. Additional landscaping is required within the buffer yard along the east property line to the extent practical, to be determined in conjunction with Planning & Transportation staff.
3. No variance from entrance and drive standards is approved, all entrances must meet UDO requirements.
4. Petitioner will continue to work with staff on incorporating small/medium trees along the west property line.
5. Site plan approval is required prior to issuance of any permits.

**Fernandez seconded. Motion passes by roll call – 4:0.**

\*Amended Findings of Fact for criteria #1:

Landscaping (tall canopy trees): The granting of the variance to not require tall canopy trees in every island would not be injurious to the public health, safety, morals, or general welfare of the community with the installation of tall, canopy trees. The benefits from having large canopy trees within the parking areas would be very beneficial to the public health and welfare of the community.

The proposed landscaping plan materially increases the number of canopy trees on the site and will deliver benefits in reducing the Heat Island effect that results from large areas of exposed asphalt.

\*Amended Findings of Fact for criteria #3:

Landscaping (tall canopy trees): Peculiar condition is found in the location of the outdoor display entirely in the parking area. Practical difficulty of the UDO requiring tall canopy trees within display area could negatively impact property and use.

Meeting adjourned at 10:12 p.m.