



Agenda
Huntington Board of Zoning Appeals
Tuesday, May 16, 2023 - 5:30pm

1. Call to Order
2. Roll Call
3. Approval of the April 2023 Minutes
4. Approval of the Orders
 - BZA 23-C-06
 - BZA 23-V-10
 - BZA 23-C-12
5. Unfinished Business

BZA 23-V-11

A petition for a variance to the minimum length and width requirement for factory built structures in an R-2 Single-Family District. The property is located at 4232 Altizer Avenue.

Property Owner/Petitioner: James Fox, 2687 1st Avenue, Huntington, WV

6. New Petitions

BZA 23-V-13

A petition for a variance to the side yard setback for a tiny home development project in an R-5 Multi-Family District. The property is located at 1842 7th Avenue.

BZA 23-V-14

A petition for a variance to the minimum parking requirement in an R-5 Multi-Family District. The property is located at 1842 7th Avenue.

Petitioner: Katelyn Spears, 8 Pyramid Dr. Apt. 805, Huntington, WV

Property Owner: Varsity Huntington II, LLC, 216 11th Ave West, Huntington, WV

BZA 23-C-15

A petition for a conditional use permit for an auto service and repair shop in a C-1 Neighborhood Commercial District. The property is located at 807 23rd Street.

Property Owner: East End Properties, LLC, Tyrone Phillips, 148 Oney Avenue, Huntington, WV

Petitioner: John Stiltner, 1693 10th Avenue, Huntington, WV

BZA 23-C-16

A petition for a conditional use permit for Limited Video Lottery in an I-1 Light Industrial District. The property is located at 440 8th Avenue W.

BZA 23-V-17

A petition for a variance to the distance requirements for a Limited Video Lottery use to a residentially zoned district. The property is located at 440 8th Avenue W.

Property Owner/Petitioner: Willie's Entertainment, LLC, William Mosser, 218 33rd St. W., Huntington, WV

BZA 23-V-18

A petition for a variance to the minimum build-to percentage for the front façade of a building in a C-2 Commercial District. The property is located at the southwest corner of 5th Ave. and 25th St.

Petitioner: CSC Properties, LLC – Jeff Walker, 5795 Ulmerton Rd. Clearwater, FL

Property Owner: Huntington WV 0422 LLC, 1000 Grand Central Mall, Vienna, WV

7. Announcements/Discussion
8. Adjournment

Minutes
City of Huntington Board of Zoning Appeals
April 18, 2023

A meeting of the City of Huntington Board of Zoning Appeals was held on April 18, 2023 at 5:30 p.m. in the City Hall Council Chambers. *Ms. Earl* called the meeting to order.

Members Present: Dan Earl, Gina Browning, Steven Yates, Sara Loftus, Sherry Houck

Members Absent: Jacqueline Proctor

Staff Present: Patricia Usher, Zoning Officer
Bre Shell, Planning Director
Nathanial Crum, Planning Technician
Ericka Hernandez, Assistant City Attorney

Hearing no corrections or objections, *Mr. Earl* approved the March Minutes, and all present were in favor.

Hearing no corrections or objections, *Mr. Earl* approved the Orders, and all present were in favor.

BZA 23-V-10

A petition for a variance to the side yard setback when adjoining a residential district in an I-1 Light Industrial District. The property is located at 738-740 6th Street W.

Property Owner: Quantum Properties, P.O. Box 1298, Huntington, WV

Petitioner: Art Bell, 707 7th St. W., Huntington, WV

Mr. Earl recused himself from this petition and *Mr. Yates* stepped in to chair this petition.

Ms. Usher presented the Staff Report.

Art Bell, 740 6th St. W., is requesting a variance to the side yard setback when adjoining a residential district in an I-1 District. Mr. Bell stated that the reason for wanting to expand this portion of the building is due to it already being setup for the type of machinery they will be installing. He mentioned that the reason for expanding the building is to add more machines to help with production. Mr. Bell explained that the machines create about 90 decibels if an individual is standing right next to it and about 60 to 70 decibels from outside the building.

Ms. Loftus – Was there a variance to allow the existing garage to be so close to the property line?

Ms. Usher noted that a garage is an accessory structure, per § 1315.06 an accessory structure may encroach upon a required side yard setback up to 3 feet.

Ms. Houck – Is the carport going to be removed as well?

Mr. Bell expressed that the carport is a loading dock so they will only remove about half of that structure and will completely remove the existing garage.

Ms. Houck – What are the machines that will be going into the new portion of the building?

Mr. Bell stated that the machines will be CNC machines and Lathe machines, they create little to no noise and no exhaust.

Ms. Houck – Will the machines be running all day long?

Mr. Bell explained that the machines will be running during the day shift and the night shift until 11:00 P.M.

Ms. Loftus – Will vehicles be accessing the loading dock frequently?

Mr. Bell stated that the only vehicles that would come to the loading dock are between the hours of 7:00 A.M. and 3:00 P.M. and this does not happen very often.

Ms. Loftus – There is a pretty large parking lot on the other side of the building, why not expand there?

Mr. Bell stated that the side of the building closest to the parking lot is where the end of the machine assembly line is located. So, if they were to build the new addition on that side of the building it would mean the assembly line process would take longer to complete.

Ms. Loftus – Does the neighbor of the property know about this extension?

Ms. Usher stated that the Planning and Zoning office is required to send notice to all surrounding properties and property owner, the office does not require petitioners to discuss with neighbors unless they want to do so.

Ryan Jarrell, 39 Opal Road, Lesage WV, expressed that 60 decibels is roughly equivalent to the noise produced by normal conversation. Mr. Jarrell also mentioned that the expansion is closer to the neighbor's rear portion of the yard, where a parking pad is located and can act as a buffer.

Ms. Houck made a motion to approve BZA 23-V-10.

Roll Call BZA; Ms. Browning, Yes; Ms. Loftus, Yes; Ms. Houck, Yes; Mr. Yates, Yes.

BZA petition for a variance was **Approved** with a vote of 4 Yes to 0 No.

BZA 23-V-11

A petition for a variance to the minimum length and width requirement for factory built structures in an R-2 Single-Family District. The property is located at 4232 Altizer Avenue.

Property Owner/Petitioner: James Fox, 2687 1st Avenue, Huntington, WV

Mr. Earl returned and resumed his position as chair.

Ms. Usher presented the Staff Report

James Fox, 2687 1st Avenue, is requesting a variance to the minimum length and width requirement for factory built structures in an R-2. Mr. Fox stated that the structure being proposed is a 16ft wide by 72ft long single-family manufactured home. He then goes on to say that the total property is 40ft wide by 200ft long.

Mr. Earl – Why not just go for a 22ft wide manufactured home?

Mr. Fox explained that a majority of single-wide manufactured homes are 16ft wide or around that size. He then states that most double-wide manufactured homes start at about 28ft wide.

Mr. Earl – What is the total width of the lot? Also, could a double –wide fit on this lot?

Mr. Fox noted that the total lot width is 40ft, and exclaimed that a double-wide would not fit as well on the lot as a single-wide would.

There was a lengthy discussion about short-term rentals and Airbnb. However, the Planning and Zoning Office cannot regulate how a property is rented.

Mr. Earl – Is this structure a mobile home?

Ms. Usher stated that since this structure will have the wheels and axles removed and it will be situated on a permanent foundation that it is not considered a mobile home, per the Zoning Ordinance.

Mr. Earl – Are there any mobile homes in the area?

Mr. Fox affirmed that there is a mobile home park located roughly a block away and there is another in close proximity.

Mr. Earl – What is the unnecessary hardship, the rules require that the variance must eliminate an unnecessary hardship. This has to be something that you did not create and if you are choosing to use a structure that is less than the ordinance requires, so you are creating the hardship.

Mr. Fox proclaimed that someone could buy and install a manufactured home a lot easier and quicker than building a home from raw materials, he states that his hardship is building materials are very expensive, so he would not be able to afford building a home.

Mr. Earl – How wide was the structure that burnt down?

Mr. Fox stated that it was 28ft wide but he did not agree with that exact measurement because the previous house had a large carport connected to the side of the house.

Ms. Loftus – What is the financial difficulty between a double-wide and a single-wide?

Mr. Fox expressed that the difference in cost is significant, the single-wide is roughly \$100,000 after taxes while a double-wide is roughly \$150,000 - \$160,000. Mr. Fox stated that for him to get to get a double-wide that has a width following the ordinance he would need to spend another \$50,000. He finished his statement by noting a larger home would not make sense for his business nor would it look appropriate for the Altizer Neighborhood.

Mr. Earl – Why not rebuild the house that was already there?

Mr. Fox stated that he originally wanted to keep the home; however, the Fire Marshal in a previous meeting with Mr. Fox mentioned that the house fire caused severe damage to the structural integrity of the home and therefore it needed to be demolished.

Mr. Earl – Is there anything about the property that would stop you from putting a traditional not manufactured home on the property?

Mr. Fox – noted that to build a home on this site he would need to install French drains and a better engineered foundation due to the Altizer community being at risk of flooding and water damage, since the area is very low. He mentions that because of this extra work and mitigation methods cost would be an issue.

Mr. Earl opens public comment.

Ally Layman, 2957 4th Avenue, Council Representative of this district, Ms. Layman noted that she had received multiple phone calls concerning this property and what is being built there. Ms. Layman asked that the Board table BZA 23-V-11 until the next month, so the neighborhood can meet with Mr. Fox and discuss the petition in more detail.

Connie Walker, 4228 Altizer Avenue, Ms. Walker briefly noted that her home was built in 1940 and has had no water issues. She followed this up with concern over the proposed use of the property and its' proximity to a school.

Ms. Loftus – Our decision is about the variance, which is regarding the width of the structure not about the use of the property.

Ms. Hernandez confirmed that this petition is about the width of a manufactured structure and whether or not it can be reduced to meet the building that he wishes to put on the property. Ms. Hernandez also confirmed that the use of the property is not being debated by the Board for this petition.

Mr. Earl closes public comment

Ms. Loftus – What is staff recommendation?

Ms. Usher stated that according to the Staff Report if the structure meets all other requirements of the ordinance it may not have an impact on the neighborhood.

Ms. Loftus – With the public there seems to be a conflict with the use however we are here to discuss the variance which is regarding the width of the structure.

Ms. Hernandez noted that the West Virginia State Legislature added a clause to the City's Municipal Code stating that we cannot regulate where rentals go whether they are short-term or long-term.

Mr. Earl made a motion to table BZA 23-V-11 until next month's meeting on May 16, 2023; *Ms. Houck* seconded the motion.

Roll Call BZA; Ms. Browning, Yes; Ms. Loftus, No; Ms. Houck, Yes; Mr. Yates, No; Mr. Earl, Yes.

BZA 23-V-11 for a variance to the minimum length and width requirement for factory built structures has been **rescheduled** to May 16, 2023 with a vote of 3 Yes to 2 No.

BZA 23-C-12

A petition for a conditional use permit for a bar in an I-1 Light Industrial District. The property is located at 440 8th Avenue W.

Property Owner/ Petitioner: Willie's entertainment, LLC, William Mosser, 218 33rd St. W., Huntington, WV

Ms. Usher presented the Staff Report.

Will Mosser, 218 33rd St. W., Mr. Mosser stated that when he came before the Board last time he did not own the property and there was some issues with acquiring the property. He expressed that he now owns the building and the property adjacent where the proposed parking lot will go. He mentions that the neighbors have no reservations currently with the proposed expansion of the bar and they have thought about doing landscaping to create a buffer between the bar and residential area.

Ms. Loftus – Is the window that is currently installed have vinyl covering it or will it be going to be open?

Mr. Mosser explained that the window is 9ft x 6ft and will be transparent so you can see into the structure.

Mr. Yate – What will be the operating hours?

Mr. Mosser explained the establishment will be open 11:00 A.M. to 2:30 A.M.; food will be served between 11:00 A.M. and 10:00 P.M.

Mr. Earl – How will security be handled on the property?

Mr. Mosser declared that security will include security cameras around the property, an ID scanner, someone at the door, and the front door will be locked with entry being allowed by a buzzer system.

Mr. Yates – Have you or your business partner run a bar before?

Mr. Mosser stated that he has been in the bar industry for the past 11 years.

Shirley Bowman, 430 8th Avenue W., neighbor directly to the east, supports the opening of the bar and believes that it will be good for the neighborhood.

Mr. Earl made a motion to approve BZA 23-C-12 with the conditions that were in the decision entered October 19, 2021 for BZA 21-C-11 in addition the front window should be replaced in a manner that is acceptable to the Planning and Zoning staff; Ms. Loftus seconded the motion.

Roll Call BZA; Ms. Browning, Yes; Ms. Loftus, Yes; Ms. Houck, Yes; Mr. Yates, Yes; Mr. Earl, Yes.

BZA petition for a Conditional Use Permit was **Conditionally Approved**, with the conditions that the alley way must be kept clear at all times; exterior lighting must be utilized and shielded; a plan for beautification of the property must be submitted, approved, and implemented; and the front window must be replaced in a manner that is acceptable to the Planning and Zoning staff; with a vote of 5 Yes to 0 No.

Mr. Earl adjourns the meeting at 6:55 p.m.

Date approved: _____

Chairperson: _____ Prepared by: _____
Jacqueline Proctor, Chair Nathaniel Crum, Planning Technician

BEFORE THE BOARD OF ZONING APPEALS, HUNTINGTON, CABELL AND WAYNE
COUNTIES, WEST VIRGINIA

BZA 23-C-06

Property Owner / Petitioner: The Highlawn Community Alliance, PO BOX 3193, Huntington, WV

Subject Property: 2739 and 2741 Highlawn Avenue

A petition for a conditional use permit for a community garden in an R-2 Single-Family District.

Individual Speaking on Behalf of Petition: Zane Parlsey

Other Interested Parties: None

ORDER

On April 06, 2023, Mr. Parlsey appeared before the City of Huntington Board of Zoning Appeals to provide testimony related to BZA 23-C-06. Other citizens were permitted to voice their positions as well, per the practice of this Board, and no individuals provided testimony.

FINDINGS OF FACT

After reviewing all evidence at the April 06, 2023 meeting and hearing testimony from Mr. Parlsey, the Board finds as follows:

1. The Highlawn Community Alliance is the petitioner and property owner.
2. The petitioner is requesting a conditional use permit to operate a community garden.
3. The Highlawn Community Alliance opened a community garden in 2022.
4. This community garden will operate as produce share with little to no sales taking place.
5. The garden will stay open to the neighborhood during winter months for educational events and to create a safe place for kids to play.
6. The planter boxes will be permanently placed on site.
7. The high tunnel is funded and will be fenced in for safety.
8. The community garden has a yard hydrant on site and will also have a rain capture system.
9. The manager of the garden lives adjacent to the property and plans to monitor the grounds frequently.
10. The property currently is used unlawfully for dumping garbage.
11. The property is zoned R-2 Single-Family Residential District.
12. The lots are approximately 5,000 sq. ft.

STANDARD OF REVIEW

When considering a **Conditional Use Permit**, the Board must consider:

1. The effect upon the Comprehensive Plan;
2. Public health, safety, morals, and general welfare;
3. Potential injury to the use and enjoyment of other properties in the immediate vicinity for the purposes already permitted;
4. The effect upon the normal and orderly development and improvement of surrounding properties for uses already permitted in the district;

BEFORE THE BOARD OF ZONING APPEALS, HUNTINGTON, CABELL AND WAYNE
COUNTIES, WEST VIRGINIA

BZA 23-V-10

Property Owner: Quantum Properties, P.O. Box 1298, Huntington, WV

Petitioner: Art Bell, 707 7th St. W., Huntington, WV

Subject Property: 738-740 6th Street W.

A petition for a variance to the side yard setback when adjoining a residential district in an I-1 Light Industrial District.

Individual Speaking on Behalf of Petition: Art Bell

Other Interested Parties: Ryan Jarrell

ORDER

On April 18, 2023, Mr. Bell appeared before the City of Huntington Board of Zoning Appeals to provide testimony related to BZA 23-V-10. Other citizens were permitted to voice their positions as well, per the practice of this Board, and one individual provided testimony.

FINDINGS OF FACT

After reviewing all evidence at the April 18, 2023 meeting and hearing testimony from Mr. Bell, the Board finds as follows:

1. Art Bell is the petitioner.
2. Quantum Properties is the property owner.
3. The property is zoned I-1 Light Industrial District.
4. The petitioner is requesting to exceed the minimum side yard setback.
5. The proposed setback would be 2.5 ft. from a residentially zoned property.
6. A single-family home is neighboring the property, adjoining the side where the proposed expansion is taking place.
7. A privacy fence and parking pad separate the proposed expansion from the single-family structure.
8. The accessory structure will be removed as well as half of the existing carport to make room for the expansion.
9. The proposed expansion to the existing main structure will be 29' x 58'.
10. The expanded area will be used for CNC machines and Lathe Machine. The noise level outside the building will be 60-70 decibels. Normal conversation is around 60 decibels.
11. No exhaust will be produced
12. The machines will be running all day until 11:00 P.M.
13. The loading dock is accessed infrequently between 7:00 A.M. and 3:00 P.M.
14. The business could not expand on the side of the building with the large parking lot, because expanding on this side would disrupt the machine assembly line.
15. The lots are approximately 26,946 sf.

STANDARD OF REVIEW

When considering a **Variance**, the Board must consider:

1. The requested Variance will not adversely affect the public health, safety, or welfare, or the rights of the adjacent property owners or residents;
2. That the variance arises from special conditions or attributes which pertain to the property for which a variance is sought. Such special conditions may not be created by the person seeking the variance;
3. That the variance would eliminate an unnecessary hardship permit a reasonable use of the land; and
4. That the variance will allow the intent of the Zoning Ordinance to be observed and substantial justice done.

CONCLUSIONS OF LAW

“The purpose of the I-1 district is to provide an area where various light industrial activities can be accommodated without creating undesirable or incompatible situations with surrounding land uses.” City of Huntington Ordinance § 1333.01. When a light industrial district is adjacent to a residential district, the required side yard set-back is 20 ft. *see id.* § 1333.02. Continuous noise in a light industrial zone is not to exceed 80 decibels *Id.* § 1333.04.

The property does not allow many options for expansion due to the orientation of the machine assembly line inside of the structure. The proposed expansion does have potential to cause injury to the use and enjoyment of the neighboring residential property and has the potential to become a detriment to the health and wellbeing of current and future occupants; however, since the noise level is within the performance standards of the district and since the machinery will be located to the rear of the lot, putting more distance between the machinery and the house, we believe the potential injury is mitigated. It is also helpful that the new machinery will not run all night and has no odor or exhaust that may drift into the neighbor’s property.

This arrangement is not ideal, but the Petitioner’s process requires their product moving from machine to machine in a particular order and the remaining machines in the process are in place and have been for many years. We believe the Petitioner is taking steps to protect the residential neighbor from excess noise or other bothersome byproducts of their process, which is the intent of the Zoning Ordinance. Therefore, it is our opinion that the proposed Variance is appropriate for this location.

DECISION

WHEREFORE, based upon the findings of fact from the full testimony heard at the hearing and all other documentary evidence presented, the Board **APPROVES** petition BZA 23-V-10 for a **Variance**. Any changes that deviate from what has been approved and does not meet the zoning regulation must come back before the BZA for approval.

ENTERED

Date

Chairperson: _____ Prepared by: _____
Jacqueline Proctor, Chair Nathanial Crum, Planning Technician

BEFORE THE BOARD OF ZONING APPEALS, HUNTINGTON, CABELL AND WAYNE
COUNTIES, WEST VIRGINIA

BZA 23-C-12

Property Owner/Petitioner: Willie's Entertainment, LLC, William Mosser, 218 33rd St. W., Huntington, WV

Subject Property: 440 8th Avenue W.

A petition for a conditional use permit for a bar in an I-1 Light Industrial District.

Individual Speaking on Behalf of Petition: Will Mosser

Other Interested Parties: Shirley Bowman

ORDER

On April 18, 2023, Mr. Mosser appeared before the City of Huntington Board of Zoning Appeals to provide testimony related to BZA 23-C-12. Other citizens were permitted to voice their positions as well, per the practice of this Board, and one individual provided testimony.

FINDINGS OF FACT

After reviewing all evidence at the April 18, 2023 meeting and hearing testimony from Mr. Mosser, the Board finds as follows:

1. William Mosser is the petitioner and property owner.
2. The petition is a conditional use request to operate a bar.
3. The petitioner has been in the bar industry for about 11 years.
4. The petitioner had consolidated this property with an adjacent vacant property that they plan to turn into more parking.
5. The bar will operate between the hours of 11:00 A.M. and 2:30 A.M.
6. Security for the bar will include security cameras around the property, an ID scanner, a doorman, and a buzzer system for the front door,
7. This property was conditionally approved as a bar in 2021; however, the permit expired before operations could begin.
8. The petitioner has addressed the conditions of the 2021 approval in the current request.
9. The petitioner plans to replace the front window to meet transparency requirements.
10. The property is zoned I-1 Light Industrial District.

STANDARD OF REVIEW

When considering a **Conditional Use Permit**, the Board must consider:

1. The effect upon the Comprehensive Plan;
2. Public health, safety, morals, and general welfare;
3. Potential injury to the use and enjoyment of other properties in the immediate vicinity for the purposes already permitted;
4. The effect upon the normal and orderly development and improvement of surrounding properties for uses already permitted in the district;

5. Adequate provisions for utilities, access roads, drainage, and other necessary facilities; and
6. Adequate ingress and egress so designed to minimize traffic congestion in the public street.

CONCLUSIONS OF LAW

“The purpose of the I-1 district is to provide an area where various light industrial activities can be accommodated without creating undesirable or incompatible situations with surrounding land uses.” City of Huntington Ordinance. § 1333.01. A bar is a conditional use in an I-1 Light Industrial District. *Id* § 1320.04.

The petitioner requested for this property to be reopened as a bar in September 2021, the petition was approved with conditions. However, the petitioner was unable to begin operations of the business within a year of the approval and the Conditional Use Permit expired. This expiration required that a new hearing take place regarding the reopening of the bar. The new site plan that was submitted addresses the previous concerns and conditions; however, the Board also felt that new conditions were appropriate before a secondary approval.

Petitioner addressed public safety concerns with his security plan and lighting plan. Any injury to the use and enjoyment of the other properties in the vicinity or any negative effect on the normal and orderly development and improvement of surrounding properties has been mitigated by Petitioner in his plan. It is reassuring that a neighbor spoke positively about having the bar reopen and indicated that use and enjoyment of her property would be improved. Therefore, it is our opinion that the proposed Conditional Use is appropriate for this location with the following conditions:

- the alley way must be kept clear at all times;
- exterior lighting must be utilized and shielded;
- a plan for beautification of the property must be submitted, approved, and implemented; and
- front window must be replaced in a manner that is acceptable to the Planning and Zoning staff.

DECISION

WHEREFORE, based upon the findings of fact from the full testimony heard at the hearing and all other documentary evidence presented, the Board **CONDITIONALLY APPROVES** petition BZA 23-C-12 for a **Conditional Use**.

ENTERED

Date

Chairperson: _____ Prepared by: _____
Jacqueline Proctor, Chair Nathanial Crum, Planning Technician

Staff Report: A petition for a variance to the minimum length and width requirement for factory built structures

Legal Ad

BZA 23-V-11

A petition for a variance to the minimum length and width requirement for factory built structures in an R-2 Single-Family District. The property is located at 4232 Altizer Avenue.

Property Owner/Petitioner: James Fox, 2687 1st Avenue, Huntington, WV

Introduction

James Fox is petitioning for a Variance to the minimum length and width requirement for factory built structures, to reduce the width from the required twenty-two (22) feet to sixteen (16) feet.

Existing Conditions / Background

The petitioned property is situated near the corner of Altizer Ave. and 3rd St. in the Altizer neighborhood. The property is zoned R-2 Single-Family Residential, as are all surrounding properties. The previous structure was demolished in May 2021, which measured approximately 28' x' 45'.

Proposed Conditions

The proposed structure will measure 16' x 76' (1,216 sq. ft.). An 8' x 8' porch is being proposed on the east side of the structure. The entrance of the proposed structure would not face the road, as required in §1315.09(B); the petitioner will be required to include a door on the side of the structure facing Altizer Ave. which will enter into the housing near the master bedroom.

Zoning Ordinance

Per §1341.23(B), a factory built home must be a minimum length and width of twenty-two (22) feet.

Per §1341.23(C), factory built housing shall be placed on a permanent foundation and are required to have a perimeter fascia enclosure constructed of compatible masonry material that encloses the perimeter of the home.

Per §1341.23(D), all tow bars, wheels, and axles shall be removed when the dwelling is installed on the residential lot, as a permanent structure not suitable for relocation.

Per §1341.23(E), the exterior siding materials shall consist of wood, masonry, concrete, stucco, masonite, metal or vinyl lap or other materials of like appearance but use of flat or corrugated sheet metal for the exterior walls or roof coverings is prohibited.

Pictures



4232 Altizer Avenue, currently a vacant lot.



The proposed structure would be setback in line with the neighboring structure to the east.

Staff Comments

Plan2025 designates this area as Traditional Residential District, which is characterized by:

- Medium density
- Smaller lot with grid streets
- New development maintains single-family character

There is no special condition or attribute about the property that would prevent the petitioner from placing a structure that meets the requirements of the ordinance; however, staff does not anticipate a negative impact on the adjoining properties if all other rules for manufactured homes are followed.

The office has received concerns from neighbors regarding the style of structure being placed. The general regulations for factory built structures stipulate types of siding materials that are acceptable and styles that are prohibited to ensure any factory built structures will be harmonious with the character of the neighborhood.

Housing on this block is primarily single story construction, 26-30 feet wide, with driveways on one side.

Prior to receiving a permit, the petitioner will need to submit an updated site plan with all measurements listed, details of materials, the HUD certification number of the structure, and a foundation plan for review.

Summary / Findings of Fact

1. James Fox is the owner and petitioner.
2. The variance is to allow for a structure that is less wide than the Ordinance requires.
3. §1341.23(B) requires a minimum width of twenty-two (22) feet; the proposed width is sixteen (16) feet.
4. §1341.23(C) requires a permanent foundation with a perimeter enclosure constructed of compatible masonry material.
5. §1341.23(D) requires all tow bars, wheels, and axles to be removed.
6. §1341.23(E) list acceptable and prohibited siding materials.
7. The property is zoned R-2 Single Family Residential District, as well as all surrounding properties.
8. The lot is approx. 7,443 sf.

Attachments


- Aerial map
- Zoning map
- Future Land Use map
- §1341.23 *Factory Built Housing*
- Site Plans
- Application



BZA 23-V-11
Variance to minimum length and width requirement for
factory built structures
4232 Altizer Avenue



Zoning

 R-2 Single-family Residential



BZA 23-V-11

**Variance to minimum length and width requirement for
factory built structures
4232 Altizer Avenue**



Future Land Use (Plan2025)

Traditional Residential



Location of Proposed Variance to Structure Width

BZA 23-V-11

Variance to minimum length and width requirement for factory built structures

4232 Altizer Avenue



Section 1341.23 Factory Built Housing

It is the intent of this Ordinance to encourage the provision of affordable housing in a general residential zone by permitting the use of new modular and manufactured homes as defined in Article 1315, meeting the definition of Single-Family residences as defined in Article 1315, in all zones in which similar dwellings constructed on the site are permitted, subject to the requirements and procedures set forth herein to assure similarity in exterior appearance between such residentially designed Modular and Manufactured Homes and dwellings which have been constructed under these and other lawful ordinances on adjacent lots in the same district, zoning classification or general area.

Modular and Manufactured Homes, as defined in Article 1315, shall be permitted in all zones subject to the requirements and limitations set forth in this Ordinance which are applicable to Modular and Manufactured Homes and the requirements and limitations applying generally to residential use in such zoning classifications or districts, including minimum lots, yard and building spacing, percentage of lot coverage, off-street parking requirements, square footage requirements and approved foundations as describe herein.

- A. Modular and Manufactured Homes qualifying as a Single-family residence shall be compared to site built and other housing in the immediate general area within the same zoning or residential district or area. Approval shall be granted upon the finding that the Modular or Manufactured Home is substantially similar in size, siding material, roof material, foundation and general aesthetic appearance to (a) site-built or other forms of housing which may be permitted in the same general area under this Ordinance or (b) existing development or (c) proposed development in the same zoning district or area.
- B. The home must measure in width and length at least 22 feet for the main body.
- C. The Modular or Manufactured Home shall be placed on a permanent foundation in accordance with Appendix C of the CABO 1 and 2 Family Building Code and shall be installed pursuant to the manufacturers' installation instruction and in compliance with the rules and regulations of the West Virginia Manufactured housing Construction and Safety Board established by West Virginia Code 21-9 and regulations approved thereunder. All Modular and Manufactured Homes are required to have a perimeter fascia enclosure constructed of compatible masonry material that encloses the perimeter of the home.
- D. All tow bars, wheels, and axles shall be removed when the dwelling is installed on the residential lot, as a permanent structure not suitable for relocation.
- E. The exterior siding materials shall consist of wood, masonry, concrete, stucco, masonite, metal or vinyl lap or other materials of like appearance but use of flat or corrugated sheet metal for the exterior walls or roof coverings is prohibited.
- F. The roof shall have a minimum 2 : 12 roof composition, wood shingles, concrete, fiberglass or metal tiles, slate, built up gravel materials or other building materials approved by the building official. A roof overhang and rain gutters are required and must not be less than 6" including the rain gutters which may account for up to 4" of overhang, measured from the vertical side of the dwelling. The roof overhang requirements shall not apply to the area above porches, alcoves or other appendages which together do not exceed 25 percent of the length of the dwelling.
- G. The Code Official may approve deviations from one or more of the developmental or architectural standards provided herein on the basis of finding that the materials to be

utilized or the architectural style proposed for the dwelling will be compatible and harmonious with existing structures in the vicinity.

- H. Mobile homes, as defined in Article 1315 shall be prohibited outside of Mobile Home Parks as set forth in the Zoning Ordinance.
- I. Use of Mobile Homes, Manufactured Homes, or Modular Homes for any purpose other than for residential use is hereby expressly prohibited.
- J. Applications for approval of placement of Manufactured Homes and Modular Homes shall be made on a form or forms developed for that purpose and shall be submitted to the City of Huntington Department of Development and Planning for review and approval in accordance with this Ordinance.

Such applications shall include all information necessary to make determinations as to conformity with the provisions of this Ordinance as applicable to each such Structure and, as applicable, conformity with the standards herein, including photographs or renderings of the front and side of the Modular and Manufactured Home, the exterior finish, and other information necessary to make determination required by this Ordinance.

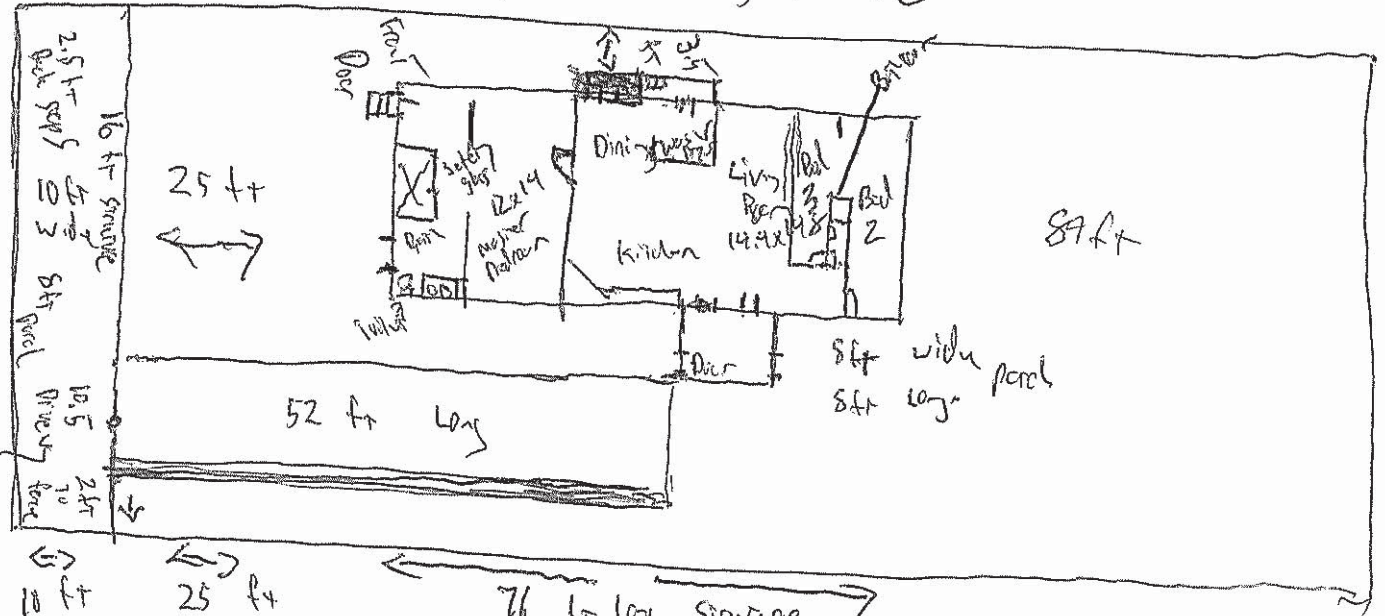
Approval or denial of the application shall be within ten (10) working days of receipt of the application and all required supporting materials. The applicant shall be notified in writing of the approval, conditional approval or denial of the application within five (5) working days after such decision is made. Conditional approval shall require that the conditions and reasons therefore be stated in writing and be agreed to by the applicant; such conditions shall be binding upon the applicant. In the case of disapproval, the reasons therefore shall be stated in writing.

- K. Any person aggrieved by a decision of a Code Official or other officer; department board or bureau charged with the conditional approval or denial of the placement of modular homes or manufactured homes, may appeal such decision to the City of Huntington Board of Zoning Appeals pursuant to the provisions of the City Charter and the appropriate ordinance governing such appeals.

Lot size 40 x 200 ft

16 ft wide / 76 ft Long structure

Altizer Ave
40 ft wide



89 ft

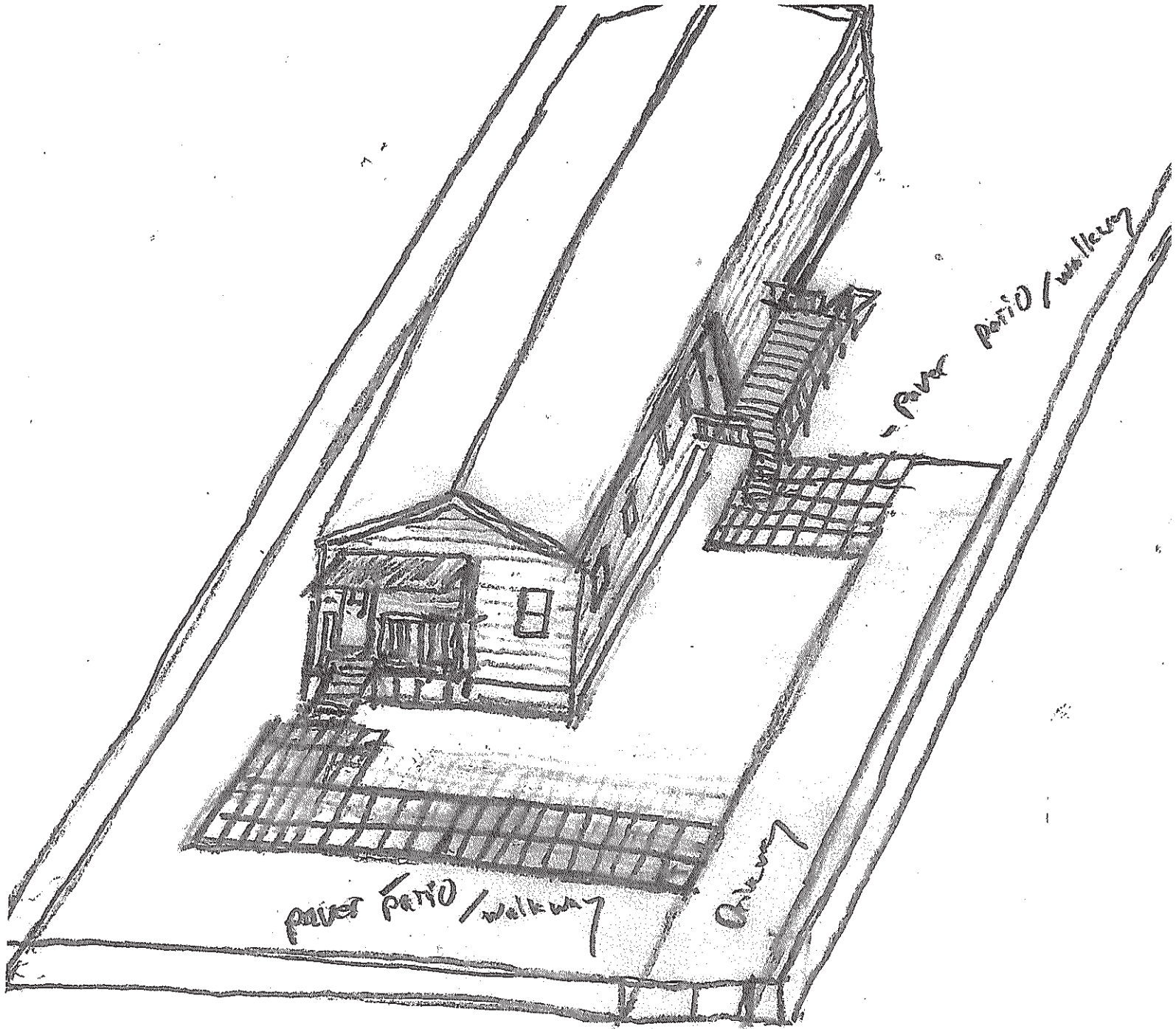
52 ft Long

8 ft wide porch
8 ft long

76 ft Long structure

89 ft to fence

200 ft



Door - 30 in W
80 in H

window - 28 in W
38 in H

Emergency 43 1/2 in W
109 1/2 in L

Bottom of window TO 45 ft
foundation

J. Box



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(304) 696-5540, option 3
planningdept@huntingtonwv.gov

Variance of Zoning Regulations Application

Applicant Name: James Fox dba Daydreamers Properties Phone: (304) 417 4377

Mailing Address (city, state, zip): 2687 First Avenue, Huntington, WV, 25702

Email: _____

Property Owner (if applicable): James Fox Phone: (304) 417-4377

Mailing Address (city, state, zip): 2687 First Avenue, Huntington, WV, 25702

Please list the Location (address) and Description (Tax Map Number, Parcel, and Lot,):

4232 Altizer Ave, Huntington, WV 25705

Variance request pursuant to:

Article 13.41.23B and/or Figure _____ of the City of Huntington Zoning Ordinance.

Description of the variance being requested:

width of 16ft

The following exhibits are to be attached and made part of this application:

- Site plan the property involved (if applicable); drawn to scale, showing all boundary lines and the placement of existing and/or proposed structures, and with all dimensions shown (setbacks, buildings, ect.).
- Valid State and Federal Photo ID.
- Any and all documentation and evidence to support the request.
- One hundred sixty dollars (\$160) non-refundable filing fee for each variance sought.

All of the above documentation shall be submitted in full to the Planning and Zoning office by Mandy Zl in order to be placed on the next Board of Zoning Appeals (BZA) agenda. An incomplete submittal will delay the applications review by the BZA.

I/We, the undersigned, am/are aware that a public hearing by the Board of Zoning Appeals will be held on Tuesday, April 18. It is my responsibility to attend (or send a representative) to the above meeting to present plans and to answer any questions regarding the request for a Variance. All meetings are held at 5:30 p.m. in the City Council Chambers of Huntington City Hall.

Signature [Handwritten Signature]

Date 3/20/2023

| For office use only | |
|---------------------|--------------------|
| Received: | Project Name: |
| <u>3/20/2023</u> | <u>BZA 23-V-11</u> |



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Variance of Zoning Regulations Application

ATTACHMENT A

In making its decision to approve or deny a Variance request, The Board of Zoning Appeals must consider four criteria. Please provide a written statement on how the proposed Variance will affect each of the following considerations:

1. Effect upon public health, safety, or general welfare, or the rights of adjacent property owners or residents:

None

2. What is the special condition or attribute of the property for which the variance is sought (must not be created by the person seeking the variance):

Width of Structure

3. How an approval of the Variance would eliminate an unnecessary hardship and permit a reasonable use of the land:

It would allow a structure to be there.

4. How would an approval of the Variance allow for the intent of the Zoning Ordinance to be observed and substantial justice done:

It would allow a structure to be there.

Staff Report: A petition for a variance to reduce the minimum side yard setback.

Legal Ad

BZA 23-V-13

A petition for a variance to the side yard setback for a tiny home development project in an R-5 Multi-Family District. The property is located at 1842 7th Avenue.

Petitioner: Katelyn Spears, 8 Pyramid Dr. Apt. 805, Huntington, WV

Property Owner: Varsity Huntington II, LLC, 216 11th Ave West, Huntington, WV

Introduction

Katelyn Spears is petitioning for a variance to the minimum setback requirements to develop a four unit tiny home development.

Existing Conditions / Background

The lot is currently vacant and has been since the demolition of the previous structure in February 2020.

Proposed Conditions

The petitioner is proposing a four unit tiny home development with parking in the rear yard. Each dwelling will be 20’ x 12’, two-story unit with a 4’ x 12’ porch. Two units will face 7th Avenue and the other two units will face the alley. The first floor will be the living room, kitchen, and bathroom, and the second story will be the bedroom.

The structure to the west has a setback of roughly 3 ft. from the petitioner’s property, which would leave roughly 4 ft. between the structures. The structure to the east has a setback of roughly 1 ft., leaving roughly 2 ft. between the structures.

Zoning Ordinance

Per *Table 1325.02*, the required side yard setback is 20% of the lot width or a minimum of 5 ft.

Per §1315.06.06 Prevailing Side Yard Setback Line. The prevailing side yard setback line is the mean side yard line of all principal buildings along a block face and which are located in the same zone.

1. The required side yard may be reduced where the applicant proves to the satisfaction of the Planning Director that the provision of a smaller side yard setback will conform to the prevailing side yard pattern of the developed lots fronting the same street. In no event shall the required side yard be reduced to less than three (3) feet unless permitted by the district.

Pictures



Closer view of the west side of the property from the sidewalk.



Closer view of the east side of the property from the sidewalk.



View from the street, looking north at 1842 7th Avenue.



Looking northwest.



Looking northeast.

Staff Comments

Plan 2025 designates this area as part of the Transitional Commercial District. This district is characterized by:

- Medium density and medium lots
- Limited on-site parking
- Buffers between primarily residential areas and higher intensity commercial and industrial uses

The goals for the Downtown and Marshall neighborhood in Plan 2025 is to “support and encourage campus-related services and housing that complement the character of the school.”

The petition’s request does not meet the criteria for a variance; a single, four unit structure could be constructed without the

need for a variance to setback requirements. However, this type of development is new to the city and the zoning ordinance does not provide guidance for site design as it does with townhouses or apartment buildings.

The proposed development allows for the higher density permitted in the district and provides residents the convenience and affordability of a small dwelling with the added benefit of not sharing a wall with their neighbor.

Summary / Findings of Fact

1. Varsity Huntington II, LLC is the owner.
2. Katelyn Spears is the petitioner.
3. The petitioner is proposing a four (4) unit tiny home development.
4. Per *Table 1325.02*, the required side yard setback is 5 ft. §1315.06.06 allows for a reduction to a 3 ft. setback if the applicant can prove the setback conforms to the prevailing pattern of the block.
5. The tiny home development proposes a side yard setback of 1 ft. in both side yards.
6. The property is zoned R-5 Multi-family Residential District.
7. The property is approximately 2,600 SF.

Attachments

- Aerial map
- Zoning map
- Future Land Use map
- Site plan
- Application

Staff Report: A petition for a Variance to allow for a reduction in the minimum off-street parking requirements in an R-5 Multi-family Residential District.

**Legal Ad
BZA 23-V-14**

A petition for a variance to the minimum parking requirement in an R-5 Multi-Family District. The property is located at 1842 7th Avenue.

Petitioner: Katelyn Spears, 8 Pyramid Dr. Apt. 805, Huntington, WV

Property Owner: Varsity Huntington II, LLC, 216 11th Ave West, Huntington, WV

Introduction

Katelyn Spears is petitioning for a reduction to the minimum off-street parking requirement for a four unit tiny home development.

Existing Conditions / Background

The lot is currently vacant and has been since the demolition of the previous structure in February 2020.

Proposed Conditions

The petitioner is proposing a four unit tiny home development with a parking area measuring 20' x 28' in the rear yard. The parking area is similar in size to the other parking areas along the same alley.

Each dwelling will be 20' x 12', two-story unit with a 4' x 12' porch. Two units will face 7th Avenue and the other two units will face the alley. The first floor will be the living room, kitchen, and bathroom, and the second story will be the bedroom.

Photos



View from the street, looking north at 1842 7th Avenue.



Closer view from the sidewalk.



Looking northwest.



Looking northeast.

Zoning Ordinance

Per *Table 1343.A*, the required number of off-street parking spaces for multi-family dwellings is one (1) per one (1) bedroom unit.

Staff Comments

Plan 2025 designates this area as part of the Transitional Commercial District. This district is characterized by:

- Medium density and medium lots
- Limited on-site parking
- Buffers between primarily residential areas and higher intensity commercial and industrial uses

It is mentioned that the Downtown & Marshall neighborhood should balance parking needs with the need for other uses. There is ample on-street parking in this area, and nearby Marshall University student parking. In addition, this neighborhood offers a variety of options for transportation other than the personal vehicle, and Plan2025 specifically calls out 7th Avenue as an ideal road for bicycle traffic.

Since the petitioner and Plan2025 wish to encourage other forms of transportation, staff recommends that, if the Board chooses to approve the variance to parking, they condition the approval on providing covered and secure parking spaces for bicycles. The dwelling units will likely provide little indoor space to store a bicycle and residents will need a safe and secure location to store their bicycle overnight or when not in use.

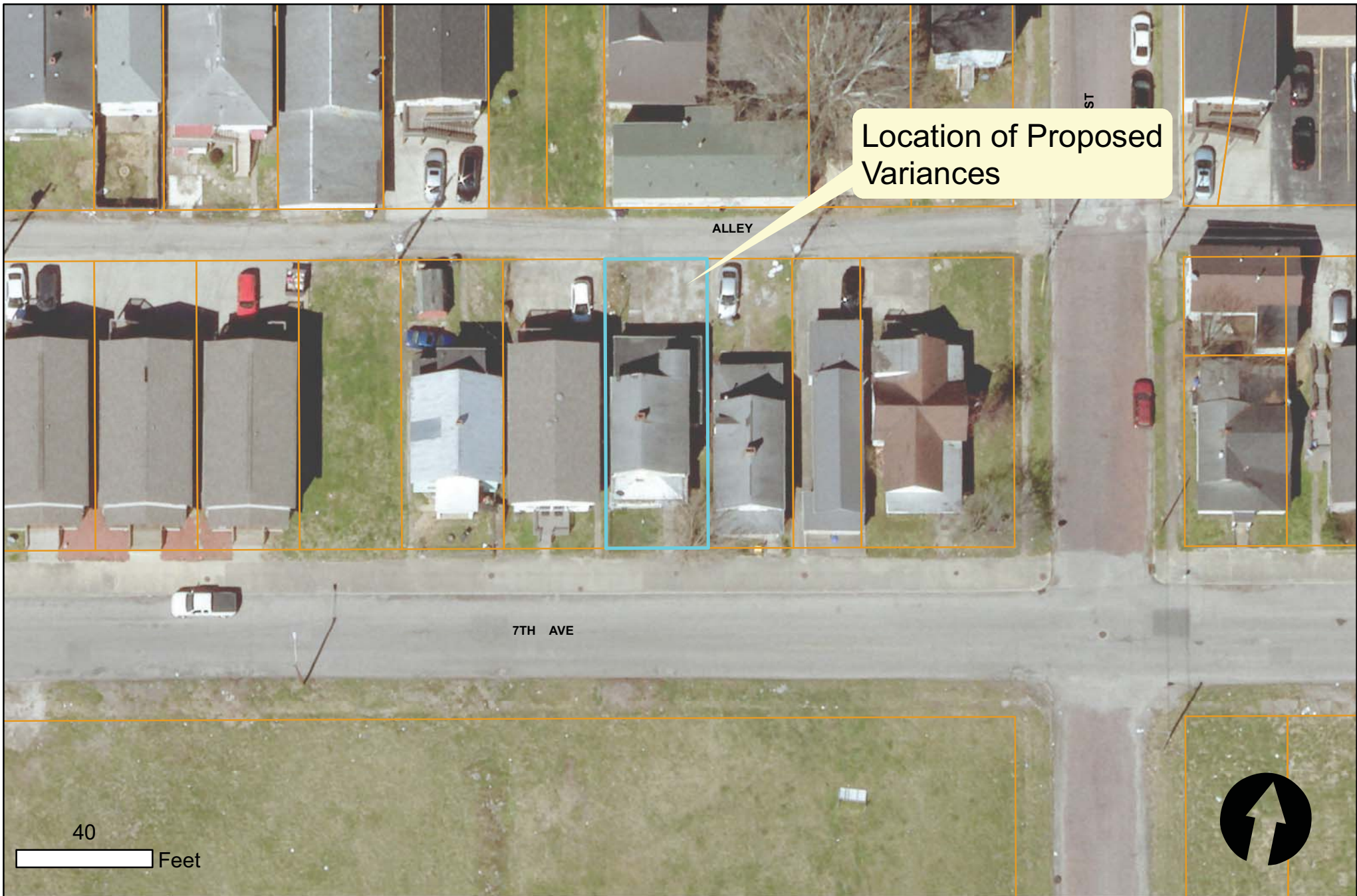
Summary / Findings of Fact

1. Varsity Huntington II, LLC is the owner.
2. Katelyn Spears is the petitioner.
3. The petitioner is proposing a four (4) unit tiny home development.

4. §1343 requires one parking spot per one bedroom unit; therefore this proposal would require four (4) off-street parking spaces.
5. The proposal would provide three (3) off-street parking spots.
6. The property is zoned R-5 Multi-family Residential District.
7. The property is approximately 2,600 SF.

Attachments




- Aerial map
- Zoning map
- Future Land Use map
- Site Plan
- Application

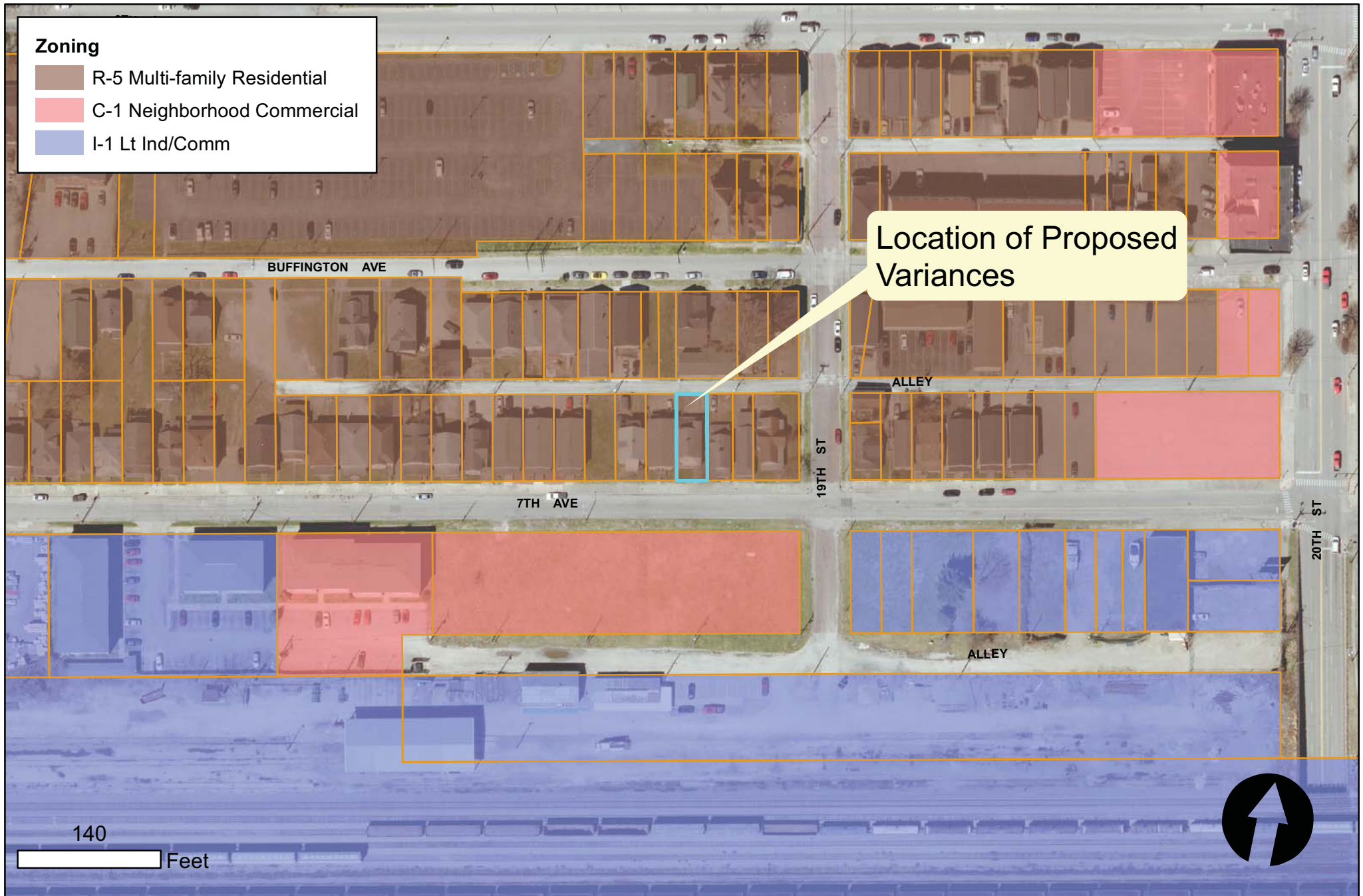


BZA 23-V-13 & BZA 23-V-14
Variance to the minimum Side Yard Setback
Variance to the minimum Parking Requirement
1842 7th Avenue



Zoning

-  R-5 Multi-family Residential
-  C-1 Neighborhood Commercial
-  I-1 Lt Ind/Comm



Location of Proposed
Variances

BZA 23-V-13 & BZA 23-V-14
Variance to the minimum Side Yard Setback
Variance to the minimum Parking Requirement
1842 7th Avenue



Future Land Use (Plan2025)

- Neighborhood Center
- Transition Commercial
- Light Industrial
- University

Location of Proposed Variances

BUFFINGTON AVE

ALLEY

7TH AVE

19TH ST

20TH ST

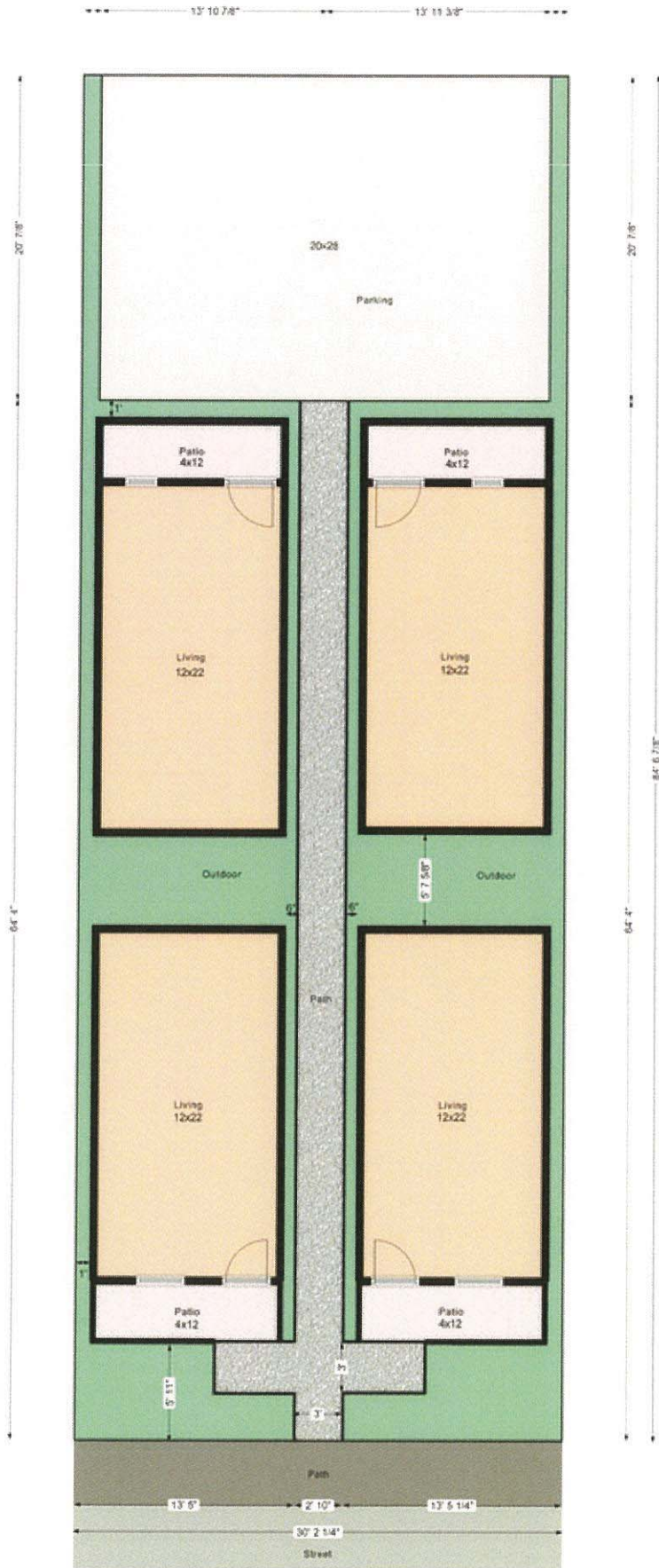
ALLEY

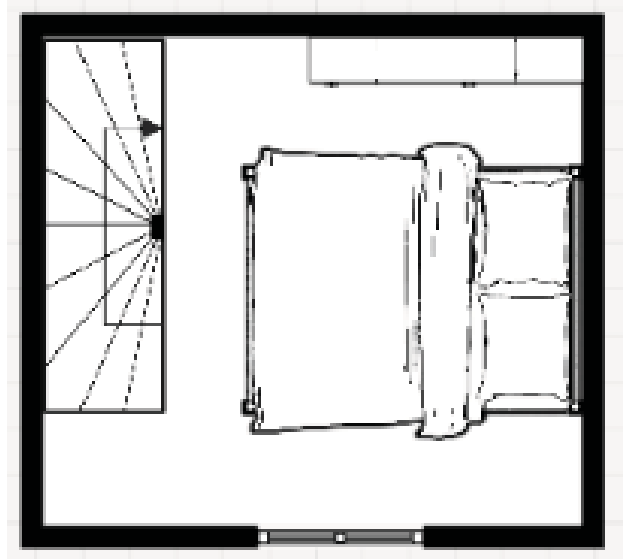
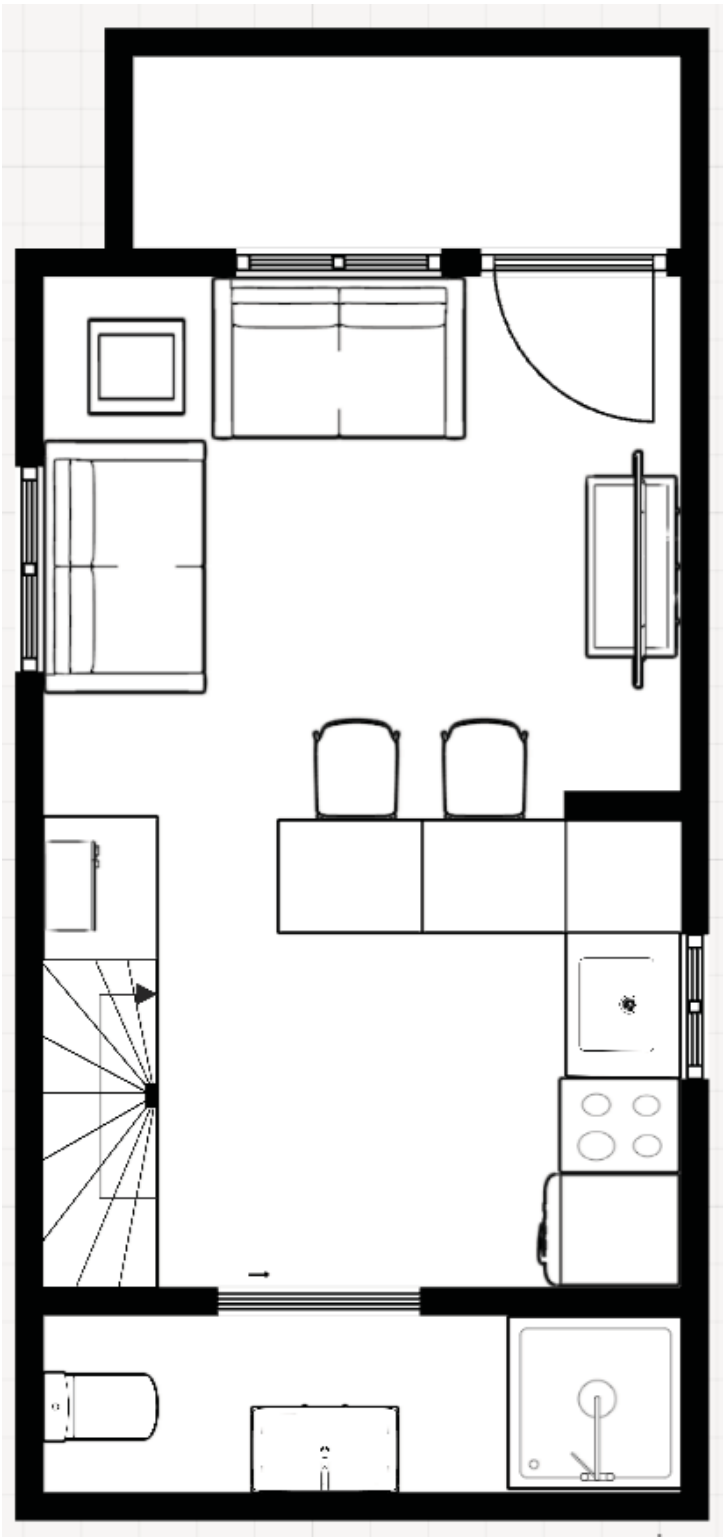
140 Feet



BZA 23-V-13 & BZA 23-V-14
Variance to the minimum Side Yard Setback
Variance to the minimum Parking Requirement
1842 7th Avenue









Street view of the residence that used to be at proposed lot. These picture show that previous building was also approximately 1 foot from the property line on both sides of the property. This also depicts the estimated distance the tiny homes would stand from the property line. With the old structure indicated by a blue star and property lines depicted by orange lines



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City of Huntington
Planning & Zoning
P.O. Box 1659 | Huntington, WV 25717
(304) 696-5540, option 3
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Variance of Zoning Regulations Application

Applicant Name: Katelyn Spears Phone: 3046342477

Mailing Address (city, state, zip): 8 Pyramid Dr Apt 805 Huntington, WV 25705

Email: katelyn.b.spears@gmail.com

Property Owner (if applicable): _____ Phone: _____

Mailing Address (city, state, zip): _____

Please list the Location (address) and Description (Tax Map Number, Parcel, and Lot,):

1842 7th Ave Map: 19 Parcel: 553

Variance request pursuant to:

Article 1325.02 and/or Figure _____ of the City of Huntington Zoning Ordinance.

Description of the variance being requested:

Minimum side yard setback for a R-5 district is 3 foot on each side from the Property line.

I am asking for 1 foot on each side from the property line.

The following exhibits are to be attached and made part of this application:

- Site plan the property involved (if applicable); drawn to scale, showing all boundary lines and the placement of existing and/or proposed structures, and with all dimensions shown (setbacks, buildings, ect.).
- Valid State and Federal Photo ID.
- Any and all documentation and evidence to support the request.
- One hundred sixty dollars (\$160) non-refundable filing fee for each variance sought.

All of the above documentation shall be submitted in full to the Planning and Zoning office by April 18th in order to be placed on the next Board of Zoning Appeals (BZA) agenda. An incomplete submittal will delay the applications review by the BZA.

I/We, the undersigned, am/are aware that a public hearing by the Board of Zoning Appeals will be held on Tuesday, May 16th. It is my responsibility to attend (or send a representative) to the above meeting to present plans and to answer any questions regarding the request for a Variance. All meetings are held at 5:30 p.m. in the City Council Chambers of Huntington City Hall.

Katelyn Spears
Signature

4/13/23
Date

| | |
|----------------------------|--------------------|
| For office use only | |
| Received: | Project Name: |
| <u>4/14/23</u> | <u>BZA 23-V-13</u> |



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planningdept@huntingtonwv.gov

Variance of Zoning Regulations Application

ATTACHMENT A

In making its decision to approve or deny a Variance request, The Board of Zoning Appeals must consider four criteria. Please provide a written statement on how the proposed Variance will affect each of the following considerations:

1. Effect upon public health, safety, or general welfare, or the rights of adjacent property owners or residents:
These tiny homes will be providing energy and space efficiency with the size and maximization of the plot. They will also be providing extra privacy to the residents compared to an apartment. These homes will not effect the rights of adjacent residents.
2. What is the special condition or attribute of the property for which the variance is sought (must not be created by the person seeking the variance):
With multiple homes on the lot and the homes being targeted to college students the need for side yards is nearly eliminated. College students do not have the need for extra yard and this allows more room for their living space and leads to less upkeep and more efficiency of the property.
3. How an approval of the Variance would eliminate an unnecessary hardship and permit a reasonable use of the land:
The use of the land would be maximizing the usable space of the plot while also decreasing the carbon footprint of Huntington. Four houses will be offered on a plot that used to offer one house or two units and offer more housing opportunities for students.
4. How would an approval of the Variance allow for the intent of the Zoning Ordinance to be observed and substantial justice done:
The intent of the zoning ordinance is to create a curb appeal among the residences while also providing a safe distance between each building. There will still be a substantial distance between buildings that previously existed while also maintaining the curb appeal to match the surrounding residences.



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planningdept@huntingtonwv.gov

Variance of Zoning Regulations Application

Applicant Name: Katelyn Spears Phone: 3046342477

Mailing Address (city, state, zip): 8 Pyramid Dr. Apt 805

Email: katelyn.b.spears@gmail.com

Property Owner (if applicable): _____ Phone: _____

Mailing Address (city, state, zip): _____

Please list the Location (address) and Description (Tax Map Number, Parcel, and Lot,):

1842 7th Ave Map: 19 Parcel:553

Variance request pursuant to:

Article 1343.A and/or Figure _____ of the City of Huntington Zoning Ordinance.

Description of the variance being requested:

The Article requires four on-site spots to be available on the property. I am requesting that the 3 spots on the property be allowed. This is considering the on road spots available, the walkability to campus, and that these are targeted towards college students who may not have vehicles.

The following exhibits are to be attached and made part of this application:

- Site plan the property involved (if applicable); drawn to scale, showing all boundary lines and the placement of existing and/or proposed structures, and with all dimensions shown (setbacks, buildings, ect.).
- Valid State and Federal Photo ID.
- Any and all documentation and evidence to support the request.
- One hundred sixty dollars (\$160) non-refundable filing fee for each variance sought.

All of the above documentation shall be submitted in full to the Planning and Zoning office by April 18th in order to be placed on the next Board of Zoning Appeals (BZA) agenda. An incomplete submittal will delay the applications review by the BZA.

I/We, the undersigned, am/are aware that a public hearing by the Board of Zoning Appeals will be held on Tuesday, May 16th. It is my responsibility to attend (or send a representative) to the above meeting to present plans and to answer any questions regarding the request for a Variance. All meetings are held at 5:30 p.m. in the City Council Chambers of Huntington City Hall.

Katelyn Spears
Signature

4/13/23

Date

| For office use only | |
|---------------------|--------------------|
| Received: | Project Name: |
| <u>4/14/23</u> | <u>BEA-23-V-14</u> |



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Variance of Zoning Regulations Application

ATTACHMENT A

In making its decision to approve or deny a Variance request, The Board of Zoning Appeals must consider four criteria. Please provide a written statement on how the proposed Variance will affect each of the following considerations:

1. Effect upon public health, safety, or general welfare, or the rights of adjacent property owners or residents:

The adjacent residences have fewer tenants, but ample parking opportunities, so their parking situation should not be affected by acquiring on street parking to be included.

2. What is the special condition or attribute of the property for which the variance is sought (must not be created by the person seeking the variance):

The tiny homes will be marketed towards college students who don't always bring vehicles with them on campus. There is also ample parking available on road as well as on campus just a block away.

3. How an approval of the Variance would eliminate an unnecessary hardship and permit a reasonable use of the land:

The approval will allow for a fourth tiny home to maximize the use of the land without the hardship of adding an additional and unnecessary parking spot.

4. How would an approval of the Variance allow for the intent of the Zoning Ordinance to be observed and substantial justice done:

The intent of this ordinance is to provide substantial parking for residents of the property. The residents that are being targeted for these tiny homes would be students who may not need a vehicle therefore not needing a parking spot. The approval of this variance would still provide substantial parking options.

Staff Report A petition for a Conditional Use Permit to allow for an Auto Service Station and Repair Shop in a C-1 Neighborhood Commercial District

**Legal Ad
BZA 23-C-15**

A petition for a conditional use permit for an auto service and repair shop in a C-1 Neighborhood Commercial District. The property is located at 807 23rd Street.

Property Owner: East End Properties, LLC, Tyrone Phillips, 148 Oney Avenue, Huntington, WV

Petitioner: John Stiltner, 1693 10th Avenue, Huntington, WV

Introduction

John Stiltner is petitioning for a Conditional Use Permit to operate an Auto Service Station and Repair Shop at 807 23rd Street.

Existing Conditions / Background

This location was approved as a car wash in May 2017 and appears to still be in operation in part of the building. A year later, the original business owner of Bishop’s Auto began the process to operate a car repair shop. A Certificate of Occupancy was approved, with a condition from zoning that all operations occur indoors; however, the municipal business license was not approved. The Finance and Licensing Department has been attempting to make this location compliant for several years.

As it does not have an approved municipal business license, and previous approvals to operate as an Auto Service Station and Repair shop have expired, Bishop’s Auto has been operating at this location illegally

and must receive an approval for a conditional use permit in order to continue operations. Recently, the city has received a number of complaints from the neighborhood regarding the manner in which the business is operating.

Proposed Conditions

The petitioner is requesting a conditional use permit in order to continue their auto service and repair business operations and bring the business into good standing with the city.

Pictures



Location of Bishops Auto on the corner of 8th Avenue and 23rd Street.



View of the side lot from 8th Ave.

Zoning Ordinance

Per §1315, an Auto Service Station and Repair Shop is any structure or premises used primarily for the servicing and repair of motor vehicles. May include minor repair work – including not limited to, oil changes,

replacement of tires, and replacement of batteries – and major repair work – including but not limited to motor replacement, body and fender repair, or spray painting.

§1341.11, General Regulations for an Auto Service Station and Repair Shop includes regulations requiring all work to be performed indoors; no more than six (6) vehicles may be located outside a building for a period not to exceed five (5) days, storage of junk vehicles is prohibited; only 20% of the lot may be utilized for vehicle sales or rentals; and the proper storage and disposal of waste and recyclables. (See §1341.11 attached.)

Staff Comments

Plan2025 designates this property as Transition Commercial, characterized by:

- Medium density and medium lots
- Limited on-site parking at times
- Buffers between primarily residential areas and higher intensity commercial and industrial uses

The pictures included in this report were taken on April 19, 2023, the day after the application was submitted. It has been observed by staff through a series of inspections that the petitioner is operating in a manner that conflicts with the general regulations for an Auto Service Station and Repair Shop and the statements made by the petitioner in the application regarding these regulations. The vehicles along 8th Ave and the vehicles in the side lot exceed the allowed number of 6 vehicles awaiting repair and have been parked much longer than the allotted 5 days. If the vehicles are being kept for the purpose of being sold, more than 20% of the total site area is dedicated to the ancillary use.

To note, the C-1 district does not permit the automotive sales as a primary use, so if that is how the business is operating, that element will need to be removed.

Individuals in the neighborhood have submitted complaints about this business to a number of city departments. Due to this, it is assumed that the business is creating injury to the use and enjoyment of those properties in the immediate vicinity and, if allowed to continue as they are currently operating, could have a negative impact on the development and improvement of the surrounding area.

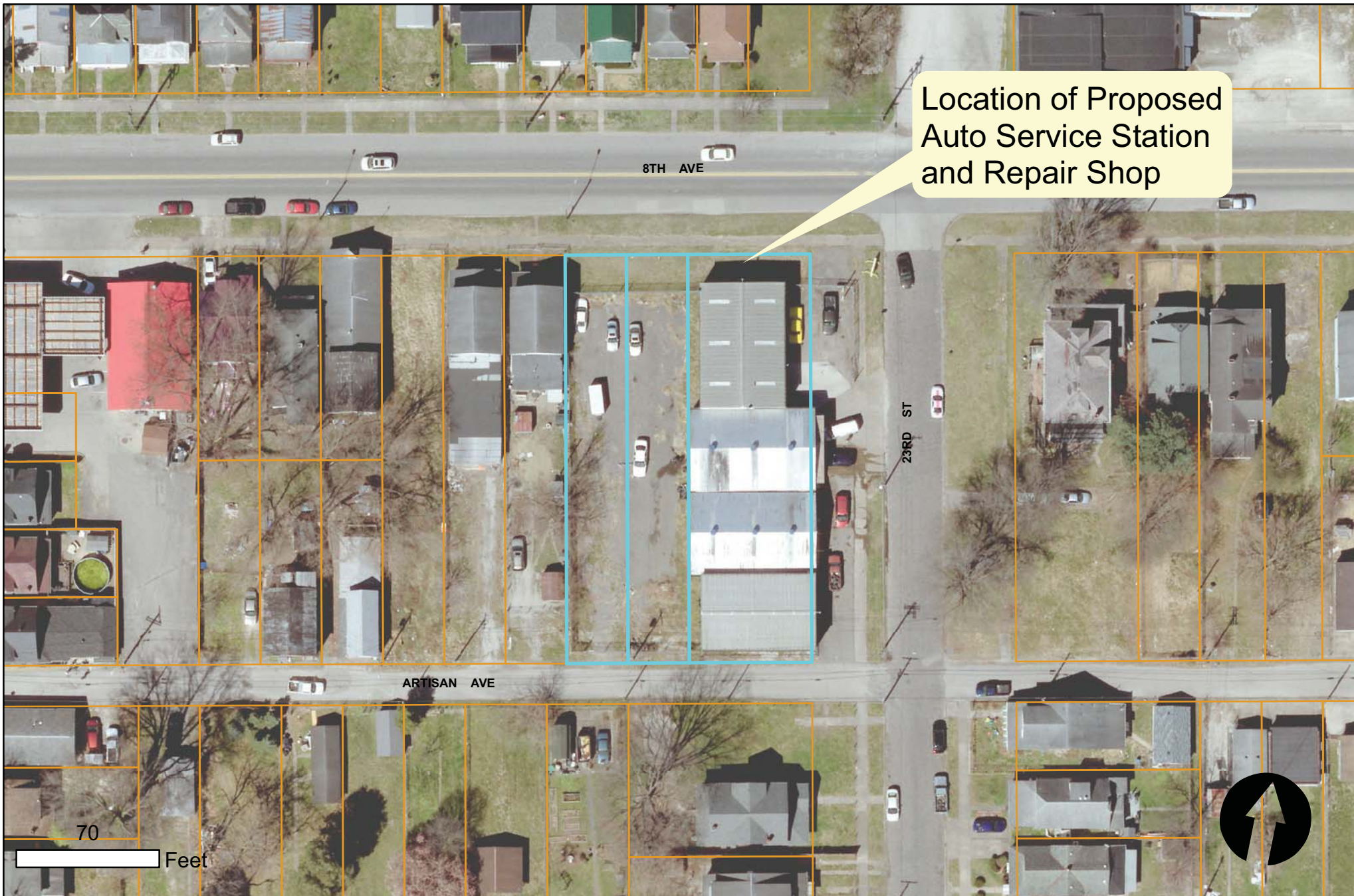
If the Board does consider granting the use, staff recommends conditioning an approval on the removal of all stored vehicles within a designated period of time and revocation of the conditional use permit if the condition is not complied with or if in the future the business operates in a manner not compliant with §1341.11.

Summary / Findings of Fact

1. John Stiltner is the petitioner.
2. East End Properties is the property owner.
3. The property has operated as an auto service station and repair shop illegally since 2018.
4. The current operations of the business are not compliant with §1341.11.
5. The city has received complaints about the business.
6. The lot is approximately 24,200 sf.

Attachments

- Aerial map
- Zoning map
- Future Land Use map
- §1341.11
- Application



Location of Proposed Auto Service Station and Repair Shop

8TH AVE

23RD ST

ARTISAN AVE






70 Feet



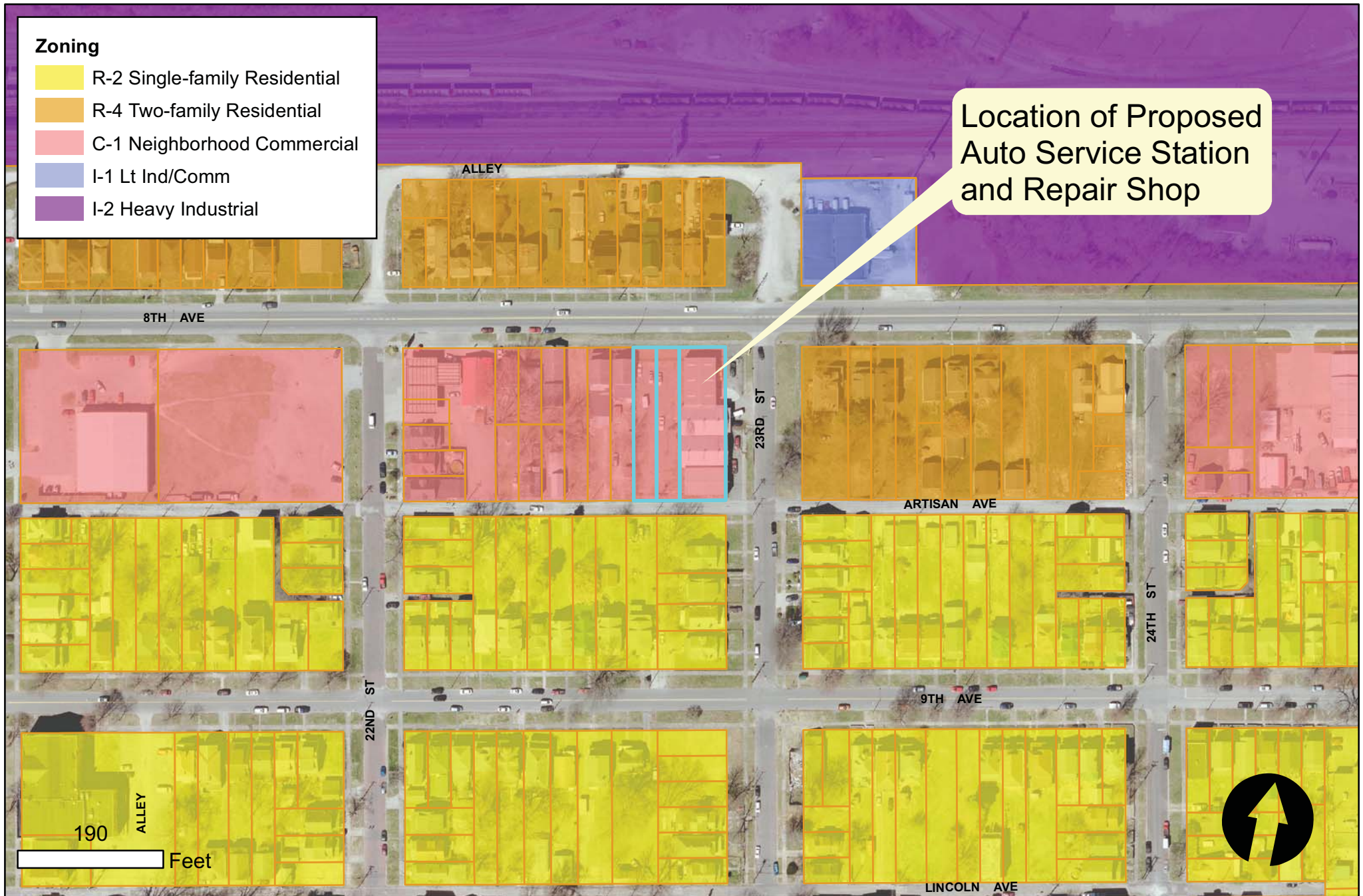
BZA 23-C-15
Conditional Use for an Auto Service Station and Repair Shop
807 23rd Street



Zoning

-  R-2 Single-family Residential
-  R-4 Two-family Residential
-  C-1 Neighborhood Commercial
-  I-1 Lt Ind/Comm
-  I-2 Heavy Industrial





Location of Proposed
Auto Service Station
and Repair Shop



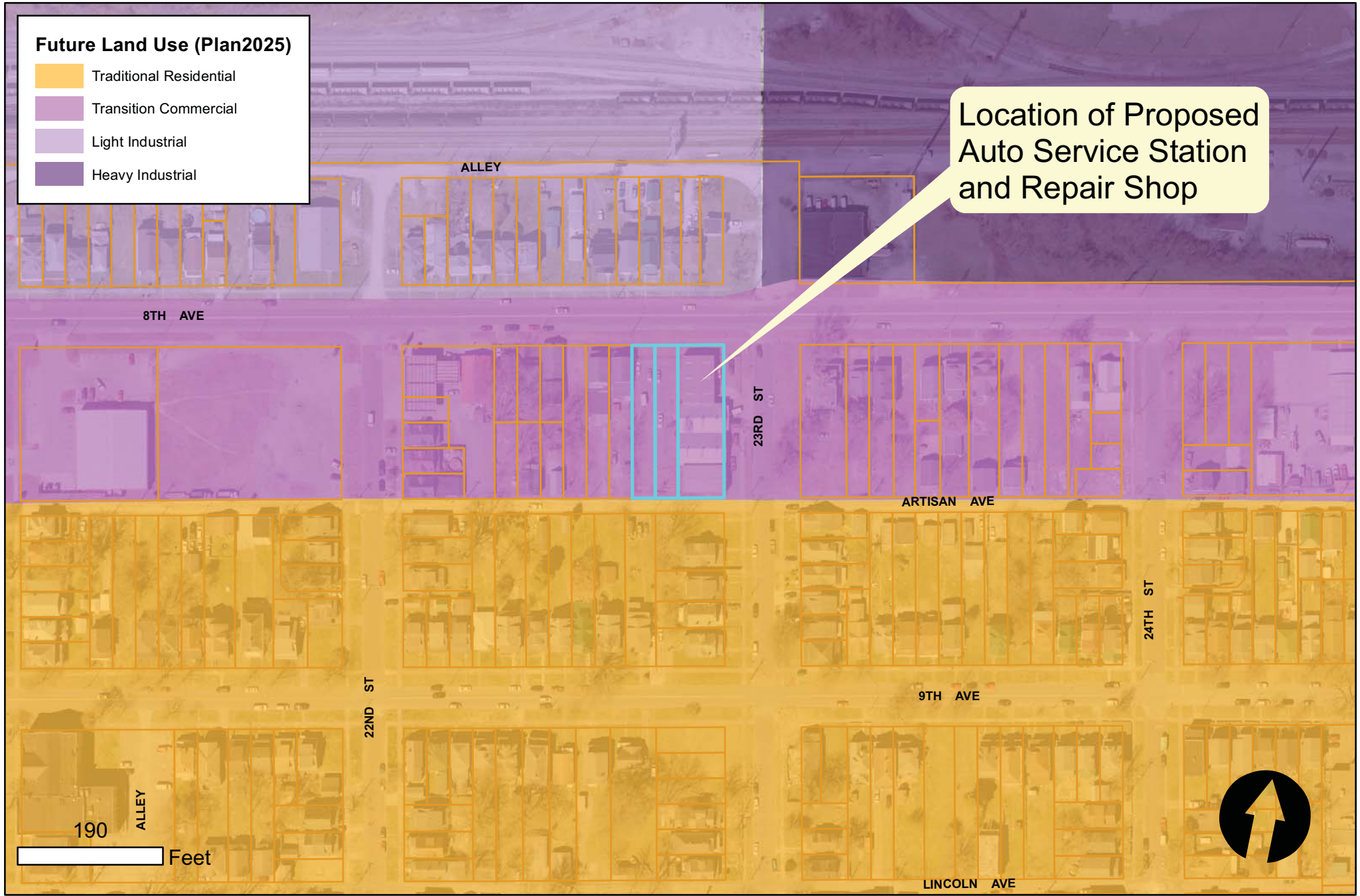
BZA 23-C-15
Conditional Use for an Auto Service Station and Repair Shop
807 23rd Street



Future Land Use (Plan2025)

-  Traditional Residential
-  Transition Commercial
-  Light Industrial
-  Heavy Industrial

Location of Proposed
Auto Service Station
and Repair Shop



BZA 23-C-15
Conditional Use for an Auto Service Station and Repair Shop
807 23rd Street



Section 1341.11 Auto Service Station and Repair Shop

- A. All storage areas, pits, lifts and working areas shall be within a building. All lubrication, repair, painting, or similar activities shall be performed in an enclosed building, and no dismantled parts shall be placed outside.
- B. No junked motor vehicle or part thereof or no unregistered motor vehicle shall be permitted outside an enclosed service station, except that not more than six (6) motor vehicles may be located outside a building for a period not to exceed five (5) days for each vehicle, provided that the owners are awaiting the repair of the motor vehicle.
- C. The exterior display and parking of equipment or vehicles for rent or sale shall be permitted, provided that the area devoted to this purpose is in addition to the minimum lot size required for a service station, the area devoted to this purpose does not exceed twenty (20%) percent of the total area of the entire site, the maximum sign area for a service station is not exceeded 126 and the location of the equipment or vehicles being rented or sold does not interfere with the required off-street parking requirements for the service station and does not interfere with the on-lot traffic circulation indicated on the approved land development plan.
- D. The storage and disposal of solid waste and recyclable materials, including used or discarded motor vehicle parts or equipment, and fluids, shall comply with all applicable Federal, State, and local requirements.
- E. Outdoor solid waste and recyclable storage areas shall be screened in accordance with Section 1347.07.



PLANNING & ZONING

City of Huntington
Planning & Zoning
P.O. Box 1659 | Huntington, WV 25717
(304) 696-5540, option 3
planningdept@huntingtonwv.gov

Conditional Use Permit Application

Applicant Name: John Stillner Phone: 304-972-8714

Mailing Address (city, state, zip): 1693 10th Ave Huntington WV 25701

Email: charlie bolinger@gmail.com

Property Owner (if applicable): Tyrone Phillips Phone: 304-462-5400

Mailing Address (city, state, zip): 148 Oney Ave, Huntington, WV 25705

Please list the Location (address) and Description (Tax Map Number, Parcel, and Lot,):

Description

Under the terms and conditions indicated in Article 1359 of the Zoning Ordinance, application is hereby made for a Conditional Use pursuant to Article _____ to allow the following:

Auto Service & Repair Shop

The following exhibits are to be attached and made part of this application:

- Site Plan of Real Estate involved (if applicable): **Drawn to Scale** with scale shown, the direction of North clearly indicated on the drawing, showing all boundary lines and placement of existing and/or proposed structures, and with all dimensions shown (setbacks, buildings, etc).
- Valid State or Federal Photo ID.
- Any and all documentation and evidence to support the request.
- Treasurers Receipt for One Hundred Sixty Dollars (\$160.00) non-refundable filing fee for each Conditional Use sought.

All of the above documentation is to be submitted to the Planning Commission office by _____.
Incomplete documentation will delay applicants review by the Board of Zoning Appeals.

Notice of Procedure

I/We, the undersigned am/are aware that the Board of Zoning Appeals will hold a public hearing on the request for a Conditional Use on **Tuesday**, _____ at **5:30pm** in City Hall Council Chambers. It is my responsibility to attend (or send a representative/agent) to this meetings to present plans and to answer any questions regarding the request for a Conditional Use.

John Stillner
Signature of Applicant

4-17-23

Date

Tyrone D. Phillips

Signature of Property Owner

Date

**All applications to be submitted must be typed or legibly written in blue or black ink.*

| For office use only | |
|---------------------|--------------------|
| Received: | Project Name: |
| <u>4/14/2023</u> | <u>B24-23-C-17</u> |



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Planning & Zoning
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Application for Conditionally Permitted Use

ATTACHMENT A

In making its decision to approve or deny Conditional Use, The Board of Zoning Appeals must consider six issues. Please provide a written statement on how the proposed Conditional Use will affect each of the following considerations:

1. Effect upon the Comprehensive Plan (available online):

We will be continuing a business that has been in place since 2017.

2. Effect upon public health, safety, and general welfare:

My day to day operations have no impact on the above mentioned

3. Effect upon the use and enjoyment of other property in the immediate vicinity for the purposes already permitted:

All operations are conducted indoors, from the hours of 9AM to 5PM

4. Effect upon the normal and orderly development and improvement of the surrounding properties for uses already permitted in the district:

We are a service to the local community, and do not impede the development of any other properties

5. Have adequate provisions for utilities, access roads, drainage, and other facilities been provided for:

Existing building ~~for~~ ~~access~~

6. Has adequate ingress and egress been designed to minimize traffic congestion on the public street:

Existing building has access from ~~23rd~~ 23rd Street.



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Application for Conditionally Permitted Use

ATTACHMENT B

Additional requirements pertaining to the Conditional Use may exist in the City of Huntington Zoning Ordinance. These additional requirements may exist within the General Regulations, specific districts to include overlay districts, or other articles of the ordinance. Please consult with the Planning and Zoning office to help identify these additional requirements.

List all each Article and Section numbers pertaining to this Conditional Use and give a brief description as to how each of the requirements shall be met:

Article A

Brief description of the requirement:

How will the requirement be met:

All equipment is located indoors

Article B

Brief description of the requirement:

How will the requirement be met:

Any Damaged vehicle waiting to be repaired is stored in an inclosure lot in the rear of building

Article C

Brief description of the requirement:

We do not sell or rent vehicles

How will the requirement be met:

Article D

Brief description of the requirement:

We follow all state and federal regulations

How will the requirement be met:

Article E

Brief description of the requirement:

How will the requirement be met:

All recyclable metals are stored in inclosed lot until ~~disposed~~ disposal

Staff Report A petition for a conditional use permit to operate limited video lottery in the I-1 Light Industrial District and a variance to the use’s distance requirements from a residentially zoned district.

Legal Ad

BZA 23-C-16

A petition for a conditional use permit for Limited Video Lottery in an I-1 Light Industrial District.

BZA 23-V-17

A petition for a variance to the distance requirements for a Limited Video Lottery use to a residentially zoned district. The property is located at 440 8th Avenue W.

Property Owner/Petitioner: Willie’s Entertainment, LLC, William Mosser, 218 33rd St. W., Huntington, WV

Introduction

William Mosser is petitioning for a Conditional Use Permit to allow for Limited Video Lottery and a variance to locate the LVL business within 250’ of a residentially zoned district. The property is located at 440 8th Avenue W.

Existing Conditions / Background

The property has historically operated as a bar with Limited Video Lottery, but ceased operations in April 2020. The petitioner was approved to reopen the location as a bar at the April 2023 meeting with conditions.

Proposed Conditions

The petitioner will be constructing a 16’ x 21’ addition to the existing structure and intends to use a portion of the 336 sq. ft. addition for the Limited Video Lottery machines; therefore, less than 10% of the establishment would be dedicated to the incidental use.

Zoning Ordinance

Per *Article 1320*, limited video lottery is a conditionally permitted use in an I-1 Light Industrial District.

Full regulations for Limited Video Lottery are outlined in attachment §1341.47.

These regulations include information about state licensing; distance from schools, religious institutions, public parks, childcare centers, and residentially zoned districts; and compliance for existing facilities with Limited Video Lottery.

Pictures



View from the street, looking north.

Staff Comments

Plan2025 designates this property as Heavy Industrial; characterized by:

- Large lots near railroad and riverfront
- Primarily separated from residential

This location has historically operated as a bar with limited video lottery. The proposed

space dedicated to the use is small, and with the security measures attested to at the April 2023 meeting and the support from the closest neighbor for this location to operate as a bar, it is unlikely that including the use of LVL will have a negative impact on the surrounding area or its future development.

It is staff's opinion that the variance does arise from a special condition of the property; the residentially zoned district for which the variance is sought is on the opposite side of the railroad tracks from the proposed location, the railroad acting as a buffer to the residential zone; therefore, the board would have justification for approving the variance to the distance requirements if they chose to approve the conditional use request for limited video lottery.

Summary / Findings of Fact

1. William Mosser is the petitioner and property owner.
2. The petition is a conditional use request to operate limited video lottery and a variance to the uses distance requirements to residentially zoned districts.
3. This property was conditionally approved as a bar in April 2023.
4. The property is zoned I-1, as are all adjacent properties.
5. The lots are approximately 9,820 sf.

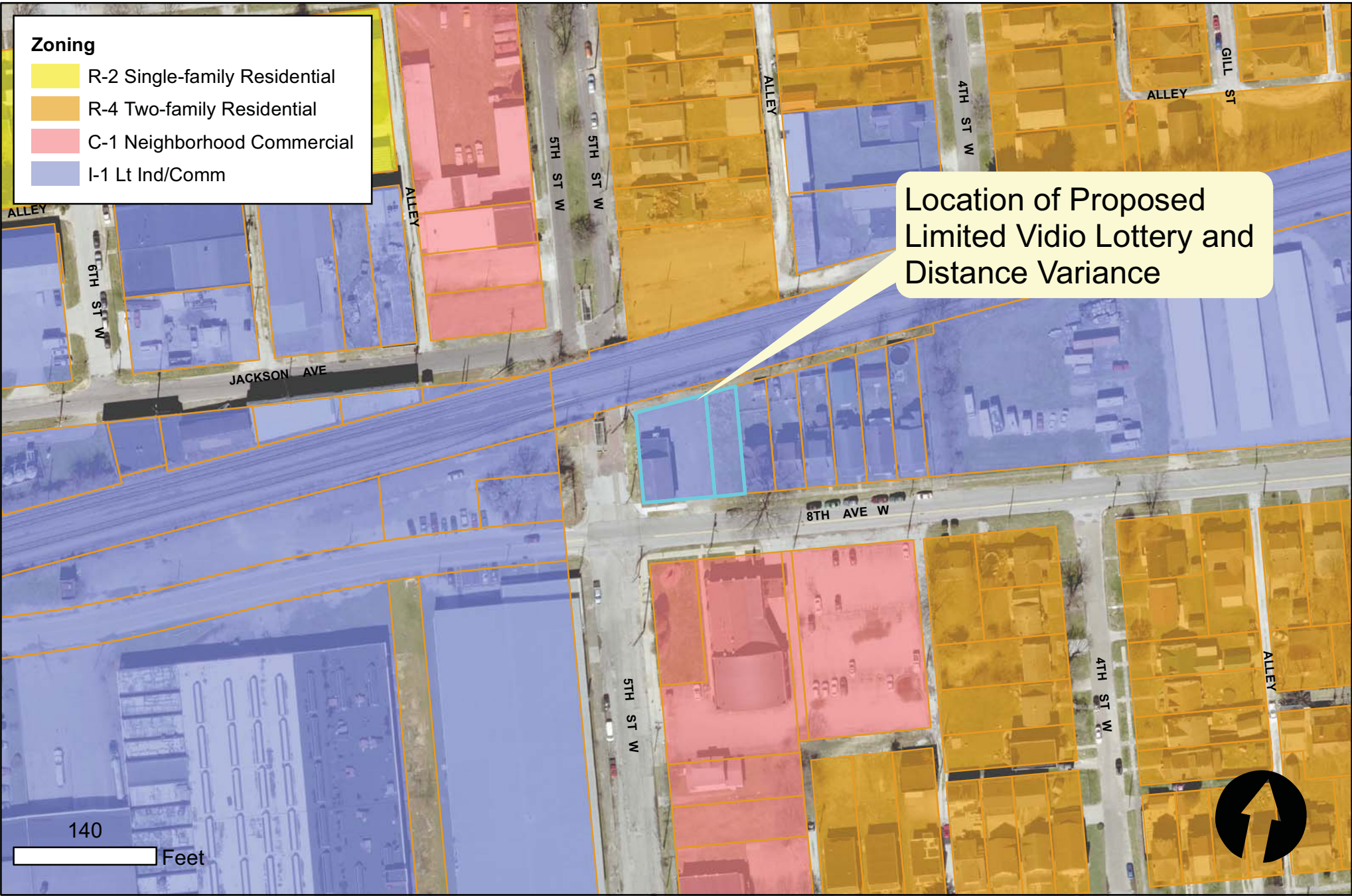
Attachments

- Aerial map
- Zoning map
- Future Land Use map
- §1341.47
- Site Plans
- Application



BZA 23-C-16 & BZA 23-V-17
Conditional Use for Limited Video Lottery
Variance to the Distance from a Residentially Zoned District
440 8th Avenue W.









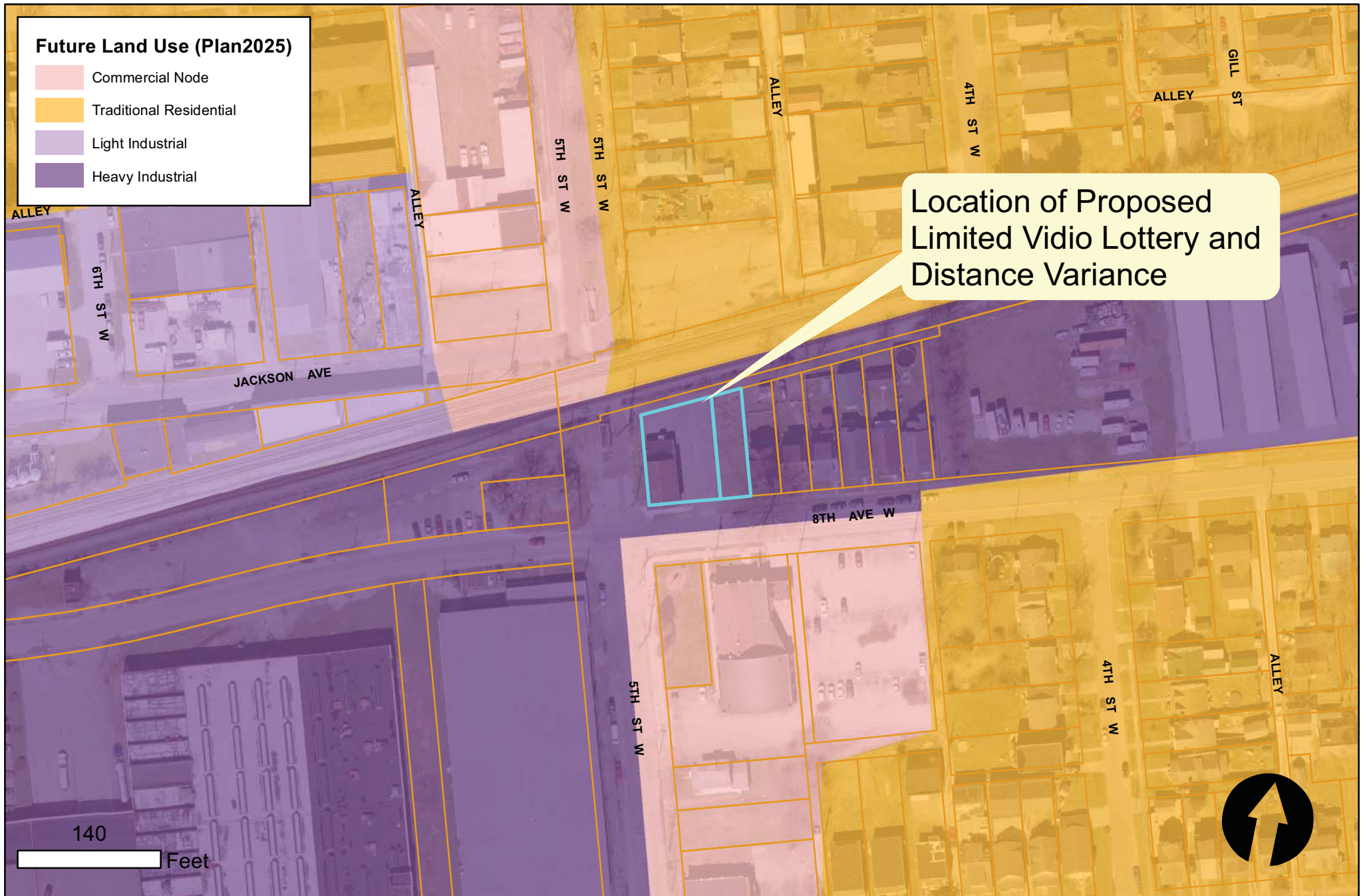
BZA 23-C-16 & BZA 23-V-17
Conditional Use for Limited Video Lottery
Variance to the Distance from a Residentially Zoned District
440 8th Avenue W.



Future Land Use (Plan2025)

-  Commercial Node
-  Traditional Residential
-  Light Industrial
-  Heavy Industrial

Location of Proposed Limited Video Lottery and Distance Variance



BZA 23-C-16 & BZA 23-V-17
Conditional Use for Limited Video Lottery
Variance to the Distance from a Residentially Zoned District
440 8th Avenue W.



Section 1341.47 Limited Video Lottery and Keno Establishments

- A. Legislative Intent. It is the intent and purpose of this section to regulate the time, place, and manner in which limited video lottery and Keno is presented to promote the health, safety, and general welfare of the citizens of the City of Huntington, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of limited video lottery and Keno within the City of Huntington and not to prohibit the limited video lottery and Keno industry.
- B. Findings of Fact
- 1) West Virginia law requires limited video lottery establishments to either hold or apply for, and receive, a liquor license before being granting a limited video lottery license to a particular individual or business location.
 - 2) Current West Virginia law governing limited video lottery/Keno establishments does not limit the number of limited video lottery/Keno establishments that may be licensed.
 - 3) There is considerable and growing local and statewide concern with many effects of limited video lottery establishments including, but not limited to: influence upon children, and increased criminal activity associated with bars/night clubs, including liquor law violations, violent crimes against persons, and property crimes.
 - 4) There is dilatory effect on property values and neighborhoods in the vicinity of the land use and it is a legitimate concern of the City to protect the property values of those in residential districts from encroaching commercial activity.
- C. Location of Limited Video Lottery and Keno Establishments
- 1) It shall be unlawful to operate or cause to be operated a limited video lottery and/or Keno establishment in any location in the City of Huntington except as provided in this Zoning Ordinance.
 - 2) Petitioners seeking a Special Permit shall identify that it is pursuing licensure for a limited video lottery and/or Keno establishment through the State of West Virginia.
 - 3) It shall be unlawful to operate a limited video lottery and/or Keno establishment within 1000 feet of an existing establishment that already provides limited video lottery and/or Keno, within 500 feet of an existing religious institution, school, child care center, or public park, and 250 feet from a residentially zoned district.
 - 4) One parking space shall be required for each video lottery machine on premise, in addition to any other parking requirements in accordance with this Zoning Ordinance.
- D. Measurement Distance. The distance between any two (2) limited video lottery and/or Keno establishment shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each business. The distance between any limited video lottery and/or Keno establishment and any religious institution, school, child care center, public park, or residentially zoned properties shall be measured in a straight line, without regard to intervening structures, from the closest property line of the limited video lottery and/or Keno establishment to the closest property line of the religious institution, school, child care center, public park, or residentially zoned property.
- E. A limited video lottery and/or Keno establishment lawfully operating is not rendered a

nonconforming use by the subsequent location of a religious institution, school, child care center, public park, or change in property zoning designation; however, if a licensed limited video lottery and/or Keno establishment ceases operation for a period of 180 days or more regardless of any intent to resume operation, it may not recommence operation in that location.

- F. An existing licensed limited video lottery and/or Keno establishment (effective date of the adoption of this amendment) is not exempt from these requirements. If the structure housing an existing limited video lottery and/or Keno establishment becomes damaged or destroyed by any cause, the structure may be replaced or reconstructed as long as action to reestablish the facility is initiated within 90 days.





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City of Huntington
Planning & Zoning
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(304) 696-5540, option 3
planningdept@huntingtonwv.gov

Conditional Use Permit Application

Applicant Name: William Mosser Phone: 304-544-2019

Mailing Address (city, state, zip): 218 33rd St W Huntington WV 25704

Email: WillMosser@Yahoo.com

Property Owner (if applicable): William Mosser Phone: 304-544-2019

Mailing Address (city, state, zip): _____

Please list the Location (address) and Description (Tax Map Number, Parcel, and Lot,):

440 W 8th Ave Huntington WV 25701 07-43-88

Description

Under the terms and conditions indicated in Article 1359 of the Zoning Ordinance, application is hereby made for a Conditional Use pursuant to Article 1341.47 to allow the following:

Limited Video Lottery

The following exhibits are to be attached and made part of this application:

- Site Plan of Real Estate involved (if applicable): **Drawn to Scale** with scale shown, the direction of North clearly indicated on the drawing, showing all boundary lines and placement of existing and/or proposed structures, and with all dimensions shown (setbacks, buildings, etc).
- Valid State or Federal Photo ID.
- Any and all documentation and evidence to support the request.
- Treasurers Receipt for One Hundred Sixty Dollars (\$160.00) non-refundable filing fee for each Conditional Use sought.

All of the above documentation is to be submitted to the Planning Commission office by 4/18/23.

Incomplete documentation will delay applicants review by the Board of Zoning Appeals.

Notice of Procedure

I/We, the undersigned am/are aware that the Board of Zoning Appeals will hold a public hearing on the request for a Conditional Use on Tuesday, May 16 at **5:30pm** in City Hall Council Chambers. It is my responsibility to attend (or send a representative/agent) to this meetings to present plans and to answer any questions regarding the request for a Conditional Use.

Will Mosser
Signature of Applicant

4/17/23
Date

Will Mosser
Signature of Property Owner

4/17/23
Date

**All applications to be submitted must be typed or legibly written in blue or black ink.*

| For office use only | |
|---------------------|---------------|
| Received: | Project Name: |



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Application for Conditionally Permitted Use

ATTACHMENT A

In making its decision to approve or deny Conditional Use, The Board of Zoning Appeals must consider six issues. Please provide a written statement on how the proposed Conditional Use will affect each of the following considerations:

1. Effect upon the Comprehensive Plan (available online):

Willies at the Paddock will have little impact to the comprehensive plan. 440 W 8th Ave is an existing structure that held video lottery for many years.

2. Effect upon public health, safety, and general welfare:

Public health, safety, and general welfare for employees and patrons will be the top priority for Willies at the Paddock. Safety of everyone is a must to run a successful business.

3. Effect upon the use and enjoyment of other property in the immediate vicinity for the purposes already permitted:

Willies at the Paddock will be well lit and have exceptional presence of security both inside and outside of the building.

4. Effect upon the normal and orderly development and improvement of the surrounding properties for uses already permitted in the district:

We will only add to the surrounding area by having a well maintained property and being a safe and secure social destination.

5. Have adequate provisions for utilities, access roads, drainage, and other facilities been provided for:

Existing Structure

6. Has adequate ingress and egress been designed to minimize traffic congestion on the public street:

Parking will be easily accessed off of the street to have very minimal impact on traffic congestion.



PLANNING & ZONING

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Application for Conditionally Permitted Use

ATTACHMENT B

Additional requirements pertaining to the Conditional Use may exist in the City of Huntington Zoning Ordinance. These additional requirements may exist within the General Regulations, specific districts to include overlay districts, or other articles of the ordinance. Please consult with the Planning and Zoning office to help identify these additional requirements.

List all each Article and Section numbers pertaining to this Conditional Use and give a brief description as to how each of the requirements shall be met:

Article 1341.47

Brief description of the requirement:

To regulate time, place, and manner in which limited video lottery is presented to promote health, safety and general welfare of citizens, also to establish uniform regulations

How will the requirement be met:

They will be met with proper security and lighting around the property. We will have required parking and we are located properly away from residential zone properties, religious institutes, schools, child care facility and public Parks.

Article _____

Brief description of the requirement:

How will the requirement be met:

Article _____

Brief description of the requirement:

How will the requirement be met:

Article _____

Brief description of the requirement:

How will the requirement be met:

Article _____

Brief description of the requirement:

How will the requirement be met:



PLANNING & ZONING

City of Huntington
Planning & Zoning
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(304) 696-5540, option 3
planningdept@huntingtonwv.gov

Variance of Zoning Regulations Application

Applicant Name: William Mosser Phone: 304-544-2019
 Mailing Address (city, state, zip): 218 33rd St W Huntington WV 25704
 Email: Will Mosser @ Yahoo.com
 Property Owner (if applicable): William Mosser Phone: 304-544-2019
 Mailing Address (city, state, zip): 218 33rd St W Huntington WV 25704

Please list the Location (address) and Description (Tax Map Number, Parcel, and Lot,):

440 8th Ave W Huntington WV 25701 07-43-88

Variance request pursuant to:

Article 1341.47 and/or Figure (C)(3) of the City of Huntington Zoning Ordinance.

Description of the variance being requested:

Our property is too close to a residential zone. We are 70ft from the residential zone

The following exhibits are to be attached and made part of this application:

- Site plan the property involved (if applicable); drawn to scale, showing all boundary lines and the placement of existing and/or proposed structures, and with all dimensions shown (setbacks, buildings, ect.).
- Valid State and Federal Photo ID.
- Any and all documentation and evidence to support the request.
- One hundred sixty dollars (\$160) non-refundable filing fee for each variance sought.

All of the above documentation shall be submitted in full to the Planning and Zoning office by 4/18/23 in order to be placed on the next Board of Zoning Appeals (BZA) agenda. An incomplete submittal will delay the applications review by the BZA.

I/We, the undersigned, am/are aware that a public hearing by the Board of Zoning Appeals will be held on Tuesday, MAY 16. It is my responsibility to attend (or send a representative) to the above meeting to present plans and to answer any questions regarding the request for a Variance. All meetings are held at 5:30 p.m. in the City Council Chambers of Huntington City Hall.

Will Mosser

Signature

4/18/23

Date

| For office use only | |
|---------------------|--------------------|
| Received: | Project Name: |
| <u>4/19/23</u> | <u>BZA 23-v-18</u> |



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Variance of Zoning Regulations Application

ATTACHMENT A

In making its decision to approve or deny a Variance request, The Board of Zoning Appeals must consider four criteria. Please provide a written statement on how the proposed Variance will affect each of the following considerations:

1. Effect upon public health, safety, or general welfare, or the rights of adjacent property owners or residents:

Our property is going to be well lit and will have proper security with cameras all around the building inside and out as well as employees ensuring safety.

2. What is the special condition or attribute of the property for which the variance is sought (must not be created by the person seeking the variance):

Railroad tracks are separating our property line from the residential zone.

3. How an approval of the Variance would eliminate an unnecessary hardship and permit a reasonable use of the land:

The property has been used for video lottery in the past.

4. How would an approval of the Variance allow for the intent of the Zoning Ordinance to be observed and substantial justice done:

While the ordinance doesn't allow for video lottery it has been used as a place with video lottery for the previous owners. The conditional use permit does allow video lottery.

Staff Report: A petition for a Variance to the minimum build-to percentage in a C-2 Highway Commercial District.

**Legal Ad
BZA 23-V-18**

A petition for a variance to the minimum build-to percentage for the front façade of a building in a C-2 Commercial District. The property is located at the southwest corner of 5th Ave. and 25th St.

Petitioner: CSC Properties, LLC – Jeff Walker, 5795 Ulmerton Rd. Clearwater, FL

Property Owner: Huntington WV 0422 LLC, 1000 Grand Central Mall, Vienna, WV

Introduction

Jeff Walker, CSC Properties, is petitioning to construct a new commercial structure with less than the required build-to percentage.

Existing Conditions / Background

This property is currently vacant and was subdivided from larger lot into two ~1 acre lots. The side of the lot facing 5th St. is 226’.

The Build-to regulations were part of the 2020 Zoning Ordinance amendments. The build-to percentage is the portion of a buildings front facade that must be built within a certain area of the property frontage called the build-to zone (see Figure 1). In this district, the build-to zone is between 15 feet and 75 feet for commercial buildings. The build-to percentage is 30%. Therefore 30% of the first 15 feet in depth of the

property along 5th Avenue is required to be occupied by the front facade of the building.

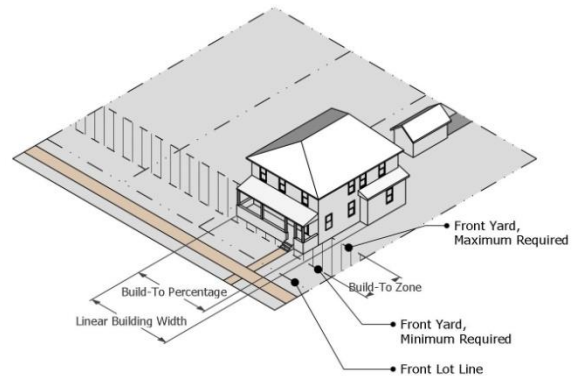


Figure 1 - Graphic example of build-to percentage from the Zoning Ordinance

By requiring new commercial and mixed-use development to fill the street frontage the following is accomplished:

- Increase urban style development rather than suburban
- Increase active street frontage
- Enhance pedestrian experience by making the form of development address people more than cars
- Places vehicular storage to the side and rear of uses
- Better support of multimodal transportation

Proposed Conditions

The proposed property is 226’ wide along 5th Avenue. The petitioner would like to construct a store front that is 36.5’ wide rather than the required 68’; making the build-to percentage 16%, half of what is required. The petitioner states in their application that the request is due to the prototypical design of the Highway 55

building, a quick service restaurant oriented for drive-thru services.

For comparison, here is the build-to percentage of fast food restaurants closest to the proposed location:

- Taco Bell = 35%
- Cook Out = 22%
- Stewarts Hot Dogs = 30%

It should also be noted that these structures were built prior to the zoning ordinance change.

The building use is required to have 20 parking spaces and they are proposing 36 parking spaces in addition to the double drive through lane. Any proposal to exceed number of required parking spaces must be justified to and approved by the Planning Director.

Photos



Figure 1 - Looking at the property from across Hal Greer Blvd.



Figure 2 - Looking North up Hal Greer Blvd at the adjacent bank followed by single-family homes.

Zoning Ordinance

Table 1329.02 requires all new construction have a build-to percentage of 30%.

Staff Comments

Plan2025 designates this area as part of the Convenience Commercial District. This district is characterized by:

- Low density and large lots
- Commercial uses along primarily state routes
- Parking available on-site or in shared lot
- Larger scale commercial and service for the region

Staff worked with the petitioner during the design stage and suggested rotating the building to more closely fit the regulation, which still would have needed a variance; they choose to not modify the layout and request a variance for the prototypical design.

Part of the reason the build-to-ratio is so difficult to meet for this use for this property is that the lot width is 226', a condition created by the petitioner in the original subdivision of the property.

The petitioner acknowledges in their application that there is no special condition or attribute about the property for which the variance is sought, to which staff agrees and would add that reorienting the building to more closely fit the requirements of the ordinance would not be a hardship for the petitioner, nor would it prevent reasonable use of the land.

This area of 5th Avenue experiences a high level of pedestrian and bicycle traffic. This

regulation was implemented to enhance the pedestrian experience, increase urban style development rather than suburban, and better support multimodal transportation.

There has only been one other request for a variance to this regulation, which was approved with conditions for landscaping intended to reduce the impact of the large reduction in street frontage by filling the space the building would occupy.

The previous variance request for a variance to the build-to ratio was granted on the following condition: that the petitioner plant a row of bushes no more than 3 feet tall from average ground level when fully grown that fill a majority of the landscaping width and that the petitioner plant trees, that when fully mature, the bottom of the canopy is no lower than 7 feet tall from average ground level.

If such a condition is applied, a guide for native trees and bushes is available through the Water Quality Board's Stormwater Utility department.

In addition to the variance for this project, the plans will require review and approval by the Planning Commission before construction may start.

Summary / Findings of Fact

1. Huntington WV 0422 LLC is the owner.
2. CSC Properties, LLC – Jeff Walker is the petitioner.
3. The proposed use of the property is restaurant with drive-thru.
4. The property is zoned C-2 Highway Commercial District.

5. §1329 requires that the build-to percentage be 30%.
6. The petitioner's requested build-to percentage is 16%.
7. The lot is approximately 43,560 sq. ft.

Attachments





- Aerial map
- Zoning map
- Future Land Use map
- Site plans
- Application



BZA 23-V-18
Variance to the minimum build-to percentage in a
C-2 Highway Commercial District
Southwest Corner of 5th Avenue and 25th Street



Zoning

-  R-2 Single-family Residential
-  C-2 Highway Commercial
-  I-1 Lt Ind/Comm
-  I-2 Heavy Industrial

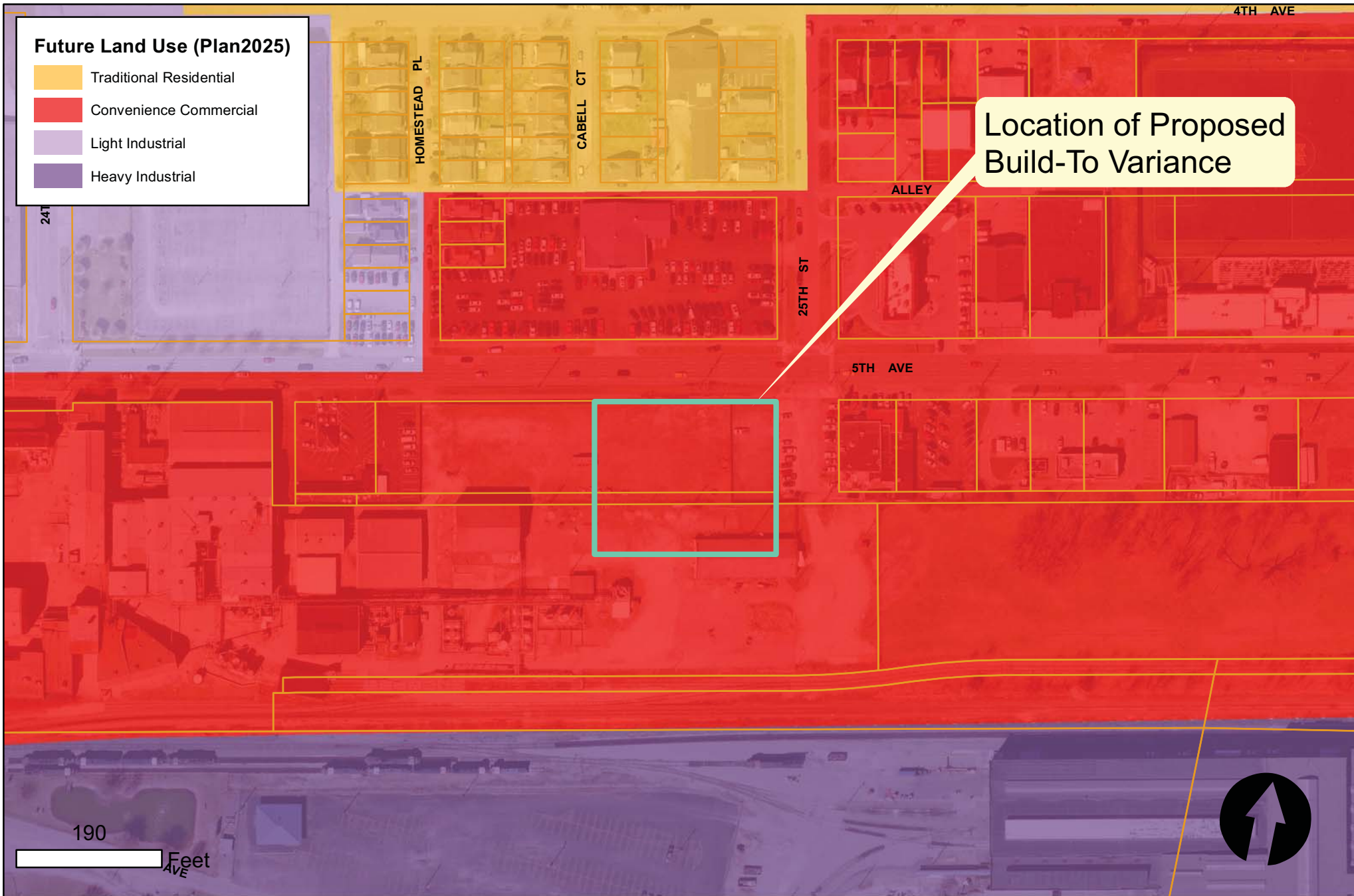
Location of Proposed
Build-To Variance

230
Feet



BZA 23-V-18
Variance to the minimum build-to percentage in a
C-2 Highway Commercial District
Southwest Corner of 5th Avenue and 25th Street





BZA 23-V-18
Variance to the minimum build-to percentage in a
C-2 Highway Commercial District
Southwest Corner of 5th Avenue and 25th Street



GENERAL NOTES

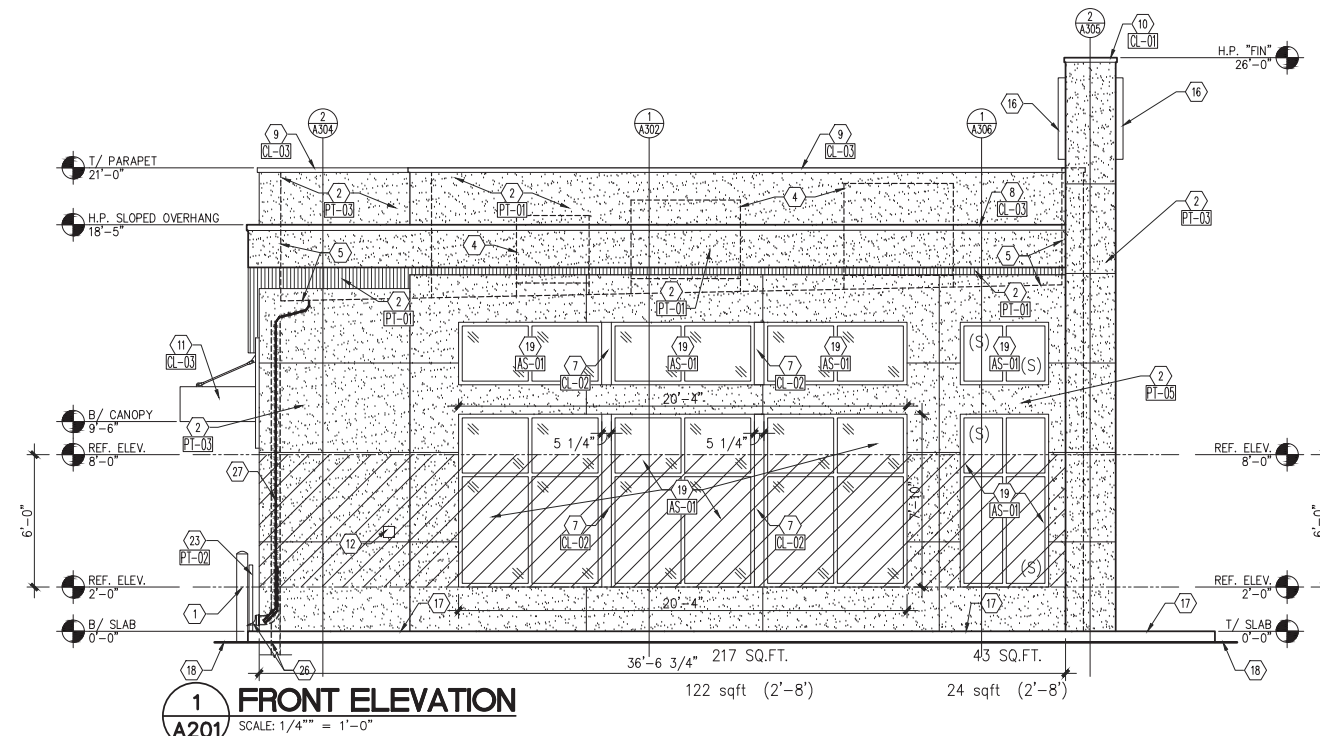
1. ALL NEW PAINT WORK MUST INCLUDE A 2 YEAR FULL WARRANTY AND A YEAR PRO-RATED LABOR AND MATERIALS WARRANTY.
2. ALL PAINT COLOR SELECTIONS TO BE VERIFIED WITH OWNER'S CONSTRUCTION MANAGER BEFORE ORDERING.
3. TOP OF PARAPET TO BE CLAD WITH UNA-CLAD COPING. FINAL SELECTION TO BE VERIFIED WITH OWNER'S CONSTRUCTION MANAGER.
4. ALL PREFABRICATED CANOPY SYSTEMS TO BE FIELD VERIFIED BEFORE FABRICATION.
5. ALL WALL MOUNTED EQUIPMENT SUCH AS ELECTRICAL METERS, IRRIGATION METERS, PHONE/CABLE BOXES, ETHERNET VENTS AND LOUVERS, ETC., SHALL BE PAINTED TO MATCH THE WALL ON WHICH IT IS MOUNTED OR OTHERWISE CONSISTENT WITH THE COLOR(S) OF THE BUILDING.

CONSTRUCTION NOTES

- 1 PIPE BOLLARD - SEE SITE PLAN.
- 2 HARD COAT STUCCO WITH MEDIUM SAND FINISH - SEE WALL SECTIONS.
- 3 HARD COAT STUCCO CONTROL JOINT.
- 4 OUTLINE OF MECHANICAL EQUIPMENT BEYOND.
- 5 APPROXIMATE LINE OF ROOF SURFACE BEYOND.
- 6 SLOPED ROOF SURFACE.
- 7 CLEAR ANODIZED ALUMINUM BREAK METAL BETWEEN STOREFRONT WINDOWS.
- 8 CONTINUOUS METAL ROOF EDGE OR DRIP FLASHING - SEE WALL SECTIONS.
- 9 CONTINUOUS METAL EDGE FLASHING.
- 10 BLOCKING FOR PRE-FABRICATED HANGER ROD CANOPY SYSTEM BY GENERAL CONTRACTOR - COORDINATE WITH SIGN VENDOR & SEE WALL SECTIONS.
- 11 PRE-FABRICATED HANGER ROD CANOPY SYSTEM, GENERAL CONTRACTOR PROVIDED AND INSTALLED - SEE WALL SECTIONS.
- 12 KNOX BOX MOUNTED AT 4'-6" A.F.F.
- 13 ELECTRICAL METER SERVICE - SEE ELECTRICAL DRAWINGS.
- 14 GAS METER/SERVICE - SEE PLUMBING DRAWINGS.
- 15 PREMANUFACTURED AND PRIMED COOLER/FREEZER/STORAGE - BY MANUFACTURER. PAINT TO MATCH STUCCO.
- 16 SIGNAGE FEATURE BY OWNER'S VENDOR, GENERAL CONTRACTOR TO COORDINATE INSTALLATION WITH STRUCTURE AND ELECTRICAL. COLOR: RED.
- 17 CONCRETE SIDEWALK/CURB - SEE SITE PLAN.
- 18 APPROXIMATE GRADE/PAVEMENT.
- 19 STOREFRONT DOOR/WINDOW SYSTEM - SEE FLOOR PLAN FOR MORE INFORMATION.
- 20 DRIVE-THRU WINDOW SYSTEM - SEE FLOOR PLAN FOR MORE INFORMATION.
- 21 HOLLOW METAL DOOR AND FRAME - SEE DOOR SCHEDULE.
- 22 GREASE COLLECTION UNIT - SEE EQUIPMENT PLAN.
- 23 PEDESTRIAN GUARD RAIL - SEE CIVIL DRAWINGS.
- 24 INSULATED METAL DOOR AND HOLLOW METAL FRAME PAINT TO MATCH STUCCO - SEE DOOR SCHEDULE.
- 25 SIGNAGE FEATURE BY OWNER'S VENDOR, GENERAL CONTRACTOR TO COORDINATE INSTALLATION WITH STRUCTURE AND ELECTRICAL. COLOR: WHITE.
- 26 CONNECT INTERNAL ROOF DRAIN TO UNDERGROUND STORM SYSTEM. CONNECT OVERFLOW TO WALL MOUNTED SCUPPER.
- 27 RUN HEAT TRACE CABLE DOWN TO LOCAL FROST LINE - LOOP UP AND RUN LINE 12" A.F.F. - TERMINATE AND CAP END PER MANUFACTURERS RECOMMENDATIONS, TYP.

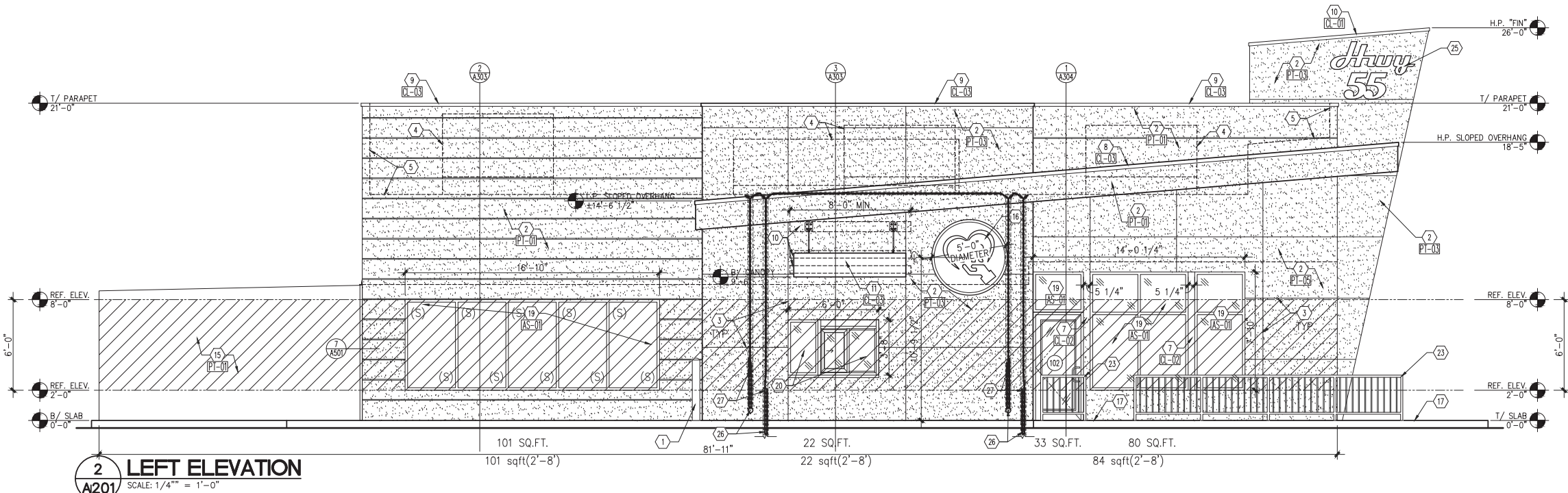
EXTERIOR FINISH SCHEDULE

- 02-01 PREFINISHED ALUMINUM EDGE FLASHING - COLOR - RED - SW6866 HEARTHROB
 - 12-01 METAL FASCIA/ BRAKE METAL WRAP - MILL FINISH - CLEAR COAT
 - 12-03 PREFINISHED ALUMINUM EDGE OR DRIP FLASHING - COLOR - BLACK - SW6993 BLACK OF NIGHT
 - 22-01 HARD COAT STUCCO - PAREX - STYLE: MEDIUM SAND FINISH - COLOR - GRAY - SW 6002 ESSENTIAL GRAY
 - 22-02 HARD COAT STUCCO - PAREX - STYLE: MEDIUM SAND FINISH - COLOR - BLACK - SW6993 BLACK OF NIGHT
 - 22-03 HARD COAT STUCCO - PAREX - STYLE: MEDIUM SAND FINISH - COLOR - RED - FMS 20-0069 TPM CANDY APPLE RED
 - 22-04 HARD COAT STUCCO - PAREX - STYLE: MEDIUM SAND FINISH - COLOR - WHITE - SW7005 PURE WHITE
 - 05-01 ALUMINUM STOREFRONT MILL FINISHED - COLOR: CLEAR COAT
- * REFER TO THE MOST CURRENT HWY 55 BRAND BOOK FOR ALL INTERIOR AND EXTERIOR COLORS - VERIFY ALL FINISHES WITH OWNER PRIOR TO PURCHASING



1 FRONT ELEVATION
 A201 SCALE: 1/4" = 1'-0"

| TRANSPARENCY CALCULATIONS | | | |
|---------------------------|----------------------------------|-----------------------|---|
| ELEVATION | S.F. OF WALL (BETWEEN 2' AND 8') | TRANSPARENCY REQUIRED | TRANSPARENCY PROVIDED (BETWEEN 2' AND 8') |
| FRONT ELEVATION | 220 SQ.FT. | 132 S.F. (60%) | 146 SQ. FT. |



2 LEFT ELEVATION
 A201 SCALE: 1/4" = 1'-0"

| TRANSPARENCY CALCULATIONS | | | |
|----------------------------|----------------------------------|-----------------------|---|
| ELEVATION | S.F. OF WALL (BETWEEN 2' AND 8') | TRANSPARENCY REQUIRED | TRANSPARENCY PROVIDED (BETWEEN 2' AND 8') |
| LEFT ELEVATION with C/F | 492 SQ.FT. | 197 S.F. (40%) | 207 SQ. FT. |
| LEFT ELEVATION without C/F | 387 SQ.FT. | 155 S.F. (40%) | 207 SQ. FT. |

PROJECT: **HIGHWAY 55**
 3.2 PROTOTYPE
 5TH AVENUE at 25TH STREET
 HUNTINGTON, WEST VIRGINIA 25703
 DRAWING: EXTERIOR ELEVATIONS

Revisions

| THRU ADDENDUM | DATE |
|---------------|------------|
| "E" | 04/12/2023 |

PROJECT DATE
 04/10/2023

Drawn By
 CDK

Checked By
 GRL

Sheet No.
A201



PLANNING & ZONING

City of Huntington
Planning & Zoning
P.O. Box 1659 | Huntington, WV 25717
(304) 696-5540, option 3
planningdept@huntingtonwv.gov

Variance of Zoning Regulations Application

Applicant Name: CSC Properties, LLC - Jeff Walker Phone: 727-446-3444

Mailing Address (city, state, zip): 5795 Ulmerton Road Clearwater, FL 33760

Email: jwalker@fg-inc.net

Property Owner (if applicable): Everett Hannah Prop II Phone: 727-446-3444

Mailing Address (city, state, zip): P.O. Box 277 Varney, WV 25696

Please list the Location (address) and Description (Tax Map Number, Parcel, and Lot,):

5th Avenue and 25th Street - 06-05-0020-0091-0000

Variance request pursuant to:

Article 1329.02 and/or Figure _____ of the City of Huntington Zoning Ordinance.

Description of the variance being requested:

Variance to the minimum build-to-percentage for the front facade of the building. Zoned C-2. Variance to Reduce Build-To-Percentage from 30% to 10%.

The following exhibits are to be attached and made part of this application:

- Site plan the property involved (if applicable); drawn to scale, showing all boundary lines and the placement of existing and/or proposed structures, and with all dimensions shown (setbacks, buildings, ect.).
- Valid State and Federal Photo ID.
- Any and all documentation and evidence to support the request.
- One hundred sixty dollars (\$160) non-refundable filing fee for each variance sought.

All of the above documentation shall be submitted in full to the Planning and Zoning office by April 20, 2023 in order to be placed on the next Board of Zoning Appeals (BZA) agenda. An incomplete submittal will delay the applications review by the BZA.

I/We, the undersigned, am/are aware that a public hearing by the Board of Zoning Appeals will be held on Tuesday, May 16, 2023. It is my responsibility to attend (or send a representative) to the above meeting to present plans and to answer any questions regarding the request for a Variance. All meetings are held at 5:30 p.m. in the City Council Chambers of Huntington City Hall.

Signature  _____
Date April 20, 2023

| For office use only | |
|---------------------|---------------|
| Received: | Project Name: |



PLANNING & ZONING

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Variance of Zoning Regulations Application

ATTACHMENT A

In making its decision to approve or deny a Variance request, The Board of Zoning Appeals must consider four criteria. Please provide a written statement on how the proposed Variance will affect each of the following considerations:

1. Effect upon public health, safety, or general welfare, or the rights of adjacent property owners or residents:

The proposed variance request will not effect the public health, safety, general welfare, or the rights of the adjacent property owners or residents of the area.

2. What is the special condition or attribute of the property for which the variance is sought (must not be created by the person seeking the variance):

There are no special conditions or attributes of the property for which the variance is sought.

3. How an approval of the Variance would eliminate an unnecessary hardship and permit a reasonable use of the land:

The property is rectangular. The property has 226.40' of frontage. A 30% Build-To-Ratio would require our building to have 67.92 LF of building fronting
The Hwy 55 prototypical building is 36.46' x 64.13' therefore would not meet the Built-To-Ratio in either direction. The variance would allow the building
front to face the street and operate a normal drive thru operation which would permit a reasonable use for the property.

4. How would an approval of the Variance allow for the intent of the Zoning Ordinance to be observed and substantial justice done:

The intent of the zoning ordinance is to have a prominent building frontage along the roadway. For this application we are proposing a Quick Service
Restaurant which inherently utilizes a small building and are oriented for a drive thru and therefore would not allow the project to meet the Build to Ratio on this particular piece
of property.



Agenda
Huntington Board of Zoning Appeals
Tuesday, May 16, 2023 - 5:30pm

1. Call to Order
2. Roll Call
3. Approval of the April 2023 Minutes
4. Approval of the Orders
 - BZA 23-C-06
 - BZA 23-V-10
 - BZA 23-C-12
5. Unfinished Business

BZA 23-V-11

A petition for a variance to the minimum length and width requirement for factory built structures in an R-2 Single-Family District. The property is located at 4232 Altizer Avenue.

Property Owner/Petitioner: James Fox, 2687 1st Avenue, Huntington, WV

6. New Petitions

BZA 23-V-13

A petition for a variance to the side yard setback for a tiny home development project in an R-5 Multi-Family District. The property is located at 1842 7th Avenue.

BZA 23-V-14

A petition for a variance to the minimum parking requirement in an R-5 Multi-Family District. The property is located at 1842 7th Avenue.

Petitioner: Katelyn Spears, 8 Pyramid Dr. Apt. 805, Huntington, WV

Property Owner: Varsity Huntington II, LLC, 216 11th Ave West, Huntington, WV

BZA 23-C-15

A petition for a conditional use permit for an auto service and repair shop in a C-1 Neighborhood Commercial District. The property is located at 807 23rd Street.

Property Owner: East End Properties, LLC, Tyrone Phillips, 148 Oney Avenue, Huntington, WV

Petitioner: John Stiltner, 1693 10th Avenue, Huntington, WV

BZA 23-C-16

A petition for a conditional use permit for Limited Video Lottery in an I-1 Light Industrial District. The property is located at 440 8th Avenue W.

BZA 23-V-17

A petition for a variance to the distance requirements for a Limited Video Lottery use to a residentially zoned district. The property is located at 440 8th Avenue W.

Property Owner/Petitioner: Willie's Entertainment, LLC, William Mosser, 218 33rd St. W., Huntington, WV

BZA 23-V-18

A petition for a variance to the minimum build-to percentage for the front façade of a building in a C-2 Commercial District. The property is located at the southwest corner of 5th Ave. and 25th St.

Petitioner: CSC Properties, LLC – Jeff Walker, 5795 Ulmerton Rd. Clearwater, FL

Property Owner: Huntington WV 0422 LLC, 1000 Grand Central Mall, Vienna, WV

7. Announcements/Discussion
8. Adjournment