

The **Noblesville Board of Zoning Appeals** met on Monday, July 6, 2020. Members in attendance were as follows:

Mike FieldChairman
Dave BurtnerVice-Chairman
James Hanlon Citizen Member
Dan Mac Innis Citizen Member
Barry McNulty Citizen Member

Others in attendance included Assistant Director Caleb Gutshall, Senior Planner Oksana Polhuy, and City Attorney Lindsey Bennett.

Chairman Field calls the meeting to order at 6:00 p.m.

APPROVAL OF MINUTES

Motion by Mr. Hanlon, seconded by Mr. Burtner to approve the May 4, 2020 and May 11, 2020 Minutes as presented. AYE: Hanlon, Burtner, Field, Mac Innis, McNulty. The motion carries 5-0.

APPROVAL OF FINDINGS OF FACT

Motion by Mr. Burtner, seconded by Mr. Hanlon to approve the May 4, 2020 and May 11, 2020 Findings of Fact as presented. AYE: Burtner, Hanlon, Field, McNulty, Mac Innis. The motion carries 5-0.

NEW BUSINESS

1. BZNA-0076-2020	
Location:	1407 Logan Street
Applicant:	Darren Peterson and Jennifer Roberts
Description:	UDO § 9.B.4.E.3 – Variance of Development Standards to permit increase in the permitted fence height in the front yard (maximum 4 feet permitted, 6 feet requested).
Staff Contact:	Oksana Polhuy

Ms. Oksana Polhuy states that the subject site is a single-family residential property located on the southeast corner of Logan and North 14th Streets. She states that it is located in the R-4 residential district and is surrounded by properties in the same zoning district, used as single-family residential, except for the south side where it borders a commercial General Business district office use. She adds that the property currently has a 3,028-square-foot single-family house, a 220-square-foot one-car detached garage, and a fence that consists of a short white picket fence connected to a 6-foot-tall wood fence surrounding the property. She explains that the applicant would like to replace the old 6-foot-tall portion of the fence with a new fence of the same height and in the same location, where a portion of the fence would fall into the front yard along 14th Street. She reminds the Board that the maximum fence height allowed in front yards is four feet. She summarizes that the applicant is requesting a variance of development standards to permit a 6-foot-tall fence in the front yard, the main purpose being for privacy around the portion of the yard south of the house.

Ms. Polhuy states that the applicant originally also requested a Variance of Development Standards for Vision Corner Clearance (VCC) in proximity to the alley. She states that, per UDO § 9.B.4.E.1, fences are not permitted to obstruct the visibility in the VCC area; in this instance, the location of concern is at the southeast corner of the property. She adds that the applicant pointed out that the alley along that corner is a one-way alley and vehicles should not be exiting onto 14th street from the alley. She explains that Staff discussed this situation with the City Engineer and, per UDO § 9.A.8, the City Engineer waived the VCC requirement for this property, as it is located in the Special Landscape District. She summarizes that, due to this development, there is no need for a variance from this development standard.

Ms. Polhuy states that it is common for fences in downtown Noblesville to be taller in the front yard than permitted by the ordinance, as some fences were built before the city started requiring fence permits in 2007. She relates that, in the neighborhood where the subject site is located,

corner lots have a mix of 4-foot-tall and 6-foot-tall fences in the front yards. She adds that, in addition to this, lots downtown are smaller than most residential subdivision lots, so these property owners have even more reason to want to enclose as much yard as possible.

Ms. Jennifer Roberts, 1407 Logan Street, states that if a fence of six feet in height is placed according to ordinance requirement, about 20% of the yard south of the house would remain unfenced, including many of the yard's trees.

Mr. Field refers to the Staff's recommended conditions of approval as shown in the Staff Report. He asks if Ms. Roberts would have any objections to such conditions. Ms. Roberts responds that she does not have any problem with them.

Mr. Field opens the public hearing. No one approaches the podium.

Mr. Field closes the public hearing.

Motion by Mr. Hanlon, seconded by Mr. Burtner, to approve application BZNA-0076-2020 based on the Findings of Fact contained in the Staff Report, and with the following conditions:

1. The Applicant shall sign the Acknowledgement of Variance document prepared by the Department of Planning and Development Staff within 60 days of this approval. Staff will then record this document against the property and a file stamped copy of such recorded document shall be available in the Department of Planning and Development.
2. Any alterations to the approved building plan or site plan, other than those required by the Board of Zoning Appeals (BZA), shall be submitted to the Department of Planning and Development prior to the alterations being made, and if necessary, a BZA hearing shall be held to review such changes.

AYE: Hanlon, Burtner, Mac Innis, Field, McNulty. The motion carries 5-0.

2. BZNA-0077-2020, BZNA-0078-2020, BZNA-0079-2020	
Location:	239 South 8th Street
Applicant:	Robert Walls and Zachary Downs
Description:	UDO § 8.B.6.B. and Appendix C – Variance of Use to permit office use in an R-5 zoning district. UDO Table 10.0.3.B. – Variance of Development Standards to permit a reduction of the required parking spaces (minimum 6 spaces required, 2 provided). UDO Table 12.0.7.E. – Variance of Development Standards to permit a reduction of the required minimum landscape buffer adjacent to a residential use/zone (minimum 15-foot-wide buffer required, 0 feet requested).
Staff Contact:	Oksana Polhuy

Ms. Oksana Polhuy states that the subject site is a single-family residential property located on the east side of South 8th Street and 65 feet south of Cherry Street. She states that it is located in the R-5 Multi-family residential zoning district and is bordered by properties in the same zoning district on the north and west sides used as single-family residences. She provides the zoning to the south as DT Downtown commercial zoning for a commercial retail use, and to the east as R-5/Government and LB Local Business for a parking lot use and an auto service/repair shop use, respectively. She states that the subject property exhibits a 1608-square-foot single-family residence and a 6-foot-tall fence enclosing a portion of the yard along the east, north, and west property lines.

Ms. Polhuy states that the applicant does not currently own the property, but is interested in purchasing it in order to establish professional service establishments such as accounting, financial, legal, and small IT/media services.

Ms. Polhuy makes reference to the recently adopted Noblesville Comprehensive Plan and indicates that the analysis of land use differs from the previous Comprehensive Plan. She states that, whereas the previous Future Land Use map in the Comprehensive Plan showed color-coding of each property as to recommended land use, the new Comprehensive Plan includes a "built form" map for the downtown area. She provides the concept's main idea that acknowledges that downtown development is a mixture of residential and commercial uses, that recommendations about future land use should consider how existing land uses are interconnected, and that land use decisions should consider what is appropriate in the specific spot being discussed, given immediately surrounding uses. She recounts the mix of surrounding uses and suggests that the proposed use would be "the least impactful in terms of commercial uses" and could serve as a good buffer between commercial and residential uses. She adds that Staff does not see a problem with the proposal, as the types of office uses proposed have minimal staffing and minimal traffic.

Ms. Polhuy states that conversion of a residential use to a commercial use requires application of development standards such as parking and landscaping. She states that the UDO standard of one parking space per 300 square feet of building gross floor area would require the proposed use to provide six spaces, whereas the site currently exhibits two spaces as a concrete pad. She adds that analysis of the lot makes it clear that it would be difficult to establish additional parking spaces, even if a tree or a deck was removed, while meeting ordinance requirements for parking space size and maneuvering area.

Ms. Polhuy states that Staff has reviewed the interior space of the building and sees the possibility of accommodating four "desk spaces," necessitating, therefore, at least two more parking spaces for the proposed uses. She states that, while Staff is recommending approval of the variance for reduction of parking space number, it requests a condition that at least two off-street parking spaces are provided elsewhere through use of a Shared Parking Agreement. She relates that the applicant has contacted Heavenly Sweets, to the south of the site, regarding a possible Shared Parking Agreement, but such agreement has not yet been effected. She adds that there are other parking options, but Staff would simply require provision of a signed agreement before allowing use of the structure for the office uses.

Mr. Burtner asks if the parking lot on the east side of 8th Street is a City parking lot. Ms. Polhuy confirms this and states that it is utilized by Public Safety.

Ms. Polhuy turns to the subject of the filed Variance for reduction of the required 15-foot landscape buffer abutting residentially zoned and residentially used properties to the north and west. She states that requiring the buffer would mean removing the site's existing parking spaces, which is not recommended. She points out that the site currently exhibits a 6-foot fence along the northern and western property lines. She states that a short section that is not fenced along the western property line could be provided with landscaping, but this may block sight lines of drivers backing into the alley. For these reasons, she concludes, Staff is recommending approval of the Variance for buffer elimination.

Mr. Robert Walls, 1236 Conner Street, Suite 200, Noblesville, applicant, presents himself for discussion. Mr. Field asks Mr. Walls if he plans on occupying the structure himself. Mr. Walls replies that he already has an office on Conner Street, so his part would be as an investor. Mr. Fields asks if Mr. Walls has a problem with any of the conditions recommended in the Staff Report. Mr. Walls expresses some uncertainty about the "ramifications" of a Shared Parking Agreement if, for example, the business with which the Agreement is undertaken is sold to another owner. Mr. Field asks specifically whether Mr. Walls is comfortable with the condition that two additional off-street parking spaces are to be found on other property to supplement the two spaces on the subject site. Mr. Walls states that this is "fine."

Mr. Field opens the public hearing.

Ms. Sandy Stewart, 1159 Conner Street, President of the Board of Directors of Noblesville Preservation Alliance, states that the Alliance has been working to reverse rezoning of residential properties for commercial use. She states that one concern of granting approval to this proposal is "the domino effect." She states that this use is the buffer between commercial and residential uses, and she expresses concern about what the decision will be for the next person requesting

something similar if this application is approved. She states that there are not enough residential uses surrounding the businesses downtown. She relates a couple of examples of older homes in the downtown area being converted back to residential use after their period of commercial conversion. She states that, even though the subject site may not be ideal at present for residential living, it does not mean that it will not be more desirable at a later date. She adds that there are commercial properties available on Conner Street and on 8th Street. She relays the Alliance's request to deny the proposed use. She states that "we need housing downtown, and this is one more house. If it was just one, and it never happened again, but it will happen again because these are desirable commercial areas."

Mr. Matthew Bartelson, 665 Cherry Street, states that he is the owner of the house to the west of the subject site, and his only concern is about the use of the parking lot. He states that "there's no defined line there, what's mine versus what's theirs." He states that he would like to see some sort of barrier like fencing or landscaping so that there is no issue down the road. He states that "other than that, I'm all in favor of this."

Seeing no one else wishing to speak, Mr. Field closes the public hearing.

Mr. Field remarks that the subject site is "a tight location."

Mr. McNulty states that he has always had an issue with the "contracting of spaces," asserting that if a site needs "4 or 6 spaces," those 4 or 6 spaces should be provided.

Mr. Hanlon asks if there is street parking available. Mr. Field replies that there is, but it cannot be counted as part of the required spaces for commercial uses. Mr. Burtner states that the parking solution should be something permanent, not relying on on-street parking. Mr. Field indicates that he is inclined "to say no," that there is "too much pushing into this situation."

Motion by Mr. McNulty, seconded by Mr. Burtner, to deny application BZNA-0077-2020, BZNA-0078-2020, and BZNA-0079-2020 based on the inability to provide appropriate parking, which makes it an inappropriate use.

AYE: McNulty, Burtner, Hanlon, Field. ABSTAIN: Mac Innis. The motion carries 4-0-1.

ADJOURNMENT

The meeting is adjourned at 6:33 p.m.

Mike Field, Chairman

Caleb Gutshall, Secretary