



**AGENDA  
REGULAR SESSION  
BOARD OF ZONING APPEALS  
GOVERNMENT CENTER CHAMBERS, 4TH FLOOR, ROOM #400  
115 E. WASHINGTON STREET, BLOOMINGTON, IL 61701  
WEDNESDAY, SEPTEMBER 21, 2022, 4:00 P.M.**

1. CALL TO ORDER
2. ROLL CALL
3. PUBLIC COMMENT

Individuals wishing to provide emailed public comment must email comments to [publiccomment@cityblm.org](mailto:publiccomment@cityblm.org) at least 15 minutes before the start of the meeting. Individuals wishing to speak in-person may register at [www.cityblm.org/register](http://www.cityblm.org/register) at least 5 minutes before the start of the meeting. Public comment may not be on items that are the subject of a public hearing.

4. MINUTES

Review and approval of the minutes of the August 17, 2022, regular Zoning Board of Appeals meeting.

5. REGULAR AGENDA

- a. **SP-13-22** Public hearing, review, and action on a petition submitted by Brein Stinson for approval of a Special Use Permit for Chicken-Keeping in the R-1C (Single-Family Residence) District, for the property located at 1035 E. Front Street. PIN: 21-03-307-019. (Ward 4).
- b. **V-07-22** Public hearing, review, and action on a petition submitted by Cell Electric for a Variance from § 44-1031E(2)(b) of the Zoning Code, to allow a solar array in the front yard in the M-1 (Restricted Manufacturing) District, for the property located at 1004 E. Oakland Avenue. PIN: 21-04-486-013. (Ward 1).
- c. **V-08-22** Public hearing, review, and action on a petition submitted by BP Homes, LLC for Variances from § 44-403 of the Zoning Code, to allow reduced Front, Side, and Rear Yards in the R-2 (Mixed Residence) District, for the property located at 2 Megan Court. PIN: 21-19-202-031. (Ward 2). *Tabled to the October 19, 2022, Regular Meeting.*
- d. **V-09-22** Public hearing, review, and action on a petition submitted by BP Homes, LLC for Variances from § 44-403 of the Zoning Code, to allow reduced Front, Side, and Rear Yards in the R-2 (Mixed Residence) District, for the property located at 4 Megan Court. PIN: 21-19-202-030. (Ward 2).
- e. **V-10-22** Public hearing, review, and action on a petition submitted by BP Homes, LLC for Variances from § 44-403 of the Zoning Code, to allow reduced Front, Side, and Rear Yards in

the R-2 (Mixed Residence) District, for the property located at 6 Megan Court. PIN: 21-19-202-029. (Ward 2).

- f. **V-11-22** Public hearing, review, and action on a petition submitted by BP Homes, LLC for Variances from § 44-403 of the Zoning Code, to allow reduced Front, Side, and Rear Yards in the R-2 (Mixed Residence) District, for the property located at 8 Megan Court. PIN: 21-19-202-028. (Ward 2).
- g. **V-12-22** Public hearing, review, and action on a petition submitted by BP Homes, LLC for Variances from § 44-403 of the Zoning Code, to allow reduced Front, Side, and Rear Yards in the R-2 (Mixed Residence) District, for the property located at 12 Megan Court. PIN: 21-19-202-026. (Ward 2).
- h. **V-13-22** Public hearing, review, and action on a petition submitted by BP Homes, LLC for Variances from § 44-403 of the Zoning Code, to allow reduced Front, Side, and Rear Yards in the R-2 (Mixed Residence) District, for the property located at 10 Megan Court. PIN: 21-19-202-027. (Ward 2).
- i. **V-14-22** Public hearing, review, and action on a petition submitted by BP Homes, LLC for Variances from § 44-403 of the Zoning Code, to allow reduced Front, Side, and Rear Yards in the R-2 (Mixed Residence) District, for the property located at 14 Megan Court. PIN: 21-19-202-025. (Ward 2).

6. **OLD BUSINESS** - Elections for Chair and Vice-Chair

7. **NEW BUSINESS**

8. **ADJOURNMENT**



**DRAFT  
MINUTES**

**PUBLISHED BY THE AUTHORITY OF THE ZONING BOARD OF APPEALS  
REGULAR MEETING  
GOVERNMENT CENTER CHAMBERS, 4TH FLOOR, ROOM #400  
115 E. WASHINGTON STREET, BLOOMINGTON, IL 61701  
WEDNESDAY, AUGUST 17, 2022 4:00 P.M.**

The Zoning Board of Appeals convened in Regular Session in-person in the Government Center Chambers on the 4th floor, Room #400, Wednesday, August 17, 2022, with the following physically present staff members: Mr. Jon Branham, City Planner; Ms. Alissa Pemberton, Assistant City Planner; Ms. Kimberly Smith, Assistant Economic & Community Development Director; Mr. George Boyle, Assistant City Attorney.

The meeting was called to order by Staff Liaison, Ms. Pemberton, at 4:25 pm.

**ROLL CALL**

<b>Attendee Name</b>	<b>Title</b>	<b>Status</b>
Mr. Terry Ballantini	Commissioner	Present (Virtual)
Ms. Victoria Harris	Commissioner	Present
Mr. Michael Straza	Commissioner	Present
Mr. Tyler Noonan	Commissioner	Absent
Ms. Nikki Williams	Commissioner	Present
Mr. Zach Zwaga	Commissioner	Present
Ms. Alissa Pemberton	Assistant City Planner	Present
Ms. Kimberly Smith	Assistant Economic & Community Development Director	Present
Mr. Jon Branham	City Planner	Present
Mr. George Boyle	Assistant City Attorney	Present

Ms. Pemberton called the roll. Ms. Harris - Present, Mr. Straza - Present, Ms. Williams - Present, Mr. Zwaga - Present. (4-0). A quorum was present.

Ms. Pemberton noted that Commissioner Ballantini was excused from attending in person and was present virtually, per City Code § 2-402B(2)(a) that permits virtual attendance for personal illness or disability.

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MEETING MINUTES**

**PUBLISHED BY THE AUTHORITY OF THE ZONING BOARD OF APPEALS OF BLOOMINGTON, ILLINOIS  
WEDNESDAY, AUGUST 17, 2022**

Commissioner Harris made a motion to allow Commissioner Ballantini to attend and participate remotely. Seconded by Commissioner Straza. Roll call vote was taken, Ms. Harris - Yes, Mr. Straza - Yes, Ms. Williams - Yes, Mr. Zwaga - Yes. (4-0). Motion was approved.

Ms. Pemberton noted that it is preferable to have the meeting run by a Commissioner who is attending in person and that Commissioner Straza has volunteered to serve as Temporary Chair for this meeting.

Commissioner Harris made a motion to allow Commissioner Straza to serve as Chair for the duration of this meeting. Seconded by Commissioner Ballantini. Roll call vote was taken, Ms. Harris - Yes, Mr. Straza - Present, Ms. Williams - Yes, Mr. Zwaga - Yes, Mr. Ballantini - Yes. (4-0). Motion was approved.

## **PUBLIC COMMENT**

Chair Straza opened the floor for public comment, reminding attendees that public comment is typically reserved for items not on the agenda.

There was no public comment.

## **MINUTES**

Commissioner Zwaga motioned to approve the minutes from July 20, 2022, regular Zoning Board of Appeals meeting, as amended for spelling correction on page four. Commissioner Harris seconded.

Roll call vote: Ms. Harris - Yes, Mr. Straza - Yes, Ms. Williams - Yes, Mr. Zwaga - Yes, and Mr. Ballantini - Yes. (5-0). Motion was approved.

## **REGULAR AGENDA**

**SP-08-22** Public hearing, review, and action on a petition submitted by Nexus Church for a Special Use Permit for a Place of Worship in the B-1 (General Commercial) District for the property located at 802 S. Eldorado Road. PIN: 21-11-251-020. (Ward 8). *Tabled from the July 20, 2022, Regular Meeting, for further information and consideration.*

City Attorney Boyle provided an update on item as related to liquor licensing within 100 feet of a church. State law does allow for a local liquor control commissioner (the Mayor) to grant exemptions to the state law's prohibition in 235 ILCS 5/6-11, the Board could consider a motion for approval upon contingency of that exemption.

Commissioner Harris inquired on options for the Board to act upon the proposal. Ms. Pemberton explained that the Board has a number of options for how to proceed in this case:

- 1) The Board may decide that the issue of whether the location of Nexus Church causes a prohibition of new liquor licenses for the surrounding properties (within 100 feet) is not related to any of the factors that must be true in order to recommend approval of a Special Use Permit, and may make a recommendation on the merits of the case, as-is;

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MEETING MINUTES

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WEDNESDAY, AUGUST 17, 2022

- 2) The Board may decide that the issue of whether the location of Nexus Church a prohibition of new liquor licenses for the surrounding properties (within 100 feet) is related to one or more of the factors that must be true in order to recommend approval of a Special Use Permit, and may make a recommendation on the merits of the case and the consideration of that issue, by doing one of the following:
  - a. Recommend denial of the Special Use; or
  - b. Recommend approval of the Special Use, without conditions related to the issue of liquor licensing, and permit City Council to further vet the issue through public opinion; or
  - c. Recommend approval of the Special Use, contingent upon an exemption to the prohibition in 235 ILCS 5/6-11.

Commissioner Ballantini inquired whether tabling the case again was an option. Ms. Pemberton explained that further postponing the case is not recommended. Mr. Boyle noted that the process for adopting the Ordinance required to allow the subject exemptions will be brought to Council by the Legal Staff.

Temporary Chair Straza opened the public hearing. Mr. Boyle asked that the public limit their comments to new information only.

**Karl Bauchmoyer, Attorney for Nexus Church (14 Lavender Lane)** stated there is no animosity toward the neighboring property; the church is simply seeking to occupy the subject space. Timeline is a concern for the Petitioner due to leasing and finance issues. He discussed the State statute language and noted that it includes the exemption language, but also includes language that prohibits preventing the church from locating as such. He stated that the argument at issue for Buddy's Liquors should not impact the subject Special Use since all of the standards have been met.

Commissioner Straza asked for further clarification from Staff on whether the standards have been met and how those interact with the concerns at issue. Ms. Pemberton reviewed Standard 2 for Special Uses as it relates to the case and clarified that Staff recommends approval of the Special Use Permit.

Mr. Bauchmoyer clarified that granting the Special Use does not impact Buddy's Liquors in any way, currently; the concerns expressed are regarding a future, hypothetical situation and are overly burdensome for consideration during current review.

Mr. Boyle confirmed that Staff intends to pursue passing the exemption Ordinance, regardless of whether it is part of a contingent motion.

**Dilip Patel (806 S. Eldorado Road)** stated he had obtained signatures of people against the request for the Special Use Permit.

Ms. Pemberton stated that testimony at Administrative Hearings must be provided in person or by duly authorized agent or attorney, so petition signatures are not typically admissible. Mr.

Boyle noted that weight would also need to be given to the fact that the people are not present and unable to be cross examined and asked whether the Applicants object to submission of the signed petition. Mr. Bauchmoyer objected to the submission of the petition. Commission Straza clarified that the petition is not admissible evidence, for all of the reasons previously stated.

Mr. Patel stated his further objections to the proposal, including concerns over sufficient parking and the traffic at Oakland and Eldorado.

**Nita Patel (806 S. Eldorado Road)** stated her concerns with the proposal and that she needs proof that the City and State will renew their liquor license. Mr. Boyle stated the Ordinance that should result from the process Staff will be bringing to Council will provide proof.

Mr. Straza closed the public hearing.

Commissioner Harris made a motion to establish findings of fact that all standards of approval for a Special Use Permit are met. Commissioner Zwaga seconded.

Ms. Harris inquired about the protocol for adding contingency. Staff explained that would be related to the second motion for approval of the Special Use; this motion is related to whether the necessary standards for approval have been met. No further Board discussion.

Roll call vote: Ms. Harris - Yes, Mr. Straza - Yes, Ms. Williams - Yes, Mr. Zwaga - Yes, and Chair Ballantini - Recused. (4-0-1). Motion was approved.

Commissioner Harris made a motion to recommend approval of the petition submitted by Nexus Church for a Special Use Permit for a Place of Worship in the B-1 (General Commercial) District for the property located at 802 S. Eldorado Road, contingent upon the adoption of an Ordinance authorizing the local liquor commissioner to grant exemptions to the prohibition in 235 ILCS 5/6-11 subsection (a) as related to the location of liquor licenses within 100 feet of any church, and with the condition that screening is added for the shared refuse collection area, per § 44-1308A. Commissioner Zwaga seconded.

Roll call vote: Roll call vote: Ms. Harris - Yes, Mr. Straza - Yes, Ms. Williams - Yes, Mr. Zwaga - Yes, and Chair Ballantini - Recused. (4-0-1). Motion was approved.

Staff noted this will go to City Council on September 12, 2022.

**V-06-22** Public hearing, review, and action on a petition submitted by Chris Tamm for a Variance from § 44-908D of the Zoning Code to allow reduced distance between a principal and accessory structure, in the R-1B (Single-Family Residence) District for the property located at 3614 Baldocchi Drive. PIN: 15-30-252-007. (Ward 9).

Ms. Pemberton presented the staff report with a recommendation to approve the Variance. She noted that many of the other homes in the area share similar construction, even without the unique site conditions of the Petitioner's property.

The Board did not have any questions for staff.

Chair Straza opened the public hearing.

**Petitioner, Chris Tamm (3614 Baldocchi Drive)** stated he as spoke with neighbors and they have all been in favor. Five neighbors provided him letters stating that he may speak as their duly authorized agent.

No additional testimony was provided.

Mr. Straza closed the public hearing.

No Board discussion was held.

Commissioner Harris made a motion to establish findings of fact that carrying out the strict letter of the Code does create a practical difficulty or particular hardship for the petitioner. Commissioner Zwaga seconded.

Roll call vote: Ms. Harris - Yes, Mr. Straza - Yes, Ms. Williams - Yes, Mr. Zwaga - Yes, and Mr. Ballantini - Yes. (5-0). Motion was approved.

Commissioner Harris made a motion to recommend approval of the petition submitted by Chris Tamm for a Variance from § 44-908D of the Zoning Code to allow a 4-foot reduction in distance between a principal and accessory structure, in the R-1B (Single-Family Residence) District for the property located at 3614 Baldocchi Drive. Commissioner Ballantini seconded.

Roll call vote: Ms. Harris - Yes, Mr. Straza - Yes, Ms. Williams - Yes, Mr. Zwaga - Yes, and Mr. Ballantini - Yes. (5-0). Motion was approved.

Commissioner Zwaga left the meeting at 5:04pm.

**SP-11-22** Public hearing, review, and action on a petition submitted by Faizan e Madinah Islamic Center for a Special Use Permit for a Place of Worship in the B-1 (General Commercial) District for the property located at 1319 Veterans Parkway, Suite 2A. PIN: 14-35-252-022. (Ward 5).

Ms. Pemberton presented the staff report with a recommendation to approve the Special Use Permit. Staff noted that there may no longer be unabated compliance issues related to the property so the inclusion of a condition that those be corrected within a reasonable time in order address protect public health and safety impact of the proposed use may no longer be needed. The

additional condition for consideration is to help ensure parking compliance is continued as the building fills to capacity with additional tenants.

Commissioner Ballantini inquired as to how parking is calculated and how to ensure that there are not issues with parking if people start to complain.

Staff responded that off-street parking requirements in the Zoning Code are reviewed when evaluating a Special Use, if the uses meet the minimum requirements then the standard has been met, but there are also options for additional shared parking arrangements if the requirements of the zoning code are insufficient for the needs of the tenants in reality.

The Commissioner asked how many attendees are expected at one time for this proposed use. Staff explained that the parking requirements for Places of worship are based on either square footage or capacity; this use provides the same require by either evaluation and the stated capacity is 30 attendees.

Chair Straza opened the public hearing.

**Attorney for the Petitioner, Joseph Dehn (201 W. Olive Street)** stated that he had nothing additional to add after review of the Staff Report and presentation. He noted his belief that the standards for a Special Use are met and that, while the capacity for the facility is 30 people, the reality is that number will be spread out over the course of day with a typical maximum concurrent attendance of 12-15 being the norm.

Commissioner Straza inquired whether the facility was previously at a different location. Mr. Dehn did not know. Ms. Pemberton noted the prior location near the intersection of Hershey and Empire.

No Board discussion was held.

Commissioner Harris made a motion to recommend approval of the petition submitted by Faizan e Madinah Islamic Center for a Special Use Permit for a Place of Worship in the B-1 (General Commercial) District for the property located at 1319 Veterans Parkway, Suite 2A, with the conditions 1) that all existing violations of City of Bloomington Code be abated within 30 days of the effective date of this Special Use Permit, or without further action by the Council, the special use or authorization thereof shall be null and void; and 2) That the property owner and/or manager review the parking requirements of potential lessees for vacant suites and contact the Planning Division to identify a way forward if a proposed use would result in the property's inability to meet the off-street parking requirements of the Zoning Code. Commissioner Williams seconded.

Roll call vote: Ms. Harris - Yes, Mr. Straza - Yes, Ms. Williams - Yes, and Mr. Ballantini - Yes. (4-0). Motion was approved.

Commissioner Ballantini made a motion to establish findings of fact that all standards of approval for a Special Use Permit are met. Commissioner Harris seconded.



Roll call vote: Ms. Harris - Yes, Mr. Straza - Yes, Ms. Williams - Yes, and Mr. Ballantini - Yes. (4-0). Motion was approved.

Staff noted this will go to City Council on September 12, 2022.

**SP-12-22** Public hearing, review, and action on a petition submitted by All About Auto for Vehicle Repair and Service in the M-1 (Restricted Manufacturing) District for the property located at 604 W. Division Street. PINs: 14-33-302-016 and 14-33-302-013. (Ward 7).

Ms. Pemberton presented the staff report with a recommendation to approve the Special Use Permit. Staff explained the history associated with this property and case, including the existence of two Special Use Permits associated with Vehicle Sales and Service (1321 Mason) and Vehicle Repair and Service (604 W. Division Street). She clarified that some of the conditions present in the recommended motion are to provide clarity on the construction and operational standards for the proposed use, in addition to those that will help ensure construction and use occurs in an appropriate order throughout the phases of the expansion project. Staff noted that the Petitioner has submitted an updated site plan since the staff report was issued and that it includes many of the items of concern, so the number of conditions recommended for action have been reduced since the writing of the staff report.

Commissioner Straza inquired about updated items. Ms. Pemberton stated that the recommended motion in the presentation has been adjusted to reflect the updated site plan.

Commissioner Ballantini asked where the main entrance will be. Ms. Pemberton explained the main entrance will remain off Division Street; the offices will be moved into the new building with working bays. He asked about fencing the area along Division Street on the east side of the existing building. Staff stated the area does not have to be fenced in at this time but will once it is used as outdoor storage. The existing gravel drive will need to be paved for continued use or could be closed and landscaped.

Chair Straza opened the public hearing.

**Gary Shultz, Attorney for the Petitioner (5633 N 1750 East Rd, Heyworth, IL)**, provided further background on the reason for the petition. Nothing additional to add after review of the Staff Report and presentation.

No additional testimony was provided.

No Board discussion was held.

Commissioner Harris made a motion to establish findings of fact that all standards of approval for a Special Use Permit are met. Commissioner Ballantini seconded.

Roll call vote: Ms. Harris - Yes, Mr. Straza - Yes, Ms. Williams - Yes, and Mr. Ballantini - Yes. (4-0). Motion was approved.

Commissioner Harris made a Motion to recommend approval of the petition submitted by All About Auto for a Special Use Permit for Vehicle Repair and Service for the property located at 604 W. Division Street, with the following conditions:

- On or before the effective date, and for the duration of this permit:
  - Inoperable vehicles shall not be stored in parking areas designated to meet the off-street parking requirements of the Zoning Code, nor may operable vehicles be stored there for more than 24 hours.
  - No outdoor storage shall be allowed in any area not indicated on the approved site plan or approved by the Zoning Enforcement Officer.
  - All refuse disposal receptacles shall be located and screened in accordance with § 44-1308E.
- Within 60 days of the effective date of this Permit:
  - A 6-foot opaque fence shall be added along the western side of the parking area adjacent to 1321 Mason Street—in order to meet the purpose and intent of Ordinance 2020-83—as indicated on the Site Plan.
  - An additional site plan for the required off-street parking spaces that indicates compliance with § 44-1206, including stall size, location of curbing and vehicle stops, and proof of independent maneuverability.
- As part of the construction of the expanded use:
  - Landscaping plans prepared and stamped by a professional landscape architect or designer, shall be provided for approval, as per § 44-1303 and in conformance with § 44-1304 though § 44-1307.
  - Prior to operation of the “Future Outdoor Storage Area,” a 6-foot fence shall be erected to completely screen the subject area, per § 44-1308B(1), as indicated on the Site Plan.
  - Prior to operation of the “Future Parking Area,” a 6-foot fence shall be erected to completely screen the subject area, per § 44-1308B(1), as indicated on the Site Plan.

Commissioner Williams seconded.

Roll call vote: Ms. Harris - Yes, Mr. Straza - Yes, Ms. Williams - Yes, and Mr. Ballantini - Yes. (4-0). Motion was approved.

Staff noted this will go to City Council on September 12, 2022.

## OLD BUSINESS

### Elections for Chair and Vice-Chair

Commissioner Harris expressed her preference to have everyone there to vote and made a motion to table the item to the next meeting. Seconded by Straza. A voice vote was held. All were in favor (4-0).

## **NEW BUSINESS**

None.

## **ADJOURNMENT**

Commissioner Harris made the motion to adjourn. Commissioner Straza seconded. Voice vote was held. All were in favor. (4-0)

The meeting was adjourned at 5:35 p.m.

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## ZONING BOARD OF APPEALS

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**TO:** ZONING BOARD OF APPEALS  
**FROM:** Economic & Community Development Department  
**DATE:** September 21st, 2022  
**CASE NO:** SP-13-22, Special Use Permit for Chicken-Keeping  
**REQUEST:** Public hearing, review, and action on a petition submitted by Brein Stinson for approval of a Special Use Permit for Chicken-Keeping in the R-1C (Single-Family Residence) District, for the property located at 1035 E. Front Street. PIN: 21-03-307-019.

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### BACKGROUND

*Petitioners' request:*

The Petitioner seeks a Special Use Permit to allow Chicken-Keeping in the R-1C (Single-Family Residence), per § 44-1011, which states "On lots less than or equal to one acre with a primary use of a single-family or two-family dwelling, the keeping of up to four chickens may be permitted as an accessory use..." No variations to the code are requested.

The Petitioner erected a chicken coop and fenced in run in her backyard to keep chickens, for the purposes of a food source (eggs), and was subsequently informed by Code Enforcement that chicken-keeping requires a Special Use Permit in the City of Bloomington. The Petitioner submitted an application for the subject permit and seeks to lawfully continue chicken-keeping as an accessory use on her property.

*Notice:*

The application was filed in conformance with applicable procedural and public notice requirements. Notice was published in *The Pantagraph* on Friday, September 2, 2022. Courtesy notices were mailed to 92 property owners within 500 feet of the subject property.

### ANALYSIS

*Property Characteristics:*

The property at 1035 E. Front Street consists of 0.17 acres of land on E. Front Street located near the intersection of E. Front Street and N. State Street in the E. Rogers Addition Subdivision. It is improved with a single-family home with detached garage. The rear yard of this property, where the coop will be located, is entirely screened by a wooden fence.

*Surrounding Zoning and Land Uses:*

	Zoning	Land Uses
North	C-1 (Mixed Residence) District	Funeral Home
South	R-3A (Multiple-Family Residence) District	Multi-Family Dwelling Units
East	R-1C (Single-Family Residence) District	Single-Family Dwelling Units
West	R-1C (Single-Family Residence) District	Single-Family Dwelling Units

*Description of Current Zoning District:*

The R-1C (Single-Family Residence) District is intended to provide primarily for the establishment of areas of higher density single-family detached dwelling units while recognizing the potential compatibility of two-family dwelling units as special uses. Densities of approximately eight dwelling units per acre are allowed [...] (§ 44-401C).

*Subject Code Requirements:*

§ 44-402B. “Allowed Uses Table” indicates Chicken Keeping is permitted as Special Use in the R-1C District.

§ 44-1011 [Ch. 44, 10-11] Chicken-Keeping (Use Provisions)

- A. On lots less than or equal to one acre with a primary use of a single-family or two-family dwelling, the keeping of up to four chickens may be permitted as an accessory use and shall comply with Chapter 8 and Chapter 22 of the Bloomington Code, 1960, as amended [...]

Chapter 8 (Animals and Fowl) and Chapter 22 (Health and Sanitation) of the City Code will also apply once the permit has been approved.

**STANDARDS FOR REVIEW**

The Board of Zoning Appeals (ZBA) shall hold at least one administrative public hearing on any proposed Special Use and report to the Council its findings of fact and recommendations. Recommendations shall be made upon the determination that the Special Use meets all of the Standards of Approval listed in § 44-1707H and discussed below.

***Special Use Permit to allow Chicken-Keeping in the R-2 (Mixed Residence) District***

1. **The establishment, maintenance, or operation of the Special Use will not be detrimental to or endanger the public health, safety, comfort, or general welfare.**

The chickens will be located at least 10 feet away from all neighboring properties; the provided site plan meets the setback requirements of § 44-1011. The Petitioner intends to store the food in sealed buckets in the detached garage on the property. Chapters 8 & 22 of the City Code provide enforcement mechanisms, should the coop and enclosure fall into disrepair. ***Standard is met.***

- 2. The Special Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.**

The Special Use should not impair normal use and enjoyment of the surrounding properties. The coop is entirely screened by the existing fencing and additional fencing has been provided to keep the chickens contained within the property. The Special Use would contribute to Goal HL-5.1 (Encourage local food production), and HL-5.3 (Facilitate consumption of healthy, affordable, locally produced food for all residents) of the 2035 Comprehensive Plan. *Standard is met.*

- 3. The establishment of the Special Use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the zoning district.**

The location of the coop meets the minimum setback requirements from the side and rear property lines. The portion of the property where the coop will be placed is entirely screened from neighbors by a structure and fencing. The coop and run are movable and, should the petitioner move, can be easily removed from the property. The Code defines Chicken-keeping as an appropriate accessory use for single-family dwellings, and this petition would not impede the normal and orderly development of surrounding properties in any way that was not already weighed—and determined to be appropriate—by the existence of the Special Use in the Code. *Standard is met.*

- 4. Adequate utilities, access roads, drainage and/or necessary facilities have been or will be provided.**

The property is served by City utilities and roads; no change to facilities is necessary as part of this Special Use Permit. *Standard is met.*

- 5. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.**

Ingress and egress are provided by existing conditions; no change is expected as the result of the Special Use Permit. *Standard is met.*

- 6. The Special Use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may be modified by the Council pursuant to the recommendations of the Board of Zoning Appeals.**

The proposed Special Use is subject to, and conforms with, both the use provisions for Chicken-Keeping as stated in Chapter 44, 10-11 and the regulations of the R-1C (Single-Family Residence) District. In addition, Special Use Permits are enforceable and revokable, should such use become a nuisance, be destroyed, or cease operations for a specific period. The Petitioner does allow the chickens to occasionally free range within the fully fenced

in back yard; additional fencing was added to ensure the chickens do not leave the property. *Standard is met.*

#### STAFF RECOMMENDATION

Staff finds that the application meets all the standards for a Special Use Permit and recommends that the Zoning Board of Appeals take the following actions:

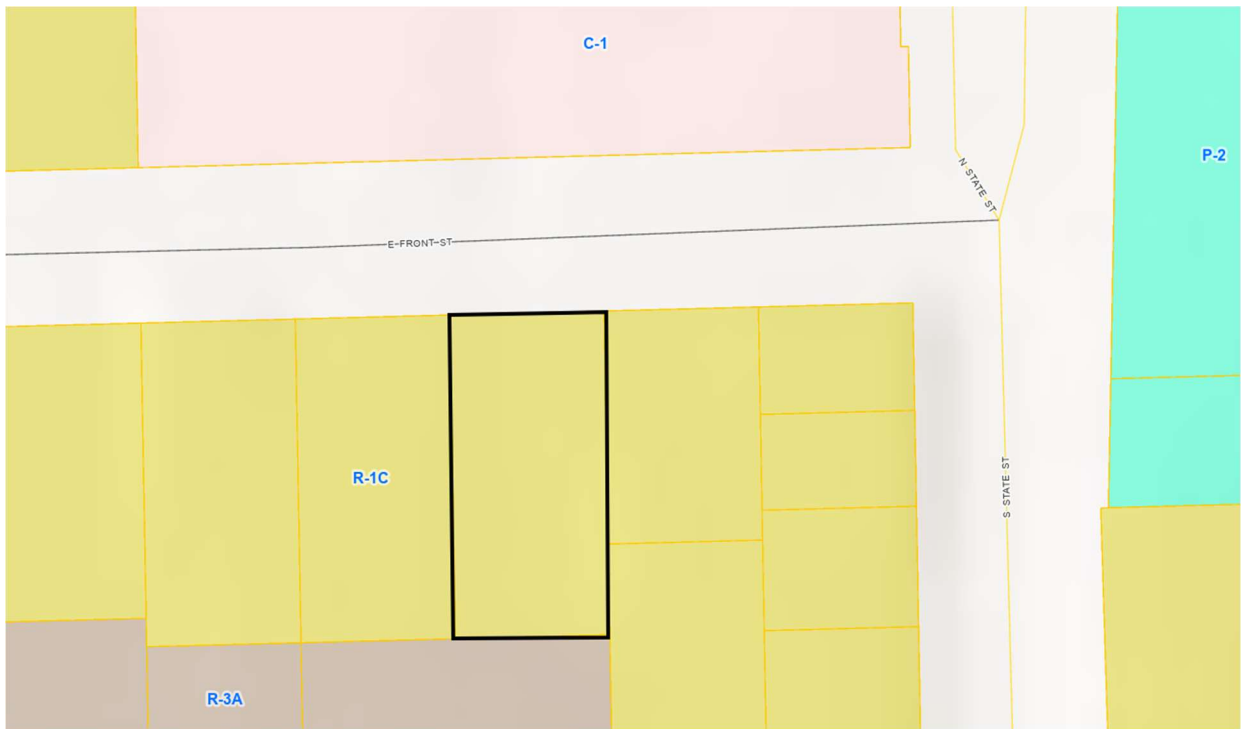
Motion to establish findings of fact that all standards for approval of a Special Use Permit are met, and to recommend approval of the petition with no conditions.

Respectfully submitted,  
Glen Wetterow  
City Planner

#### Attachments:

1. Zoning Map
2. Aerial Image(s)
3. Ground-Level View
4. Petitioner-Submission - Description of Project
5. Site Plan
6. Neighborhood notice map

Attachment 1 - Zoning Map



Attachment 2 - Aerial Image(s)





Attachment 3- Ground-Level View (s)





*Attachment 4 - Petitioner-Submission - Description of Project*

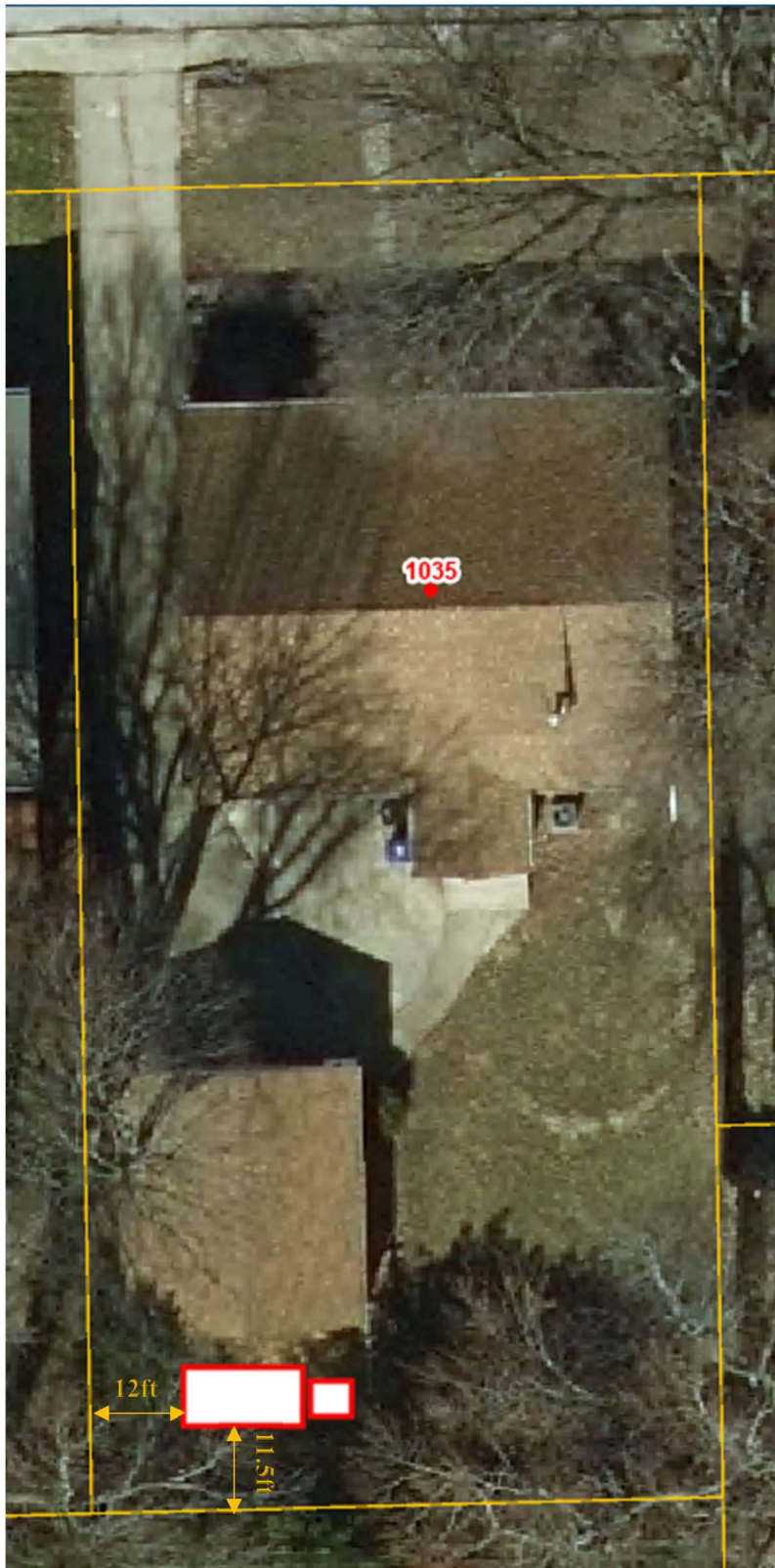
We already have chickens and their dwelling at our residence as we were unaware that we needed any special approvals to keep them. The chickens we have are strictly for egg production only and not meat chickens. We made this decision to help to teach our children about where their food comes from as well as a means of saving money on the cost of organic eggs from the grocery store. We have 6 children whom we help to provide for in one way or another so any savings in the form of cutting our monthly costs is helpful.

The chickens are kept mainly in the run and in their coop at night. The coop is cleaned out monthly by my husband. The chickens mostly stay within their run or their coop, but we do let them out to free range our fully fenced backyard from time to time. We also recently installed an additional fence to keep them from potentially escaping.

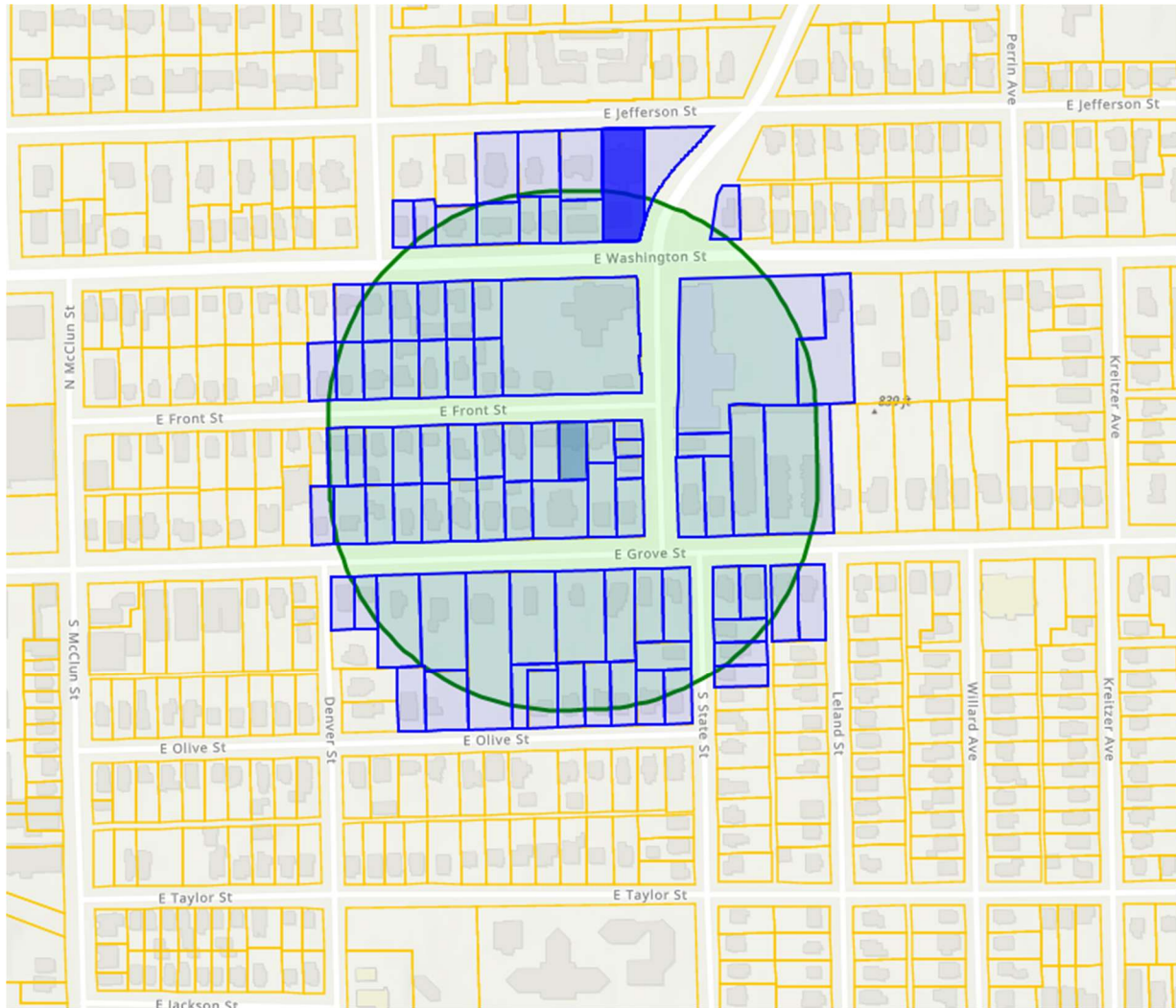
The coop is a movable structure and not permanent. It will be removed if we ever move from this home. The run for the chickens is attached to the coop. The run was created using an already existing swing set frame that was on the property when it was purchased in 2015. We covered the swing set frame with hardware cloth that runs underneath the grass to keep out potential predators. This structure, like the coop, is not a permanent structure and can be removed when we move.

Neither the coop or the run requires any special utilities, drainage, access roads or additional facilities. The chicken's feeder is kept in the run only and we have never had issues with any pests being attracted by it. We always keep the bags of chicken feed in a secured and closed bin in our garage. The coop and run are located behind our detached garage more than 10 feet from our backdoor. The coop and run are located 10 feet or more away from all property lines on each side.

Attachment 5 - Site Plan



Attachment 6 - Neighborhood notice map





## ZONING BOARD OF APPEALS

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**TO:** ZONING BOARD OF APPEALS  
**FROM:** Economic & Community Development Department  
**DATE:** September 21st, 2022  
**CASE NO:** V-07-22, Variances from § 44-908D of the Zoning Code  
**REQUEST:** Public hearing, review, and action on a petition submitted by Cell Electric for a Variance from § 44-1031E(2)(b) of the Zoning Code, to allow a solar array in the front yard in the M-1 (Restricted Manufacturing) District, for the property located at 1004 E. Oakland Avenue. PIN: 21-04-486-013.

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### BACKGROUND

*Petitioners' request:*

The petitioner seeks a variance from §44-1031 (Solar energy conversion facilities), to allow a ground mounted solar array in the front yard of the business. §44-1031.E(2)b states that accessory freestanding systems are permitted in the rear and side yards only.

*Notice:*

The application was filed in conformance with applicable procedural and public notice requirements. Notice was published in *The Pantagraph* on Friday, September 2, 2022. Courtesy notices were mailed to 75 property owners within 500 feet of the subject property.

### ANALYSIS

*Property Characteristics:*

The property at 1004 E. Oakland consists of approximately 0.75 acres of land in an industrial corridor that runs North-South, from Washington to Lincoln, approximately following the east side of Robinson; the subject property is just north of Oakland. The property has been improved with a 6,653 square foot warehouse-type building, constructed in 1950, leased by the Petitioner. The east side of the building is paved for parking and circulation; the north side yard of the building is directly adjacent to the north property line; the west consists primarily of hardened loading areas and a small turf front yard that is partially shaded at noon; the south side of the property consists of a turf and scrub front yard of approximately 40 feet. The south and east sides of the property are screened by a 6-foot opaque fence.

*Surrounding Zoning and Land Uses:*

	Zoning	Land Use
North	M-1 (Restricted Manufacturing)	Mini-Warehouse
South	M-1 (Restricted Manufacturing)	Fabricated Metal Industry
East	M-2 (General Industrial)	Mini-Warehouse
West	R-2 (Mixed Residence) & B-1 (General Commercial)	Single-Family Residence, Auto Service

*Description of Current Zoning District:*

The M-1 (Restricted Manufacturing) District is intended to provide for industrial, warehouse, storage and transfer service uses with an absence of objectionable external effects in areas that are suitable for this type of development by reason of topography, relative location, and adequate utility and transportation systems. Compatibility with surrounding districts is further assured by limiting development to low industrial densities. Just as industrial uses are excluded from residential areas to promote public health, safety, and welfare, so are residential subdivision developments excluded from this district.

*Subject Code Requirements:*

§ 44-1031 [Ch. 44, 10-31] Solar energy conversion facilities.

E. Private solar energy conversion.

(2) Freestanding systems.

(a) ...

(b) Location.

[1] Accessory freestanding systems are permitted in the rear and side yards only, subject to the accessory structure provisions of § 44-908.

[2] Freestanding systems approved pursuant to site plan approval shall not be located within the front yard and shall in other respects comply with the accessory structure provisions of § 44-908.

**STANDARDS FOR REVIEW**

As indicated in *Ch. 44, 17-8 Variations*, the Board of Zoning Appeals shall have the power to authorize variations to this Code where there would be practical difficulties or particular hardships in carrying out the strict letter of those sections of this Code stated herein.

***Variance to allow a solar array in the front yard in the M-1 District.***

1. That the property has physical characteristics that pose unreasonable challenges which make strict adherence to the Code difficult.

Due to the unique siting and alignment requirements of solar power generation, and the presence of existing on-side structures including parking and loading areas, the only location

option for a solar array is in the south front yard of the property. This property also had two front yards, as a corner lot, which further restricts location considerations. ***Standard is met.***

2. That the Variance would be the minimum action necessary to afford relief to the applicant.

The applicant has explored the feasibility of other locations for installing solar power generation equipment on the current property. ***Standard is met.***

3. That the special conditions and circumstances were not created by any action of the applicant.

The special circumstances were not created by the action of the applicant. Solar siting requirements are directional, and the property's existing development structure is prohibitive of placing in the rear or side yard. ***Standard is met.***

4. That granting the variation request will not give the applicant any special privilege that is denied to others by the Code.

Solar power generation is a reasonable use of property, other uses and residents are allowed/capable of installing solar power generation on their properties. ***Standard is met.***

5. That the granting of the variation will not be detrimental to the public welfare, alter the essential character of the neighborhood, nor unreasonably impair the use of development of adjoining properties.

Even with the location of the array in the front yard, the required setback will be maintained and the visual character from the street will not be altered due to the opaque fence that will screen the proposed array. ***Standard is met.***

## STAFF RECOMMENDATION

Staff finds that the application meets all the standards for a Variance application and recommends that the Zoning Board of Appeals take the following actions:

Motion to establish findings of fact that carrying out the strict letter of the Code **does create a practical difficulty** or particular hardship for the petitioner, and to **approve the petition** with no conditions.

Respectfully submitted,  
Alissa Pemberton  
Assistant City Planner



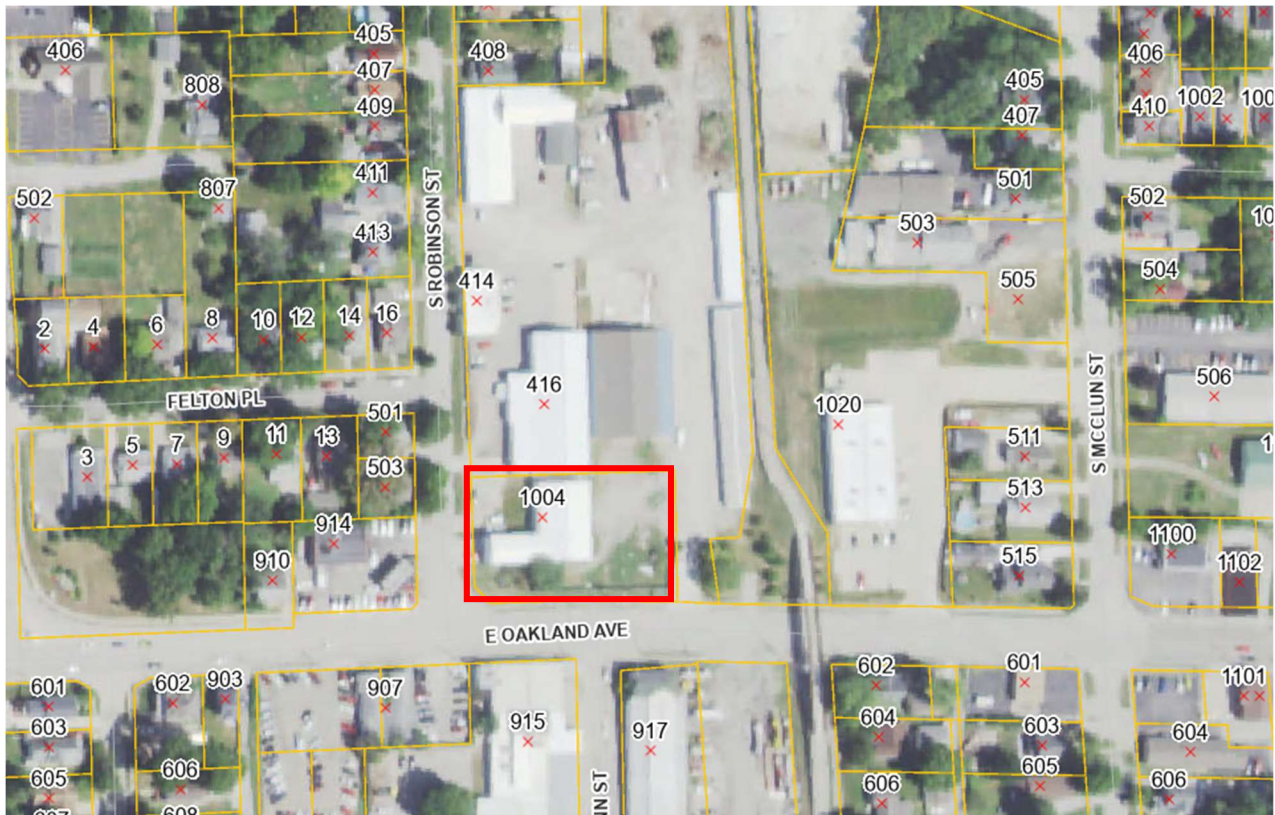
**Attachments:**

1. Zoning Map
2. Aerial Image
3. Ground-Level View
4. Petitioner-Submission - Description of Project
5. Site Plan
6. Neighborhood notice map

Attachment 1 - Zoning Map



Attachment 1 - Aerial Image



Attachment 3 - Ground-Level View(s)





*Attachment 4 - Petitioner-Submission - Description of Project*



1004 East Oakland Avenue  
Bloomington, Illinois 61701  
Ph: 309-261-4148

**To: City of Bloomington Planning**

**Date: 8/11/22**

Cell Electric would like to install a solar array on the south side (front) of the property located at 1004 E Oakland Ave. This will help promote our business as well as supply power to our office and warehouse.

The front of the property is the only available space that is open to install a ground mount solar array. To the east is a driveway for other business. To the north is a building and to the west is another driveway and a parking area.

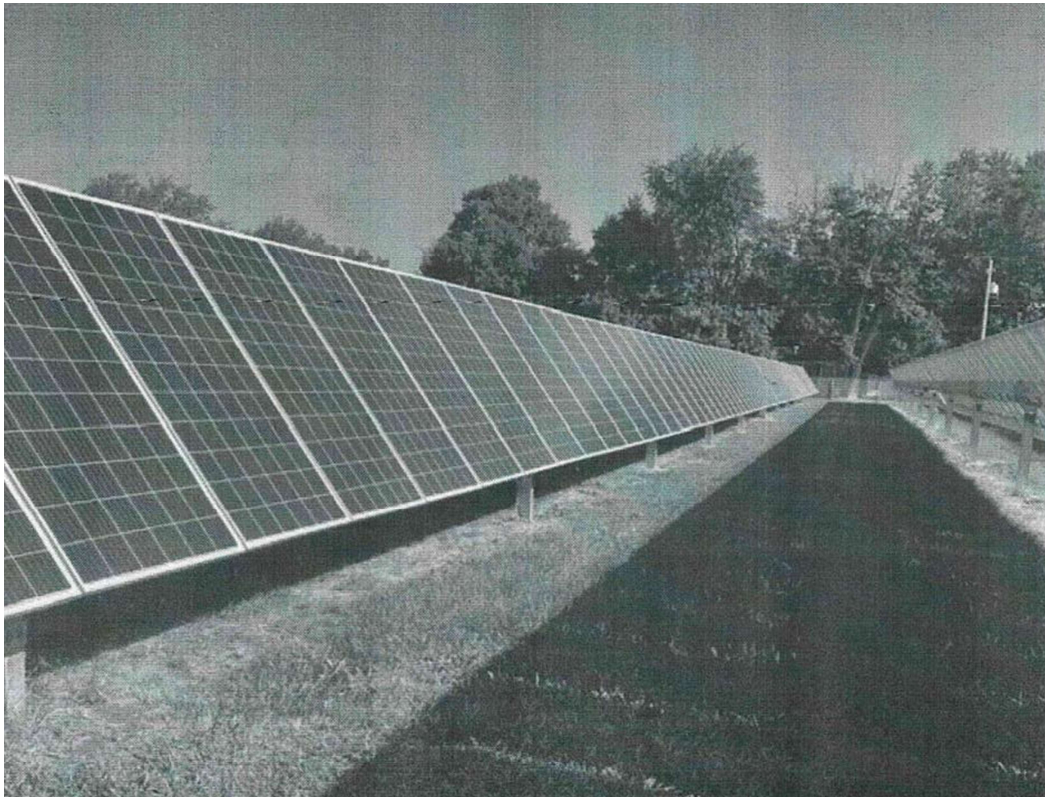
We don't believe that getting this variance gives us any special privileges over any other business or entity in the City of Bloomington.

We do not believe it will alter the character of the area and surrounding businesses, as it is a commercial area with many buildings. The location of the array would not impair further growth to any of the adjoining properties. It will be located in an area that is not very useful and is difficult to maintain.

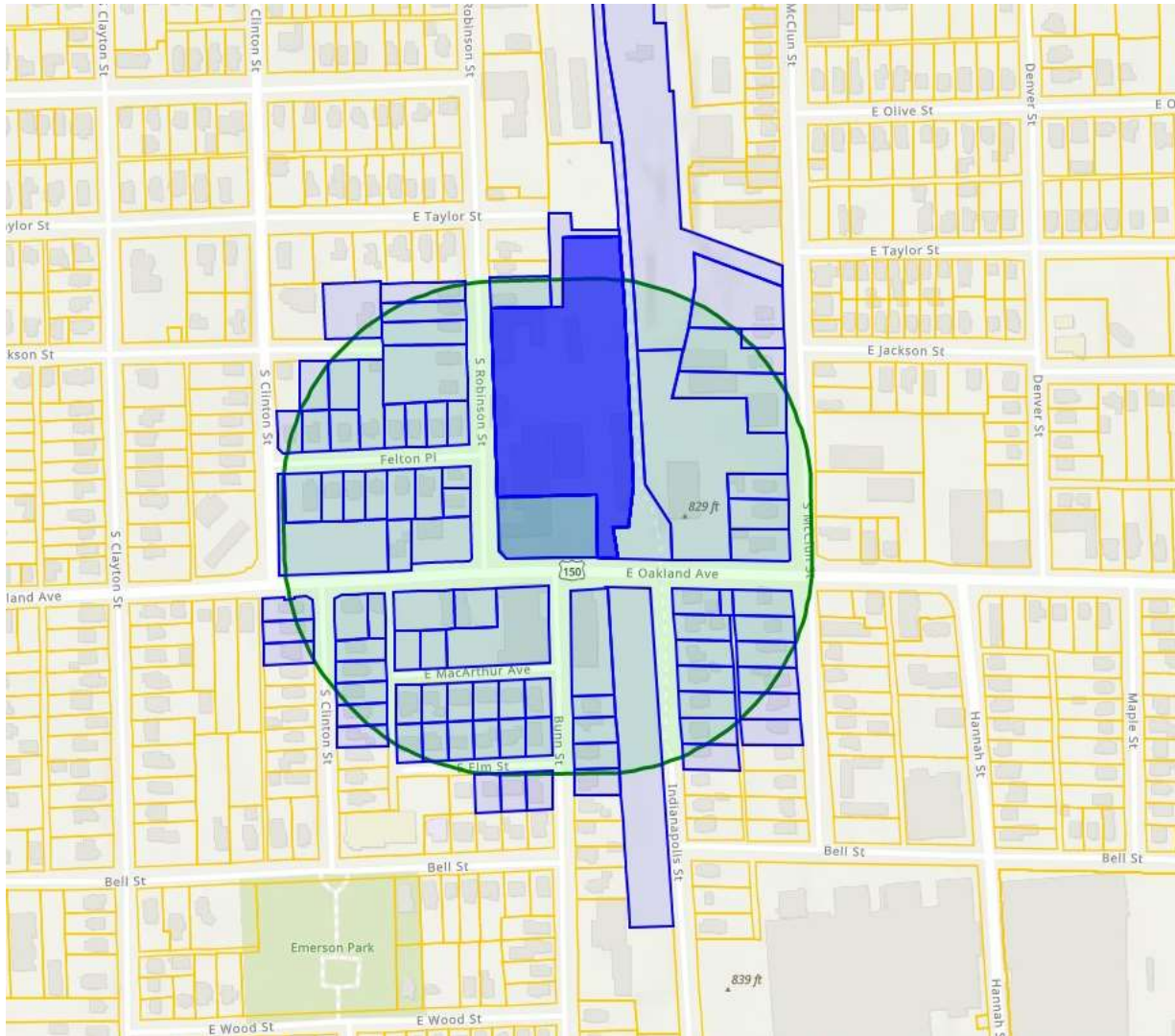
Tom Bunn, Cell Electric

*Tom Bunn*

Attachment 6 - Site Plan



Attachment 7 - Neighborhood notice map





## ZONING BOARD OF APPEALS

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**TO:** ZONING BOARD OF APPEALS  
**FROM:** Economic & Community Development Department  
**DATE:** September 21st, 2022  
**CASE NO:** V-08-22, Variances from § 44-403 of the Zoning Code  
**REQUEST:** Public hearing, review, and action on a petition submitted by submitted by BP Homes, LLC for Variances from § 44-403 of the Zoning Code, to allow reduced Front, Side, and Rear Yards in the R-2 (Mixed Residence) District, for the property located at 2 Megan Court. PIN: 21-19-202-031.

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### BACKGROUND

*Petitioners' request:*

The Petitioners seeks a variance from 1) § 44-403B, requirement of a minimum of 6-foot side yard to allow a 0-foot side yard on one side of the property, and 2) a Variance from § 44-403B requirement of a 25-foot front yard to allow a 20-foot front yard.

The Petitioners desire to construct a single-family detached “zero-lot line” home on a parcel that was originally platted to be such, but no longer permits the development type under the changed Zoning Code. This Variance is related to those in cases V-08-22 through V-14-22; each vacant lot remaining within a partially completed subdivision that surrounds the Megan Court cul-de-sac requires similar Variance(s) to allow completion of the subdivision development.

*Notice:*

This case has been tabled to the October 19, 2022, Regular Meeting, to ensure that proper public notice has been given to all appropriate parties.





## ZONING BOARD OF APPEALS

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**TO:** ZONING BOARD OF APPEALS  
**FROM:** Economic & Community Development Department  
**DATE:** September 21st, 2022  
**CASE NO:** V-09-22, Variances from § 44-403 of the Zoning Code  
**REQUEST:** Public hearing, review, and action on a petition submitted by submitted by BP Homes, LLC for Variances from § 44-403 of the Zoning Code, to allow reduced Front, Side, and Rear Yards in the R-2 (Mixed Residence) District, for the property located at 4 Megan Court. PIN: 21-19-202-030.

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### BACKGROUND

*Petitioners' request:*

The Petitioners seeks a variance from 1) § 44-403B, requirement of a minimum of 6-foot side yard to allow a 0-foot side yard on one side of the property, and 2) a Variance from § 44-403B requirement of a 25-foot front yard to allow a 20-foot front yard.

The Petitioners desire to construct a single-family detached “zero-lot line” home on a parcel that was originally platted to be such, but no longer permits the development type under the changed Zoning Code. This Variance is related to those in cases V-08-22 through V-14-22; each vacant lot remaining within a partially completed subdivision that surrounds the Megan Court cul-de-sac requires similar Variance(s) to allow completion of the subdivision development.

*Notice:*

The application was filed in conformance with applicable procedural and public notice requirements. Notice was published in *The Pantagraph* on Friday, September 2, 2022. Courtesy notices were mailed to 13 property owners within 500 feet of the subject property.

### ANALYSIS

*Property Characteristics:*

The property at 4 Megan Court consists of approximately 0.14 acres of land near the intersection of Beich Road and Ashley Drive, in the Bill's Place Subdivision. At 40 feet wide, the property is a sub-standard width, vacant lot, with a 10-foot wide utility easement on the south side which already contains the utilities necessary to serve the subject and surrounding dwellings. Nearby

properties have been developed in the proposed “zero-lot line” format. The streets and infrastructure necessary to support the neighborhood and subject dwelling are already in place.

*Surrounding Zoning and Land Uses:*

	Zoning	Land Uses
North	R-2 (Mixed Residence)	Vacant (Single Family Residence)
South	R-2 (Mixed Residence)	Vacant (Single Family Residence)
East	Unincorporated	Major Transportation Corridor (I-55)
West	R-2 (Mixed Residence)	Single Family Residence

*Description of Current Zoning District:*

The R-2 (Mixed Residence) District is intended to accommodate development characterized by a mixture of housing types at a high single-family and a low multiple-family dwelling unit density. Densities of up to approximately 13 dwelling units per acre are allowed. This district allows for the conversion of dwelling units in older residential areas of mixed dwelling unit types in order to extend the economic life of these structures and allow owners to justify expenditures for repairs and modernization and serves as a zone of transition between lower density residential districts and residential districts that permit greater land use intensity and dwelling unit density.

*Subject Code Requirements:*

§ 44-403A. Site dimensions table. All development in Residential Districts District must comply with the requirements in Tables 403A through 403D and Diagram 403A unless otherwise expressly stated.

District	Lot Characteristics		Site Design			Development Intensity		
	Min. Lot Width (W)	Min. Lot Area (square feet)	Front Yard (F)	Side Yard (S)	Rear Yard (R)	Min. Lot Area per Dwelling Unit (square feet)	Max. Building Height	
			Min.	Min.	Min.		Feet	Stories
R-2								
Detached Residential	50 feet	6,600	25 feet	6 feet	25 feet	6,600	35 feet	2.5
Attached and Multi-Residential	75 feet	7,000	25 feet	6 feet	25 feet	3,300	35 feet	2.5
Other Uses	50 feet	7,000	25 feet	6 feet	25 feet	7,000	15 feet	1

**STANDARDS FOR REVIEW**

As indicated in *Ch. 44, 17-8 Variations*, the Board of Zoning Appeals shall have the power to authorize variations to this Code where there would be practical difficulties or particular hardships in carrying out the strict letter of those sections of this Code stated herein.

- 1. That the property has physical characteristics that pose unreasonable challenges which make strict adherence to the Code difficult.**

Having been platted for a form of development which was subsequently made infeasible through the Zoning Code update in 2019, the lot has restrictions on structure location that other lots do not normally possess. Due to the sub-standard lot width and the existing utilities and associated easement, construction of a single-family detached dwelling presents unreasonable challenges with strict adherence to the Code. *Standard is met.*

- 2. That the Variance would be the minimum action necessary to afford relief to the applicant.**

Alternate siting of the proposed dwelling would require moving existing utilities, vacating the utility easement (a process to which Public Works has expressed opposition), and re-platting of the remaining properties within the subdivision. *Standard is met.*

- 3. That the special conditions and circumstances were not created by any action of the applicant.**

This subdivision, and the subject property, were platted in 2007 and intended for “zero-lot line” development (see former City of Bloomington Zoning Code § 44.12-11C). Prior to the Zoning Code change in 2019, the form of development planned for the Bill’s Place subdivision was permitted, by right, in the R-2 (Mixed Residence) District. *Standard is met.*

- 4. That granting the variation request will not give the applicant any special privilege that is denied to others by the Code.**

Applications for similar Variances have been submitted for the other associated properties; to prevent the need for future Variances in other subdivisions, text amendments have been proposed to restore this form of development which was unintentionally removed during the Code update. *Standard is met.*

- 5. That the granting of the variation will not be detrimental to the public welfare, alter the essential character of the neighborhood, nor unreasonably impair the use of development of adjoining properties.**

The existing development in the neighborhood is of the same character and siting as that proposed for the remaining vacant properties. *Standard is met.*

#### **ADDITIONAL CONSIDERATIONS**

One of the purposes for applying setbacks to primary structures is to help ensure that encroachment on adjacent properties does not become an issue; this is a potential concern for the properties that are the subject of these related Variance(s). Based on in-person review of

the existing construction present within the development, in comparison to the building plans submitted for the construction of those dwellings, it appears that most—if not all—of the existing zero-lot structures likely have eaves and attached utilities that encroach on the adjacent properties. Staff asserts that approval of a 0-foot side yard does not equate to City-endorsed encroachment onto adjacent properties during or after construction of the proposed dwelling and proposes a Condition to clarify such.

#### STAFF RECOMMENDATION

Staff finds that the application meets all the standards for a Variance application and recommends that the Zoning Board of Appeals take the following actions:

Motion to establish findings of fact that carrying out the strict letter of the Code **does create a practical difficulty** or particular hardship for the petitioner, and to **approve the petition** for Variances to § 44-403B, **with the Condition** that:

No portion of any structure shall encroach onto an adjacent property without an agreement approving of such, including but not limited to: eaves and gutters, chimneys, air conditioning compressors, and other functional or architectural features which may extend beyond the principal building wall.

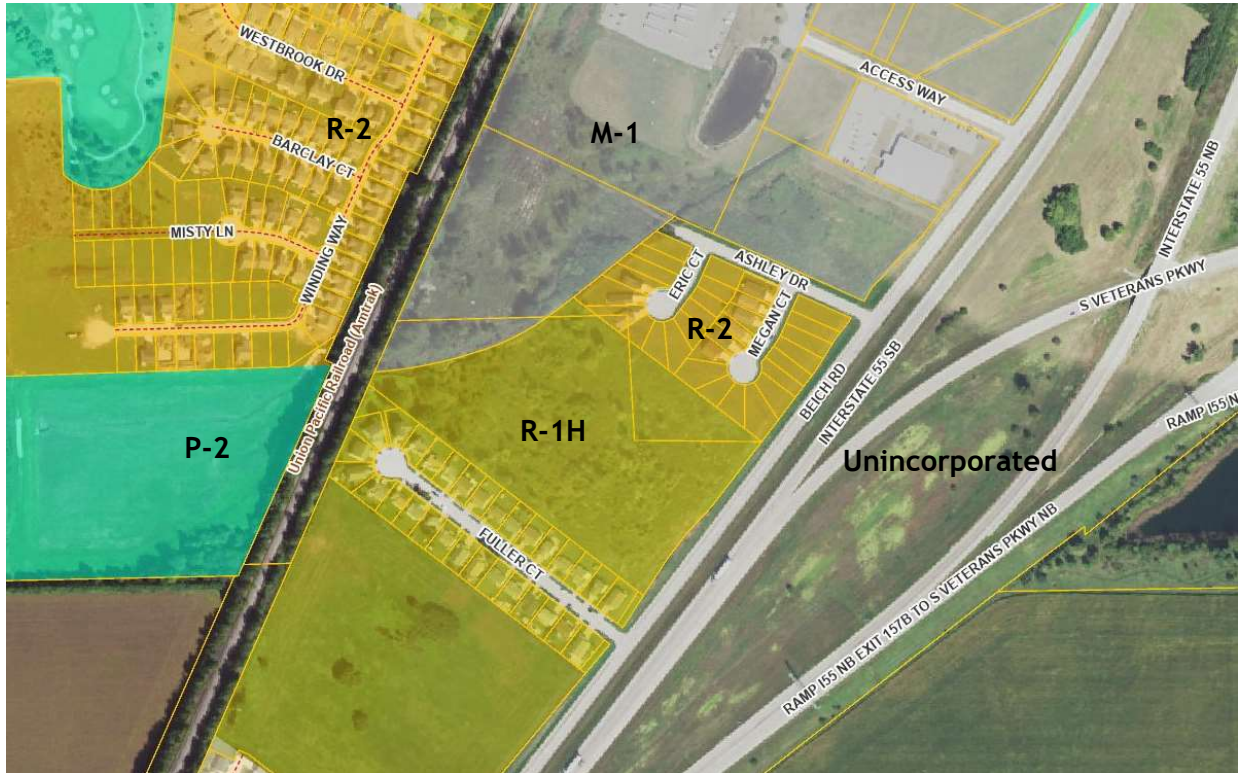
Respectfully submitted,  
Alissa Pemberton  
Assistant City Planner

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#### Attachments:

1. Zoning Map
2. Aerial Image(s)
3. Ground-Level View(s)
4. Petitioner-Submission - Description of Project
5. Site Plan
6. Existing Development Encroachment Example(s)
7. Neighborhood notice map

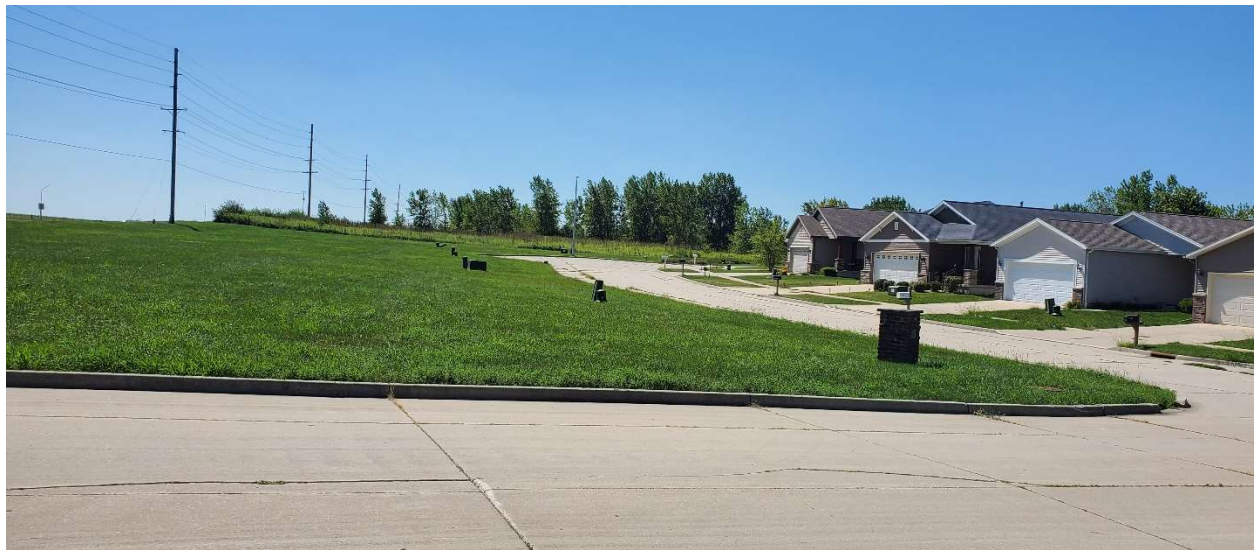
Attachment 1 - Zoning Map



Attachment 1 - Aerial Image



Attachment 3 - Ground-Level View(s)

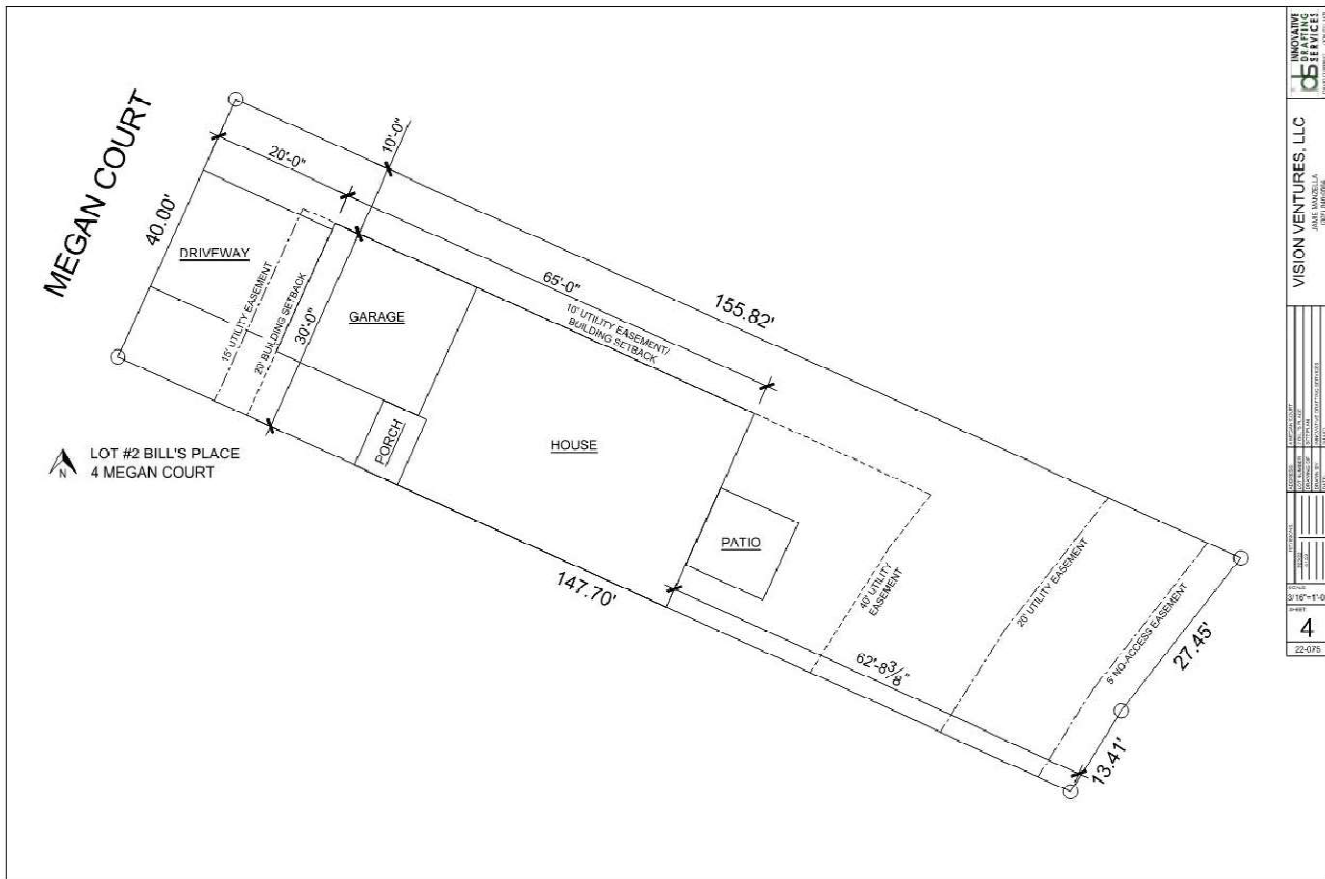


Attachment 4 - Petitioner-Submission - Description of Project

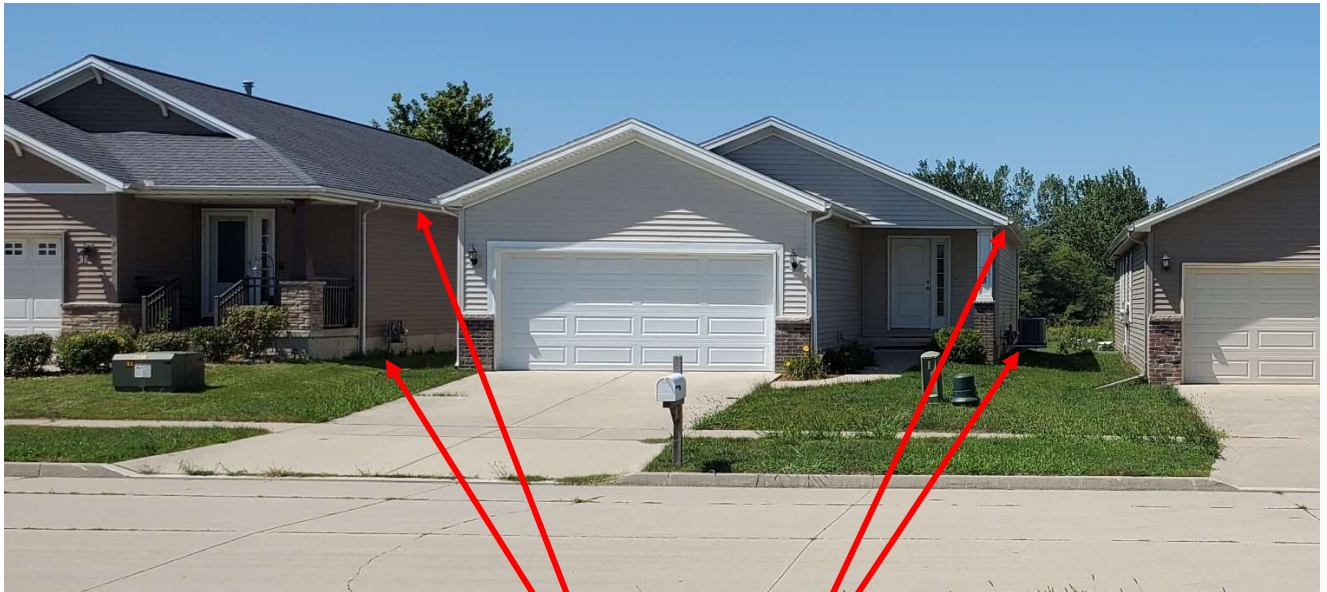
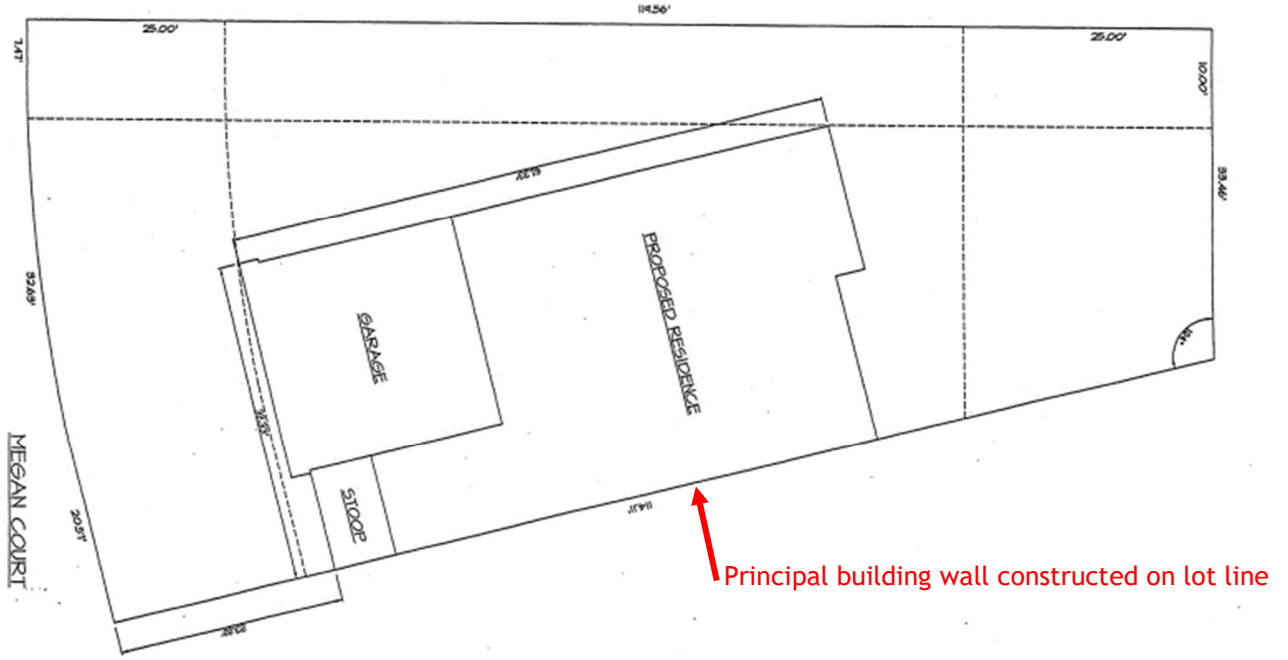
Construction of a new single family residence in a R-2 zoning area. When this area was originally developed the zoning code allowed for detached zero-lot line homes. Since then the zoning code has changed. To keep things conforming in the subdivision variances are required for side yard and front yard setbacks. We are asking for a variance on the front yard setback to allow it to be 20" and the south side yard to be 0".

Have looked at downsizing house but due to small size of lots that is not possible. Considered reworking utility easements but there are already utilities in place.

Attachment 5 - Site Plan



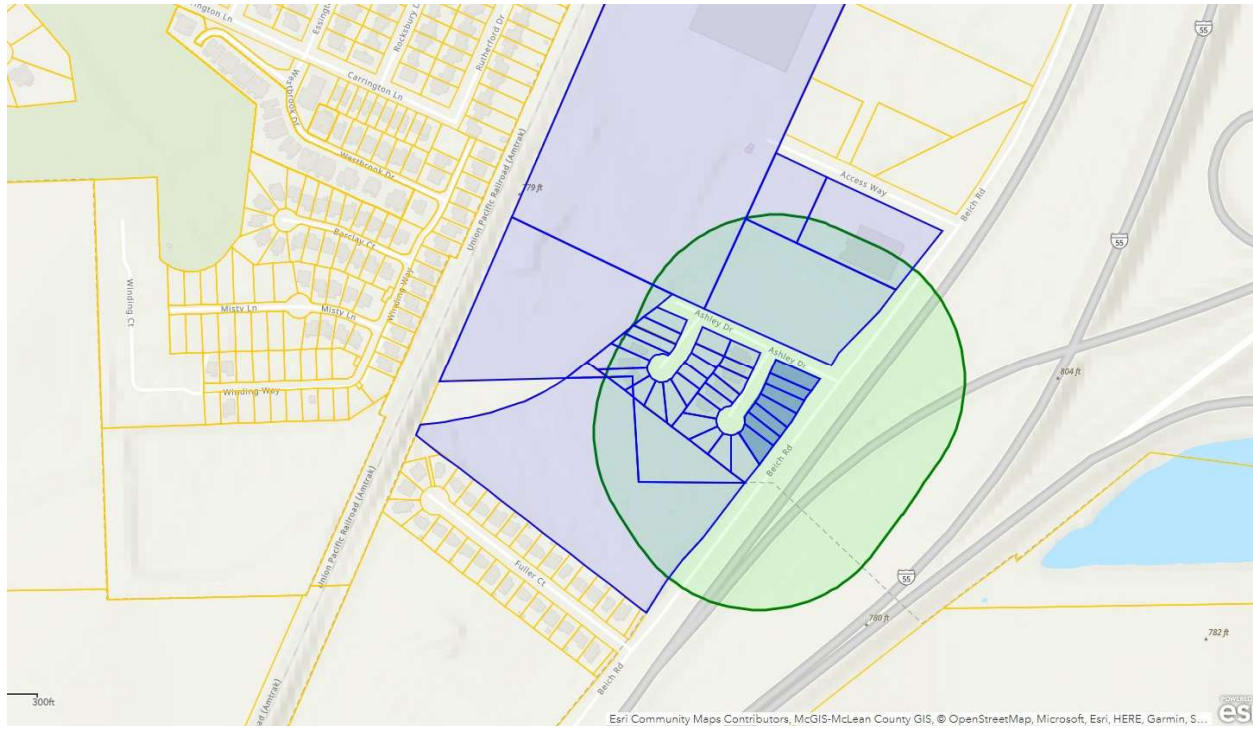
Attachment 6 - Existing Development Encroachment Example(s)



Encroachments onto adjacent properties, if building plan is built to-spec



Attachment 7 - Neighborhood notice map





## ZONING BOARD OF APPEALS

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**TO:** ZONING BOARD OF APPEALS  
**FROM:** Economic & Community Development Department  
**DATE:** September 21st, 2022  
**CASE NO:** V-10-22, Variances from § 44-403 of the Zoning Code  
**REQUEST:** Public hearing, review, and action on a petition submitted by submitted by BP Homes, LLC for Variances from § 44-403 of the Zoning Code, to allow reduced Front, Side, and Rear Yards in the R-2 (Mixed Residence) District, for the property located at 6 Megan Court. PIN: 21-19-202-029.

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### BACKGROUND

*Petitioners' request:*

The Petitioners seeks a variance from 1) § 44-403B, requirement of a minimum of 6-foot side yard to allow a 0-foot side yard on one side of the property, and 2) a Variance from § 44-403B requirement of a 25-foot front yard to allow a 20-foot front yard.

The Petitioners desire to construct a single-family detached “zero-lot line” home on a parcel that was originally platted to be such, but no longer permits the development type under the changed Zoning Code. This Variance is related to those in cases V-08-22 through V-14-22; each vacant lot remaining within a partially completed subdivision that surrounds the Megan Court cul-de-sac requires similar Variance(s) to allow completion of the subdivision development.

*Notice:*

The application was filed in conformance with applicable procedural and public notice requirements. Notice was published in *The Pantagraph* on Friday, September 2, 2022. Courtesy notices were mailed to 13 property owners within 500 feet of the subject property.

### ANALYSIS

*Property Characteristics:*

The property at 6 Megan Court consists of approximately 0.15 acres of land near the intersection of Beich Road and Ashley Drive, in the Bill's Place Subdivision. At 40 feet wide, the property is a sub-standard width, vacant lot, with a 10-foot wide utility easement on the south side which already contains the utilities necessary to serve the subject and surrounding dwellings. Nearby

properties have been developed in the proposed “zero-lot line” format. The streets and infrastructure necessary to support the neighborhood and subject dwelling are already in place.

*Surrounding Zoning and Land Uses:*

	Zoning	Land Uses
North	R-2 (Mixed Residence)	Vacant (Single Family Residence)
South	R-2 (Mixed Residence)	Vacant (Single Family Residence)
East	Unincorporated	Major Transportation Corridor (I-55)
West	R-2 (Mixed Residence)	Single Family Residence

*Description of Current Zoning District:*

The R-2 (Mixed Residence) District is intended to accommodate development characterized by a mixture of housing types at a high single-family and a low multiple-family dwelling unit density. Densities of up to approximately 13 dwelling units per acre are allowed. This district allows for the conversion of dwelling units in older residential areas of mixed dwelling unit types in order to extend the economic life of these structures and allow owners to justify expenditures for repairs and modernization and serves as a zone of transition between lower density residential districts and residential districts that permit greater land use intensity and dwelling unit density.

*Subject Code Requirements:*

§ 44-403A. Site dimensions table. All development in Residential Districts District must comply with the requirements in Tables 403A through 403D and Diagram 403A unless otherwise expressly stated.

District	Lot Characteristics		Site Design			Development Intensity		
	Min. Lot Width (W)	Min. Lot Area (square feet)	Front Yard (F)	Side Yard (S)	Rear Yard (R)	Min. Lot Area per Dwelling Unit (square feet)	Max. Building Height	
			Min.	Min.	Min.		Feet	Stories
R-2								
Detached Residential	50 feet	6,600	25 feet	6 feet	25 feet	6,600	35 feet	2.5
Attached and Multi-Residential	75 feet	7,000	25 feet	6 feet	25 feet	3,300	35 feet	2.5
Other Uses	50 feet	7,000	25 feet	6 feet	25 feet	7,000	15 feet	1

**STANDARDS FOR REVIEW**

As indicated in *Ch. 44, 17-8 Variations*, the Board of Zoning Appeals shall have the power to authorize variations to this Code where there would be practical difficulties or particular hardships in carrying out the strict letter of those sections of this Code stated herein.

- 1. That the property has physical characteristics that pose unreasonable challenges which make strict adherence to the Code difficult.**

Having been platted for a form of development which was subsequently made infeasible through the Zoning Code update in 2019, the lot has restrictions on structure location that other lots do not normally possess. Due to the sub-standard lot width and the existing utilities and associated easement, construction of a single-family detached dwelling presents unreasonable challenges with strict adherence to the Code. *Standard is met.*

- 2. That the Variance would be the minimum action necessary to afford relief to the applicant.**

Alternate siting of the proposed dwelling would require moving existing utilities, vacating the utility easement (a process to which Public Works has expressed opposition), and re-platting of the remaining properties within the subdivision. *Standard is met.*

- 3. That the special conditions and circumstances were not created by any action of the applicant.**

This subdivision, and the subject property, were platted in 2007 and intended for “zero-lot line” development (see former City of Bloomington Zoning Code § 44.12-11C). Prior to the Zoning Code change in 2019, the form of development planned for the Bill’s Place subdivision was permitted, by right, in the R-2 (Mixed Residence) District. *Standard is met.*

- 4. That granting the variation request will not give the applicant any special privilege that is denied to others by the Code.**

Applications for similar Variances have been submitted for the other associated properties; to prevent the need for future Variances in other subdivisions, text amendments have been proposed to restore this form of development which was unintentionally removed during the Code update. *Standard is met.*

- 5. That the granting of the variation will not be detrimental to the public welfare, alter the essential character of the neighborhood, nor unreasonably impair the use of development of adjoining properties.**

The existing development in the neighborhood is of the same character and siting as that proposed for the remaining vacant properties. *Standard is met.*

#### **ADDITIONAL CONSIDERATIONS**

One of the purposes for applying setbacks to primary structures is to help ensure that encroachment on adjacent properties does not become an issue; this is a potential concern for the properties that are the subject of these related Variance(s). Based on in-person review of

the existing construction present within the development, in comparison to the building plans submitted for the construction of those dwellings, it appears that most—if not all—of the existing zero-lot structures likely have eaves and attached utilities that encroach on the adjacent properties. Staff asserts that approval of a 0-foot side yard does not equate to City-endorsed encroachment onto adjacent properties during or after construction of the proposed dwelling and proposes a Condition to clarify such.

#### STAFF RECOMMENDATION

Staff finds that the application meets all the standards for a Variance application and recommends that the Zoning Board of Appeals take the following actions:

Motion to establish findings of fact that carrying out the strict letter of the Code does create a practical difficulty or particular hardship for the petitioner, and to approve the petition for Variances to § 44-403B, with the Condition that:

No portion of any structure shall encroach onto an adjacent property without an agreement approving of such, including but not limited to: eaves and gutters, chimneys, air conditioning compressors, and other functional or architectural features which may extend beyond the principal building wall.

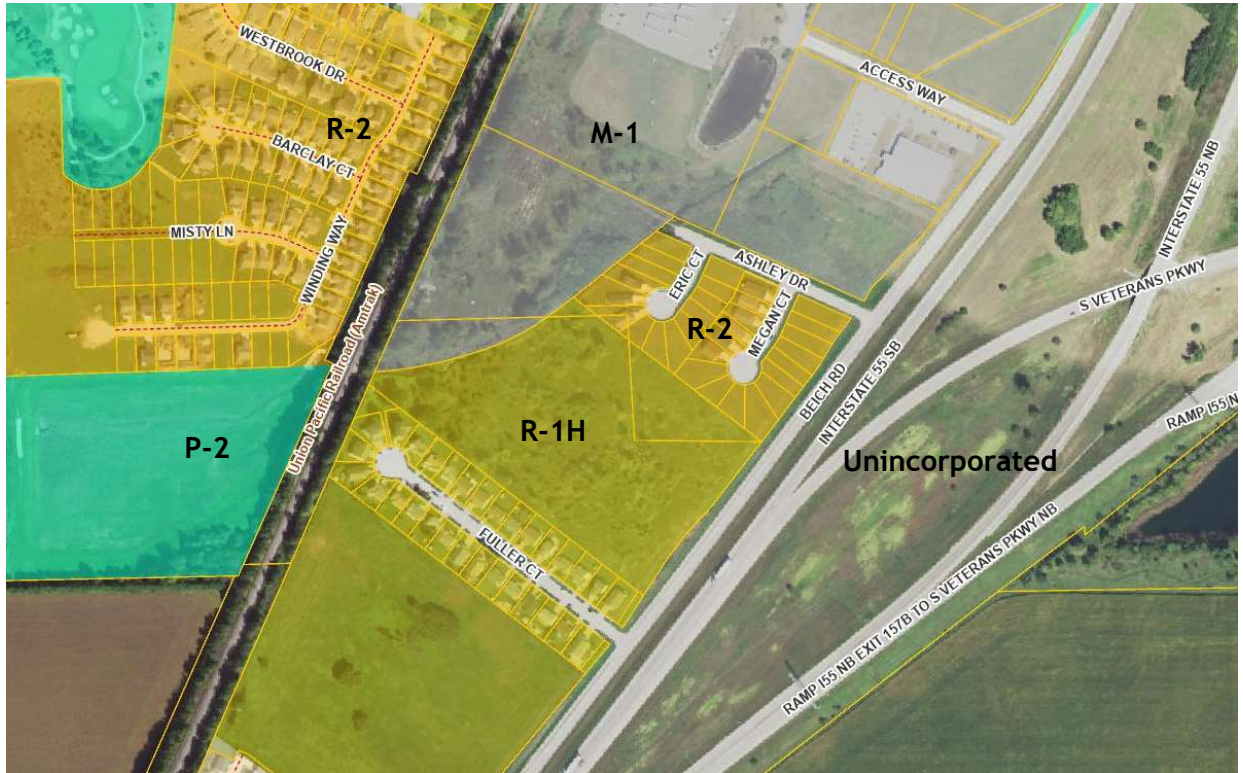
Respectfully submitted,  
Alissa Pemberton  
Assistant City Planner

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#### Attachments:

1. Zoning Map
2. Aerial Image(s)
3. Ground-Level View(s)
4. Petitioner-Submission - Description of Project
5. Site Plan
6. Existing Development Encroachment Example(s)
7. Neighborhood notice map

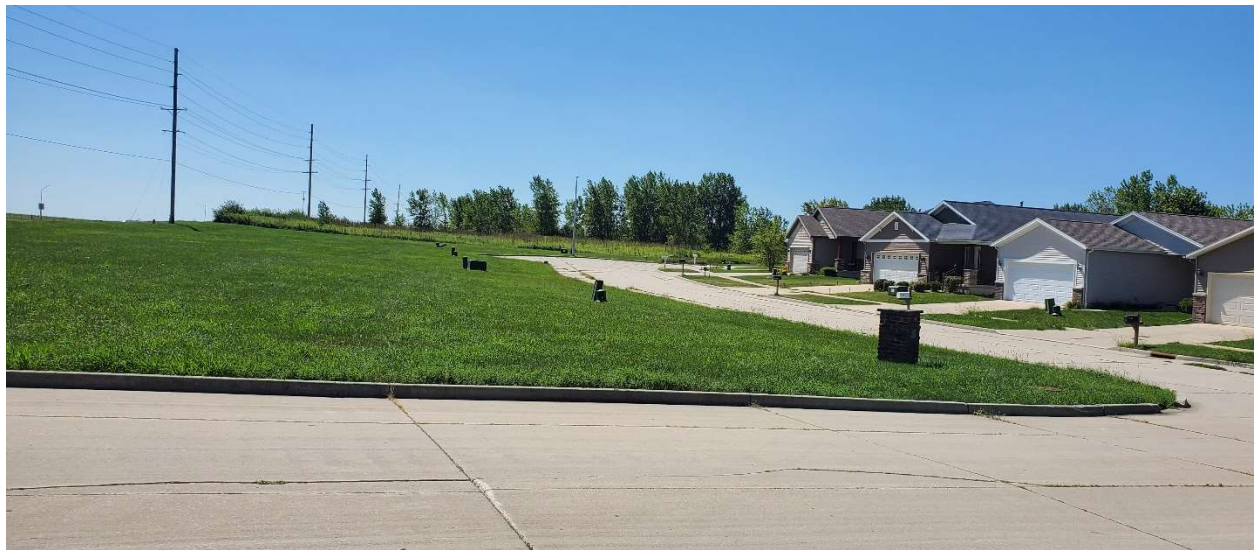
Attachment 1 - Zoning Map



Attachment 1 - Aerial Image



Attachment 3 - Ground-Level View(s)

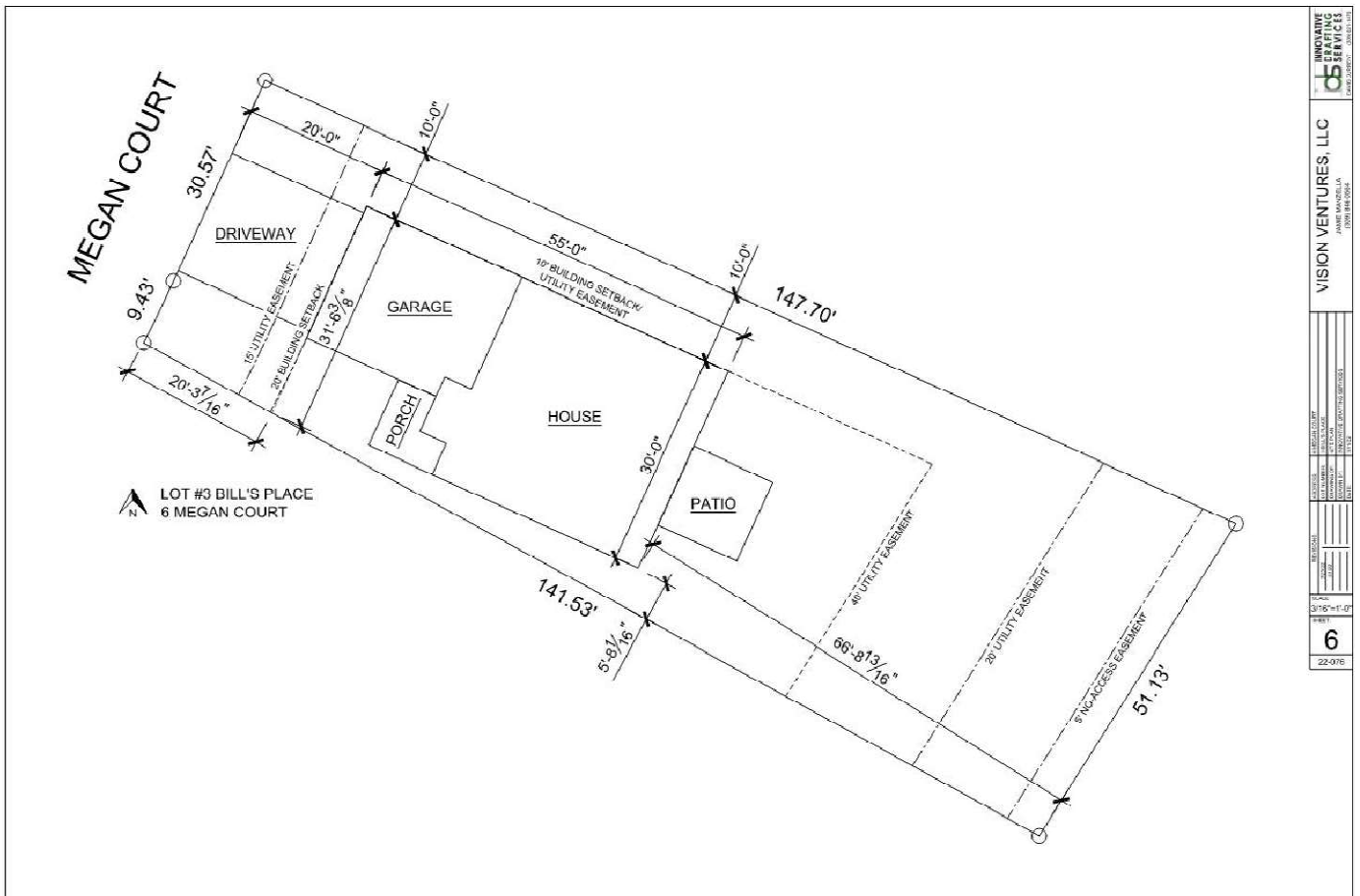


Attachment 4 - Petitioner-Submission - Description of Project

Construction of a new single family residence in a R-2 zoning area. When this area was originally developed the zoning code allowed for detached zero-lot line homes. Since then the zoning code has changed. To keep things conforming in the subdivision variances are required for side yard and front yard setbacks. We are asking for a variance on the front yard setback to allow it to be 20" and the south side yard to be 0".

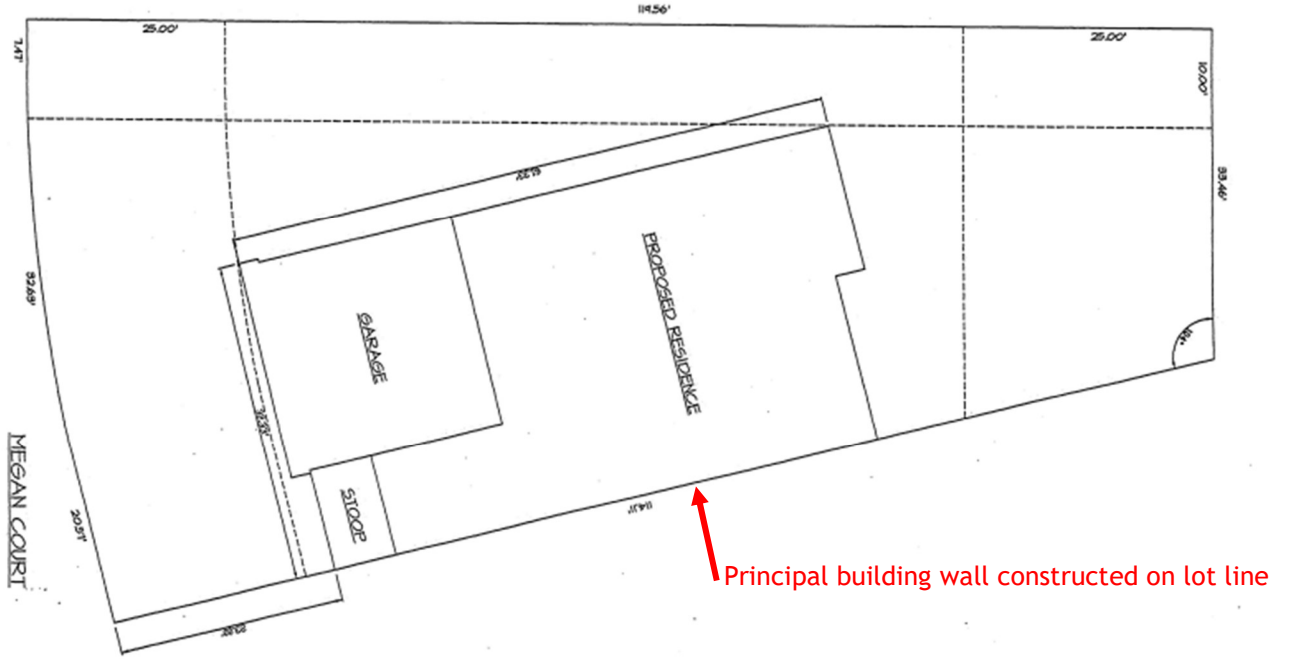
Have looked at downsizing house but due to small size of lots that is not possible. Considered reworking utility easements but there are already utilities in place.

Attachment 5 - Site Plan



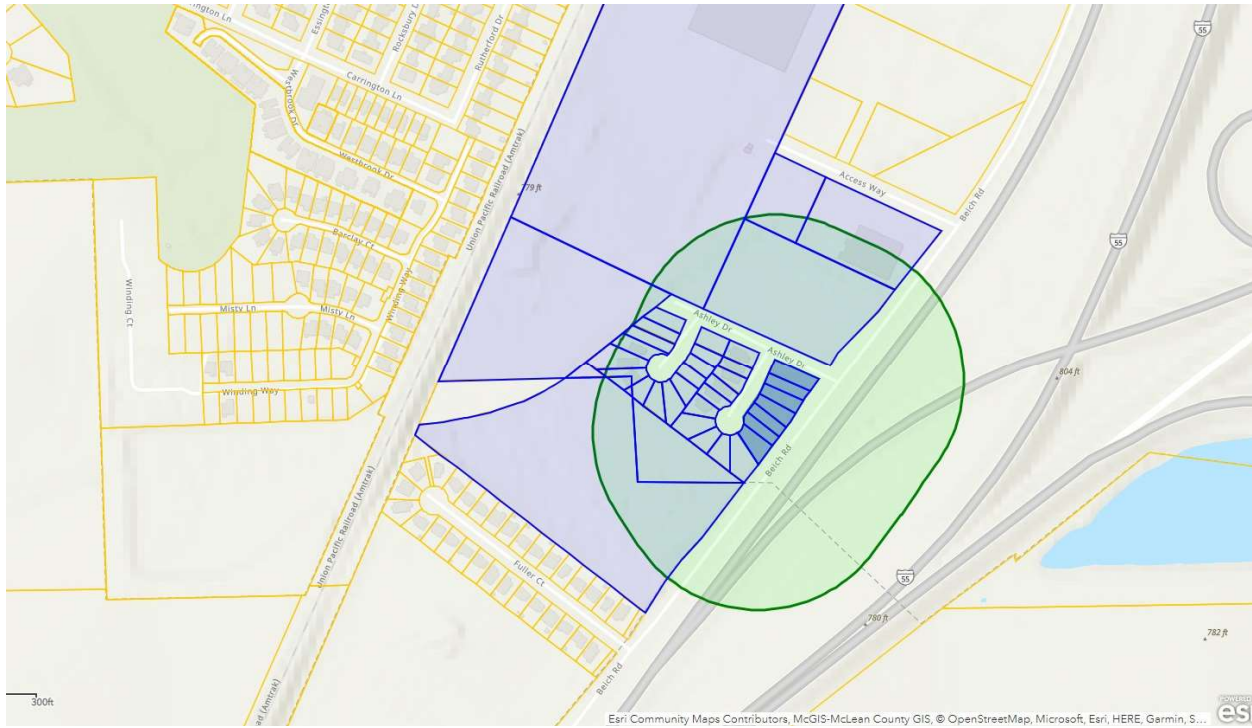


Attachment 6 - Existing Development Encroachment Example(s)



Encroachments onto adjacent properties, if building plan is built to-spec

Attachment 7 - Neighborhood notice map





## ZONING BOARD OF APPEALS

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**TO:** ZONING BOARD OF APPEALS  
**FROM:** Economic & Community Development Department  
**DATE:** September 21st, 2022  
**CASE NO:** V-11-22, Variances from § 44-403 of the Zoning Code  
**REQUEST:** Public hearing, review, and action on a petition submitted by submitted by BP Homes, LLC for Variances from § 44-403 of the Zoning Code, to allow reduced Front, Side, and Rear Yards in the R-2 (Mixed Residence) District, for the property located at 8 Megan Court. PIN: 21-19-202-029.

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### BACKGROUND

*Petitioners' request:*

The Petitioners seeks a variance from 1) § 44-403B, requirement of a minimum of 6-foot side yard to allow a 0-foot side yard on one side of the property, and 2) a Variance from § 44-403B requirement of a 25-foot front yard to allow a 20-foot front yard.

The Petitioners desire to construct a single-family detached “zero-lot line” home on a parcel that was originally platted to be such, but no longer permits the development type under the changed Zoning Code. This Variance is related to those in cases V-08-22 through V-14-22; each vacant lot remaining within a partially completed subdivision that surrounds the Megan Court cul-de-sac requires similar Variance(s) to allow completion of the subdivision development.

*Notice:*

The application was filed in conformance with applicable procedural and public notice requirements. Notice was published in *The Pantagraph* on Friday, September 2, 2022. Courtesy notices were mailed to 13 property owners within 500 feet of the subject property.

### ANALYSIS

*Property Characteristics:*

The property at 8 Megan Court consists of approximately 0.15 acres of land near the intersection of Beich Road and Ashley Drive, in the Bill's Place Subdivision. At 40 feet wide, the property is a sub-standard width, vacant lot, with a 10-foot wide utility easement on the south side which already contains the utilities necessary to serve the subject and surrounding dwellings. Nearby

properties have been developed in the proposed “zero-lot line” format. The streets and infrastructure necessary to support the neighborhood and subject dwelling are already in place.

*Surrounding Zoning and Land Uses:*

	Zoning	Land Uses
North	R-2 (Mixed Residence)	Vacant (Single Family Residence)
South	R-2 (Mixed Residence)	Vacant (Single Family Residence)
East	Unincorporated	Major Transportation Corridor (I-55)
West	R-2 (Mixed Residence)	Single Family Residence

*Description of Current Zoning District:*

The R-2 (Mixed Residence) District is intended to accommodate development characterized by a mixture of housing types at a high single-family and a low multiple-family dwelling unit density. Densities of up to approximately 13 dwelling units per acre are allowed. This district allows for the conversion of dwelling units in older residential areas of mixed dwelling unit types in order to extend the economic life of these structures and allow owners to justify expenditures for repairs and modernization and serves as a zone of transition between lower density residential districts and residential districts that permit greater land use intensity and dwelling unit density.

*Subject Code Requirements:*

§ 44-403A. Site dimensions table. All development in Residential Districts District must comply with the requirements in Tables 403A through 403D and Diagram 403A unless otherwise expressly stated.

District	Lot Characteristics		Site Design			Development Intensity		
	Min. Lot Width (W)	Min. Lot Area (square feet)	Front Yard (F)	Side Yard (S)	Rear Yard (R)	Min. Lot Area per Dwelling Unit (square feet)	Max. Building Height	
			Min.	Min.	Min.		Feet	Stories
R-2								
Detached Residential	50 feet	6,600	25 feet	6 feet	25 feet	6,600	35 feet	2.5
Attached and Multi-Residential	75 feet	7,000	25 feet	6 feet	25 feet	3,300	35 feet	2.5
Other Uses	50 feet	7,000	25 feet	6 feet	25 feet	7,000	15 feet	1

**STANDARDS FOR REVIEW**

As indicated in *Ch. 44, 17-8 Variations*, the Board of Zoning Appeals shall have the power to authorize variations to this Code where there would be practical difficulties or particular hardships in carrying out the strict letter of those sections of this Code stated herein.

- 1. That the property has physical characteristics that pose unreasonable challenges which make strict adherence to the Code difficult.**

Having been platted for a form of development which was subsequently made infeasible through the Zoning Code update in 2019, the lot has restrictions on structure location that other lots do not normally possess. Due to the sub-standard lot width and the existing utilities and associated easement, construction of a single-family detached dwelling presents unreasonable challenges with strict adherence to the Code. *Standard is met.*

- 2. That the Variance would be the minimum action necessary to afford relief to the applicant.**

Alternate siting of the proposed dwelling would require moving existing utilities, vacating the utility easement (a process to which Public Works has expressed opposition), and re-platting of the remaining properties within the subdivision. *Standard is met.*

- 3. That the special conditions and circumstances were not created by any action of the applicant.**

This subdivision, and the subject property, were platted in 2007 and intended for “zero-lot line” development (see former City of Bloomington Zoning Code § 44.12-11C). Prior to the Zoning Code change in 2019, the form of development planned for the Bill’s Place subdivision was permitted, by right, in the R-2 (Mixed Residence) District. *Standard is met.*

- 4. That granting the variation request will not give the applicant any special privilege that is denied to others by the Code.**

Applications for similar Variances have been submitted for the other associated properties; to prevent the need for future Variances in other subdivisions, text amendments have been proposed to restore this form of development which was unintentionally removed during the Code update. *Standard is met.*

- 5. That the granting of the variation will not be detrimental to the public welfare, alter the essential character of the neighborhood, nor unreasonably impair the use of development of adjoining properties.**

The existing development in the neighborhood is of the same character and siting as that proposed for the remaining vacant properties. *Standard is met.*

#### **ADDITIONAL CONSIDERATIONS**

One of the purposes for applying setbacks to primary structures is to help ensure that encroachment on adjacent properties does not become an issue; this is a potential concern for the properties that are the subject of these related Variance(s). Based on in-person review of

the existing construction present within the development, in comparison to the building plans submitted for the construction of those dwellings, it appears that most—if not all—of the existing zero-lot structures likely have eaves and attached utilities that encroach on the adjacent properties. Staff asserts that approval of a 0-foot side yard does not equate to City-endorsed encroachment onto adjacent properties during or after construction of the proposed dwelling and proposes a Condition to clarify such.

#### STAFF RECOMMENDATION

Staff finds that the application meets all the standards for a Variance application and recommends that the Zoning Board of Appeals take the following actions:

Motion to establish findings of fact that carrying out the strict letter of the Code does create a practical difficulty or particular hardship for the petitioner, and to approve the petition for Variances to § 44-403B, with the Condition that:

No portion of any structure shall encroach onto an adjacent property without an agreement approving of such, including but not limited to: eaves and gutters, chimneys, air conditioning compressors, and other functional or architectural features which may extend beyond the principal building wall.

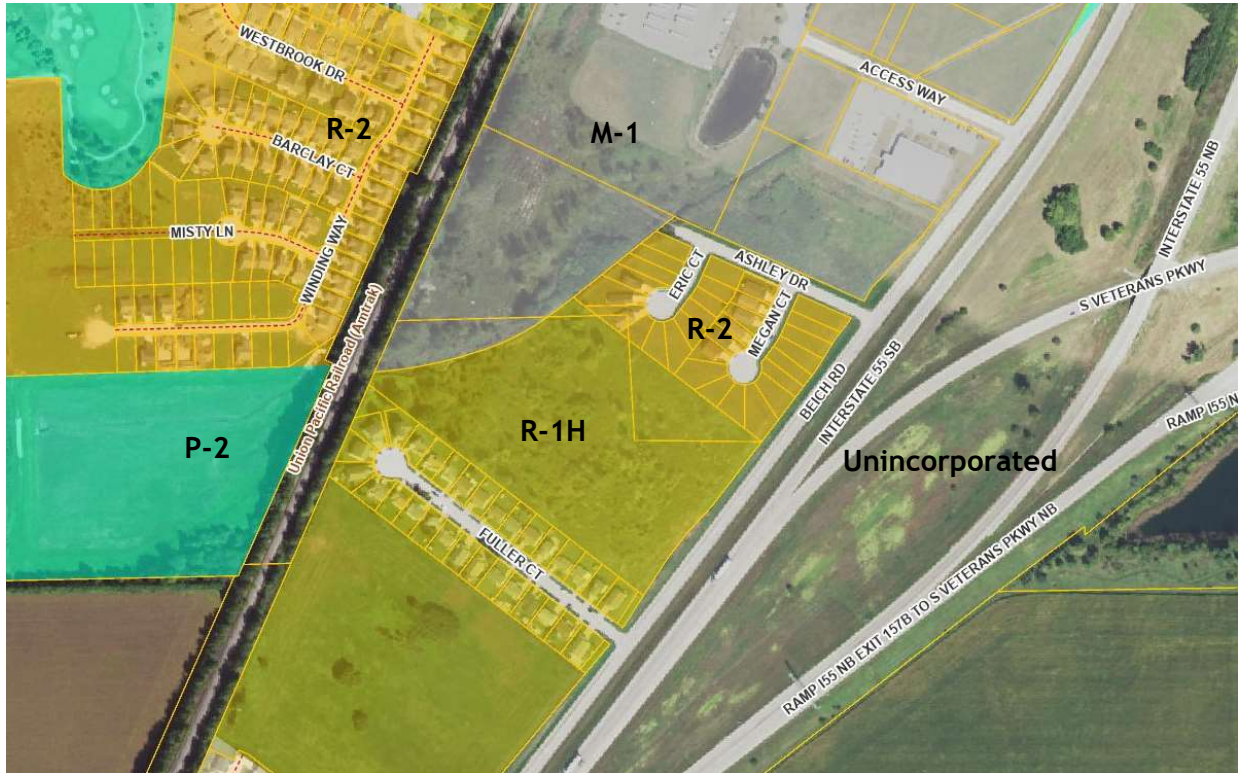
Respectfully submitted,  
Alissa Pemberton  
Assistant City Planner

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#### Attachments:

1. Zoning Map
2. Aerial Image(s)
3. Ground-Level View(s)
4. Petitioner-Submission - Description of Project
5. Site Plan
6. Existing Development Encroachment Example(s)
7. Neighborhood notice map

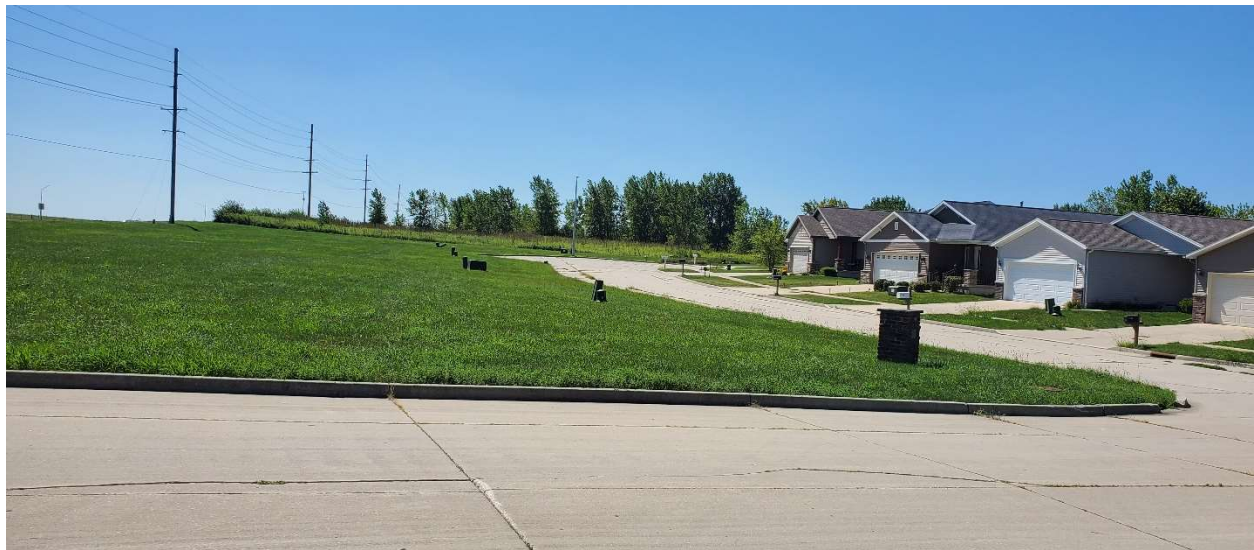
Attachment 1 - Zoning Map



Attachment 1 - Aerial Image



Attachment 3 - Ground-Level View(s)



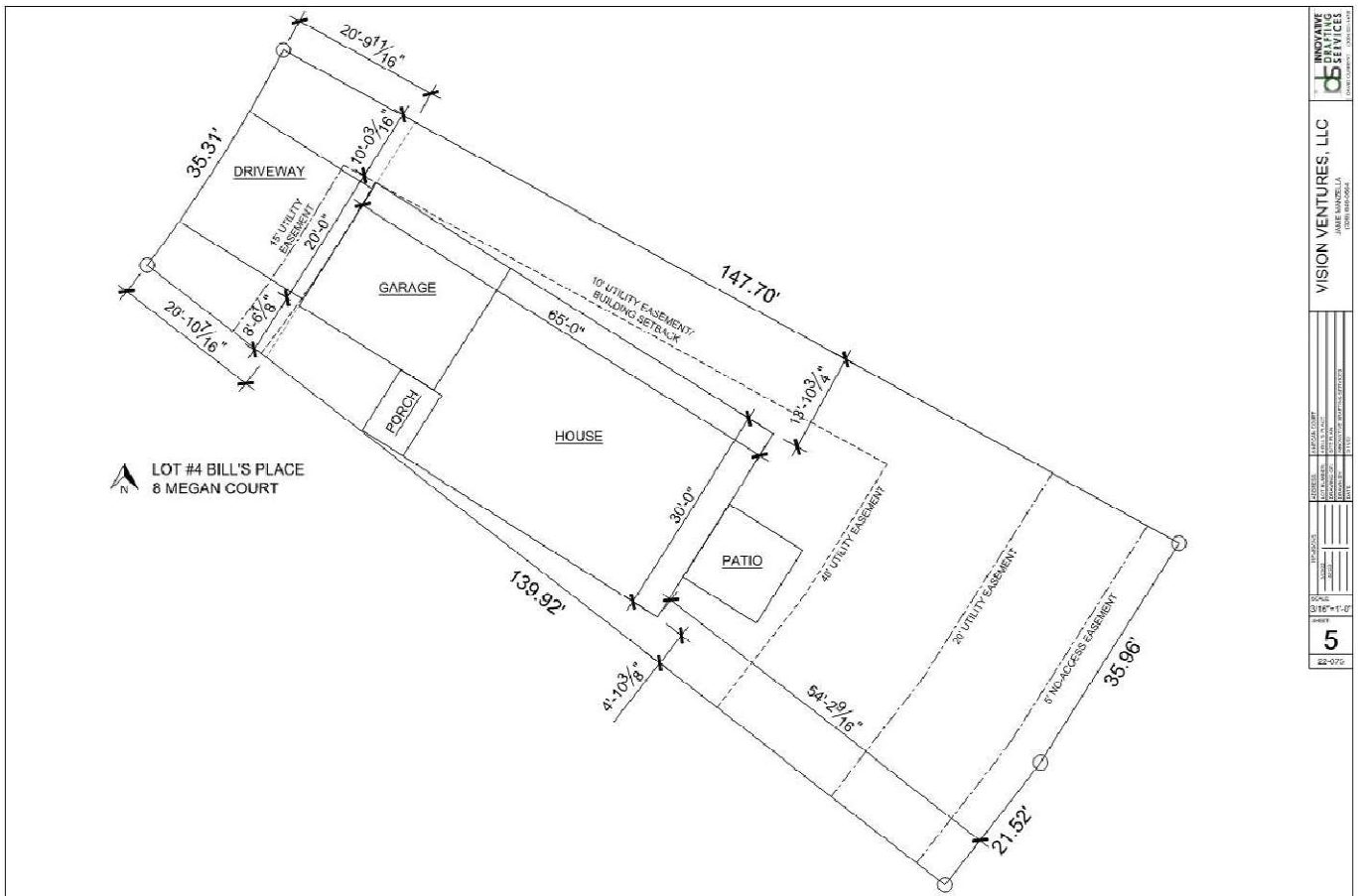


Attachment 4 - Petitioner-Submission - Description of Project

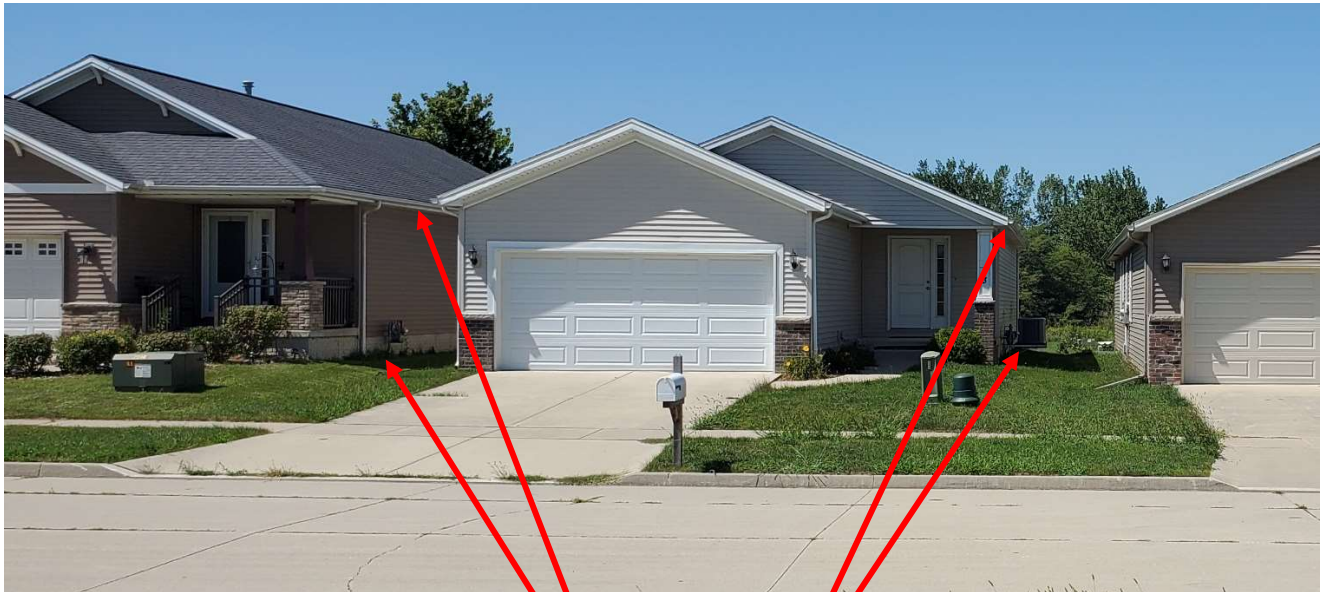
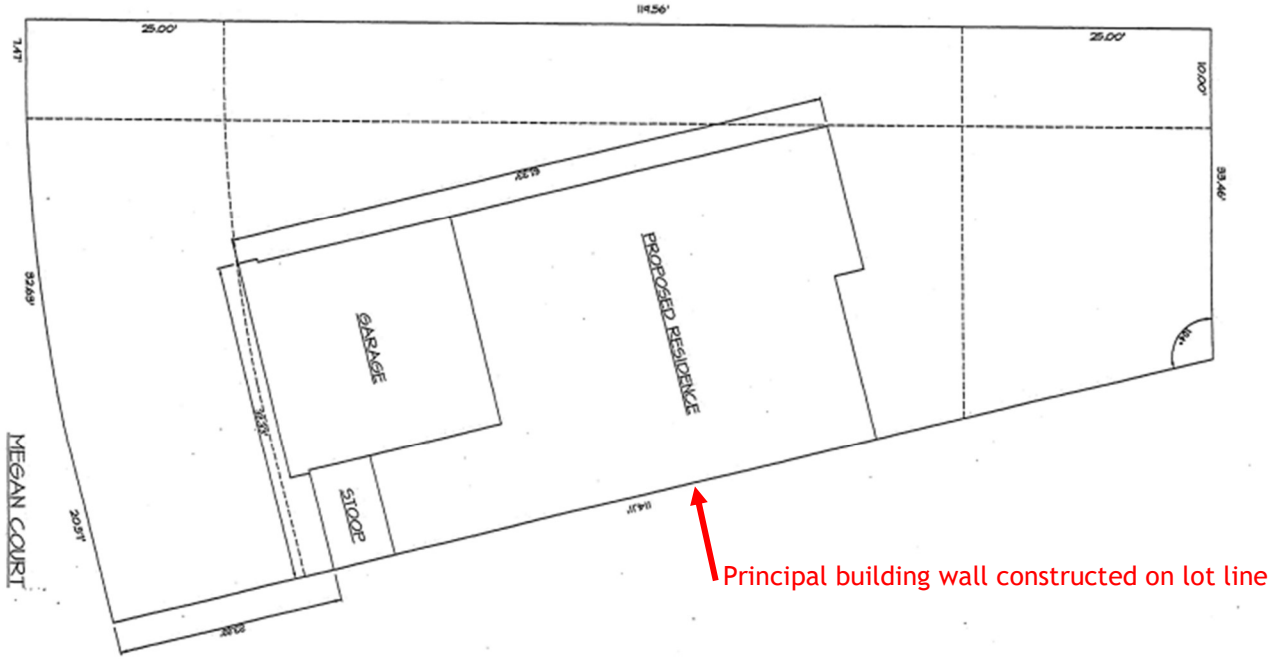
Construction of a new single family residence in a R-2 zoning area. When this area was originally developed the zoning code allowed for detached zero-lot line homes. Since then the zoning code has changed. To keep things conforming in the subdivision variances are required for side yard and front yard setbacks. We are asking for a variance on the front yard setback to allow it to be 20" and the south side yard to be 0".

Have looked at downsizing house but due to small size of lots that is not possible. Considered reworking utility easements but there are already utilities in place.

Attachment 5 - Site Plan

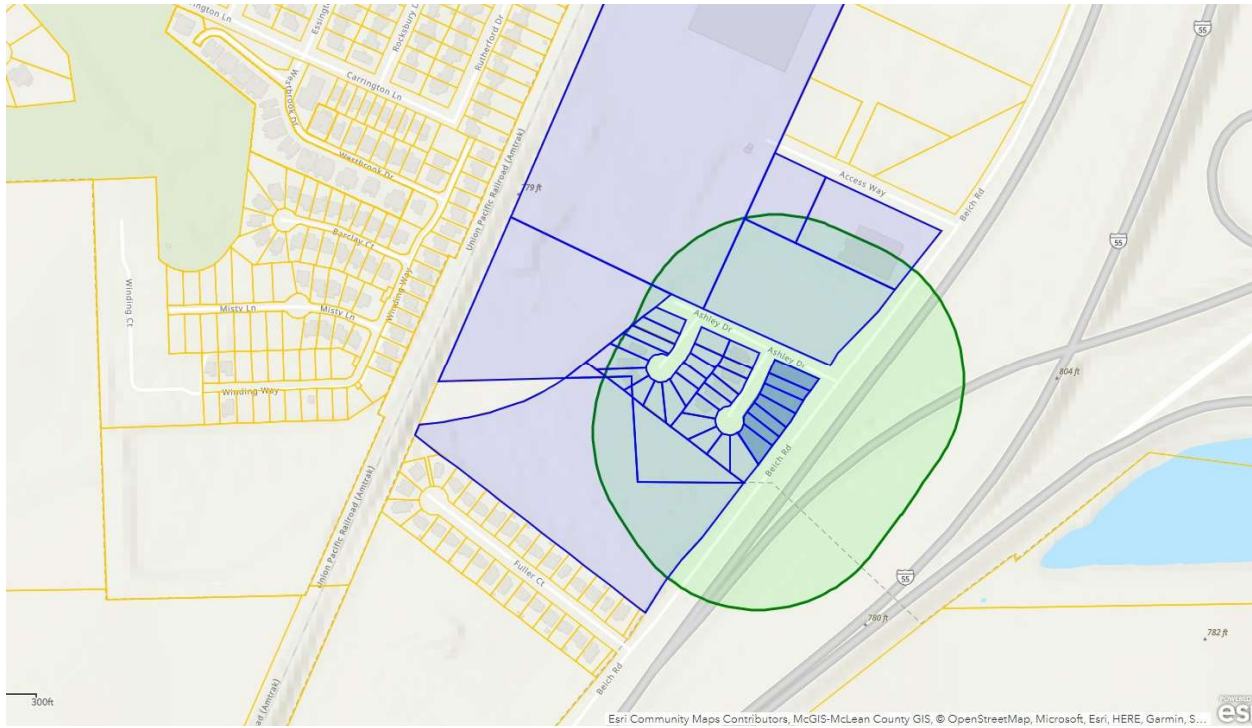


Attachment 6 - Existing Development Encroachment Example(s)



Encroachments onto adjacent properties, if building plan is built to-spec

Attachment 7 - Neighborhood notice map





## ZONING BOARD OF APPEALS

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**TO:** ZONING BOARD OF APPEALS  
**FROM:** Economic & Community Development Department  
**DATE:** September 21st, 2022  
**CASE NO:** V-12-22, Variances from § 44-403 of the Zoning Code  
**REQUEST:** Public hearing, review, and action on a petition submitted by submitted by BP Homes, LLC for Variances from § 44-403 of the Zoning Code, to allow reduced Front, Side, and Rear Yards in the R-2 (Mixed Residence) District, for the property located at 12 Megan Court. PIN: 21-19-202-026.

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### BACKGROUND

*Petitioners' request:*

The Petitioners seeks a variance from 1) § 44-403B, requirement of a minimum of 6-foot side yard to allow a 0-foot side yard on one side of the property, and 2) a Variance from § 44-403B requirement of a 25-foot front yard to allow a 20-foot front yard.

The Petitioners desire to construct a single-family detached “zero-lot line” home on a parcel that was originally platted to be such, but no longer permits the development type under the changed Zoning Code. This Variance is related to those in cases V-08-22 through V-14-22; each vacant lot remaining within a partially completed subdivision that surrounds the Megan Court cul-de-sac requires similar Variance(s) to allow completion of the subdivision development.

*Notice:*

The application was filed in conformance with applicable procedural and public notice requirements. Notice was published in *The Pantagraph* on Friday, September 2, 2022. Courtesy notices were mailed to 13 property owners within 500 feet of the subject property.

### ANALYSIS

*Property Characteristics:*

The property at 12 Megan Court consists of approximately 0.13 acres of land near the intersection of Beich Road and Ashley Drive, in the Bill's Place Subdivision. At 46 feet wide, the property is a sub-standard width, vacant lot, with a 10-foot wide utility easement on the south side which already contains the utilities necessary to serve the subject and surrounding dwellings. Nearby properties have been developed in the proposed “zero-lot line” format. The

streets and infrastructure necessary to support the neighborhood and subject dwelling are already in place.

*Surrounding Zoning and Land Uses:*

	Zoning	Land Uses
North	R-2 (Mixed Residence)	Vacant (Single Family Residence)
South	R-2 (Mixed Residence)	Vacant (Single Family Residence)
East	Unincorporated	Major Transportation Corridor (I-55)
West	R-2 (Mixed Residence)	Single Family Residence

*Description of Current Zoning District:*

The R-2 (Mixed Residence) District is intended to accommodate development characterized by a mixture of housing types at a high single-family and a low multiple-family dwelling unit density. Densities of up to approximately 13 dwelling units per acre are allowed. This district allows for the conversion of dwelling units in older residential areas of mixed dwelling unit types in order to extend the economic life of these structures and allow owners to justify expenditures for repairs and modernization and serves as a zone of transition between lower density residential districts and residential districts that permit greater land use intensity and dwelling unit density.

*Subject Code Requirements:*

§ 44-403A. Site dimensions table. All development in Residential Districts District must comply with the requirements in Tables 403A through 403D and Diagram 403A unless otherwise expressly stated.

District	Lot Characteristics		Site Design			Development Intensity		
	Min. Lot Width (W)	Min. Lot Area (square feet)	Front Yard (F)	Side Yard (S)	Rear Yard (R)	Min. Lot Area per Dwelling Unit (square feet)	Max. Building Height	
			Min.	Min.	Min.		Feet	Stories
R-2								
Detached Residential	50 feet	6,600	25 feet	6 feet	25 feet	6,600	35 feet	2.5
Attached and Multi-Residential	75 feet	7,000	25 feet	6 feet	25 feet	3,300	35 feet	2.5
Other Uses	50 feet	7,000	25 feet	6 feet	25 feet	7,000	15 feet	1

**STANDARDS FOR REVIEW**

As indicated in *Ch. 44, 17-8 Variations*, the Board of Zoning Appeals shall have the power to authorize variations to this Code where there would be practical difficulties or particular hardships in carrying out the strict letter of those sections of this Code stated herein.

1. **That the property has physical characteristics that pose unreasonable challenges which make strict adherence to the Code difficult.**

Having been platted for a form of development which was subsequently made infeasible through the Zoning Code update in 2019, the lot has restrictions on structure location that other lots do not normally possess. Due to the sub-standard lot width and the existing utilities and associated easement, construction of a single-family detached dwelling presents unreasonable challenges with strict adherence to the Code. *Standard is met.*

2. **That the Variance would be the minimum action necessary to afford relief to the applicant.**

Alternate siting of the proposed dwelling would require moving existing utilities, vacating the utility easement (a process to which Public Works has expressed opposition), and re-platting of the remaining properties within the subdivision. *Standard is met.*

3. **That the special conditions and circumstances were not created by any action of the applicant.**

This subdivision, and the subject property, were platted in 2007 and intended for “zero-lot line” development (see former City of Bloomington Zoning Code § 44.12-11C). Prior to the Zoning Code change in 2019, the form of development planned for the Bill’s Place subdivision was permitted, by right, in the R-2 (Mixed Residence) District. *Standard is met.*

4. **That granting the variation request will not give the applicant any special privilege that is denied to others by the Code.**

Applications for similar Variances have been submitted for the other associated properties; to prevent the need for future Variances in other subdivisions, text amendments have been proposed to restore this form of development which was unintentionally removed during the Code update. *Standard is met.*

5. **That the granting of the variation will not be detrimental to the public welfare, alter the essential character of the neighborhood, nor unreasonably impair the use of development of adjoining properties.**

The existing development in the neighborhood is of the same character and siting as that proposed for the remaining vacant properties. *Standard is met.*

#### **ADDITIONAL CONSIDERATIONS**

One of the purposes for applying setbacks to primary structures is to help ensure that encroachment on adjacent properties does not become an issue; this is a potential concern for the properties that are the subject of these related Variance(s). Based on in-person review of

the existing construction present within the development, in comparison to the building plans submitted for the construction of those dwellings, it appears that most—if not all—of the existing zero-lot structures likely have eaves and attached utilities that encroach on the adjacent properties. Staff asserts that approval of a 0-foot side yard does not equate to City-endorsed encroachment onto adjacent properties during or after construction of the proposed dwelling and proposes a Condition to clarify such.

#### STAFF RECOMMENDATION

Staff finds that the application meets all the standards for a Variance application and recommends that the Zoning Board of Appeals take the following actions:

Motion to establish findings of fact that carrying out the strict letter of the Code does create a practical difficulty or particular hardship for the petitioner, and to approve the petition for Variances to § 44-403B, with the Condition that:

No portion of any structure shall encroach onto an adjacent property without an agreement approving of such, including but not limited to: eaves and gutters, chimneys, air conditioning compressors, and other functional or architectural features which may extend beyond the principal building wall.

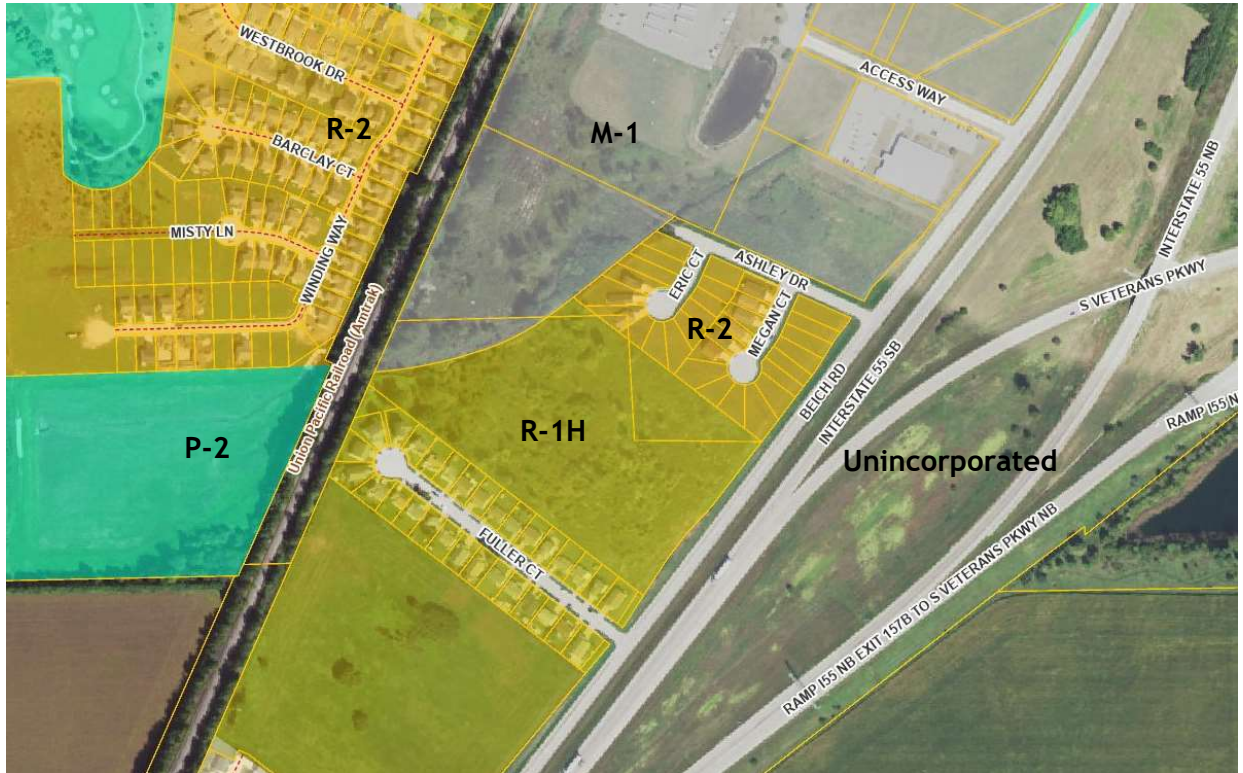
Respectfully submitted,  
Alissa Pemberton  
Assistant City Planner

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#### Attachments:

1. Zoning Map
2. Aerial Image(s)
3. Ground-Level View(s)
4. Petitioner-Submission - Description of Project
5. Site Plan
6. Existing Development Encroachment Example(s)
7. Neighborhood notice map

Attachment 1 - Zoning Map

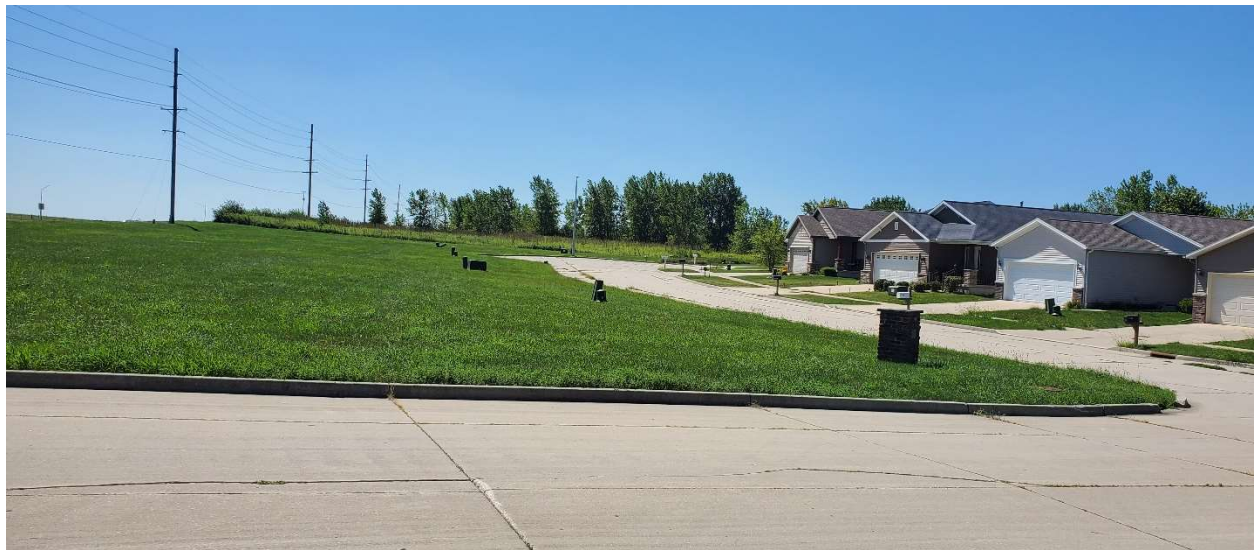


Attachment 1 - Aerial Image





Attachment 3 - Ground-Level View(s)

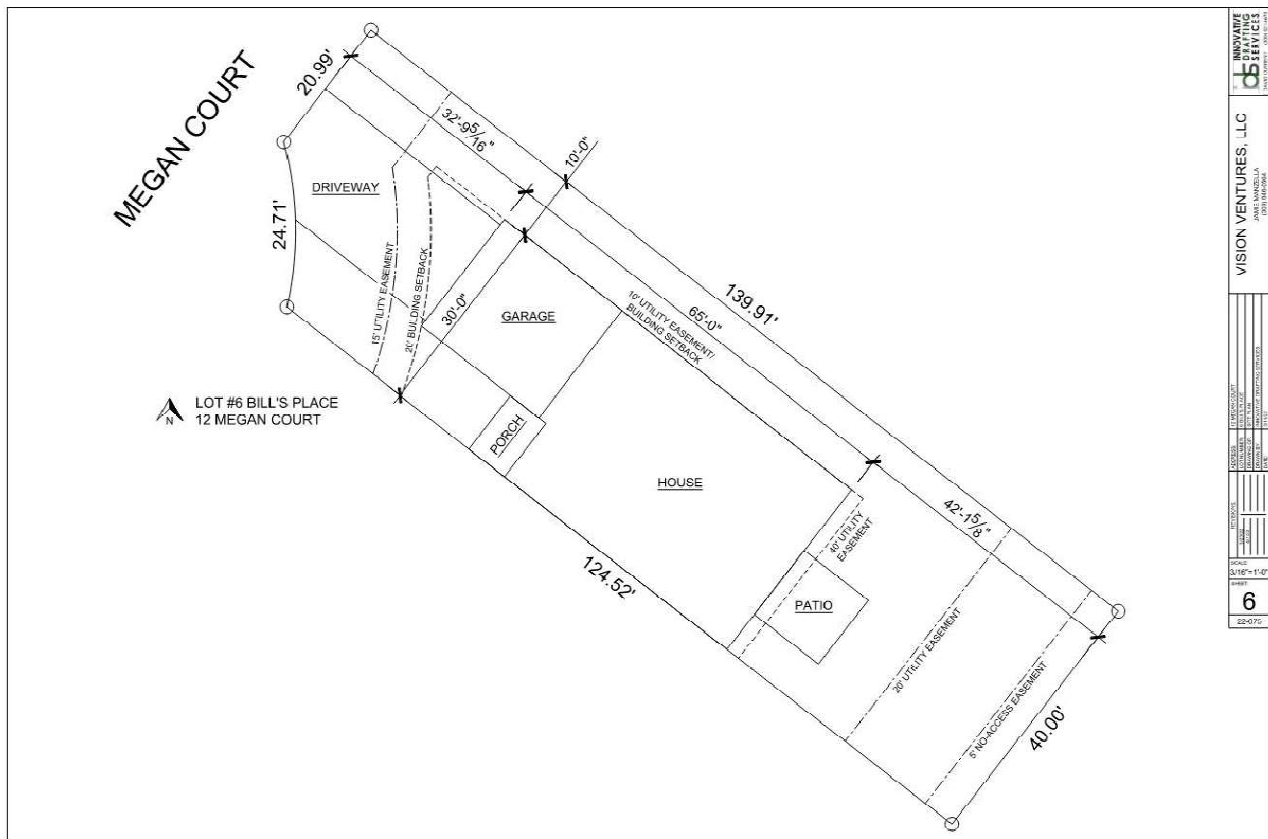


Attachment 4 - Petitioner-Submission - Description of Project

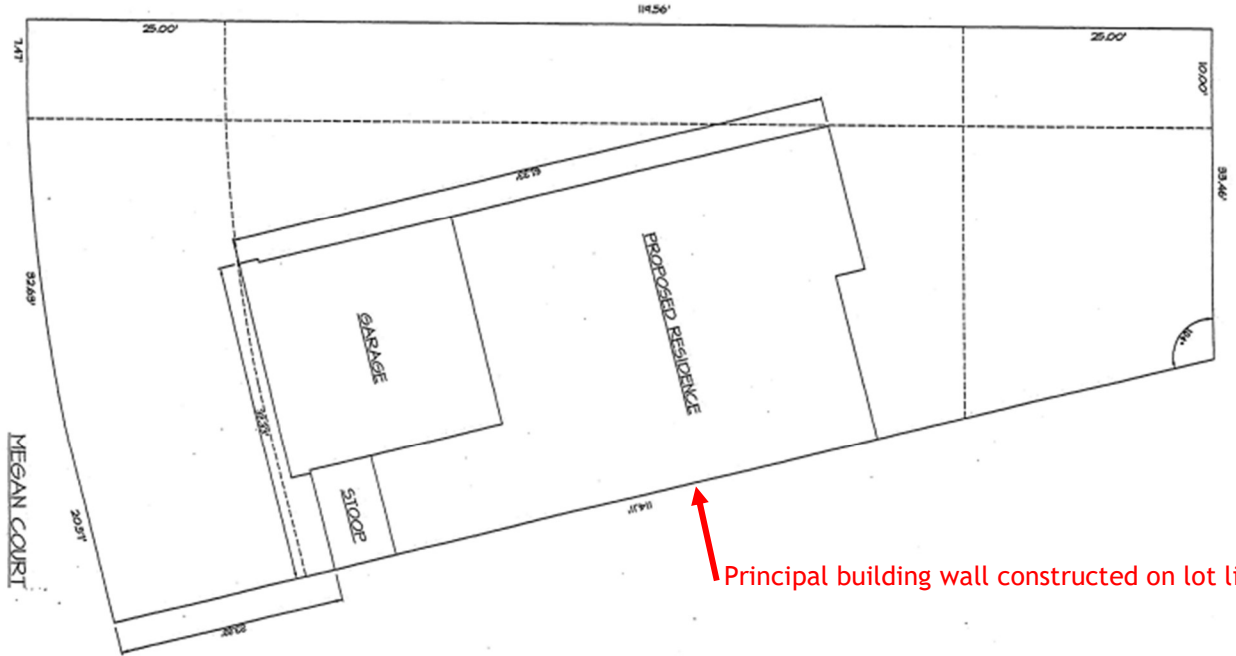
Construction of a new single family residence in a R-2 zoning area. When this area was originally developed the zoning code allowed for detached zero-lot line homes. Since then the zoning code has changed. To keep things conforming in the subdivision variances are required for side yard and front yard setbacks. We are asking for a variance on the front yard setback to allow it to be 20" and the south side yard to be 0".

Have looked at downsizing house but due to small size of lots that is not possible. Considered reworking utility easements but there are already utilities in place.

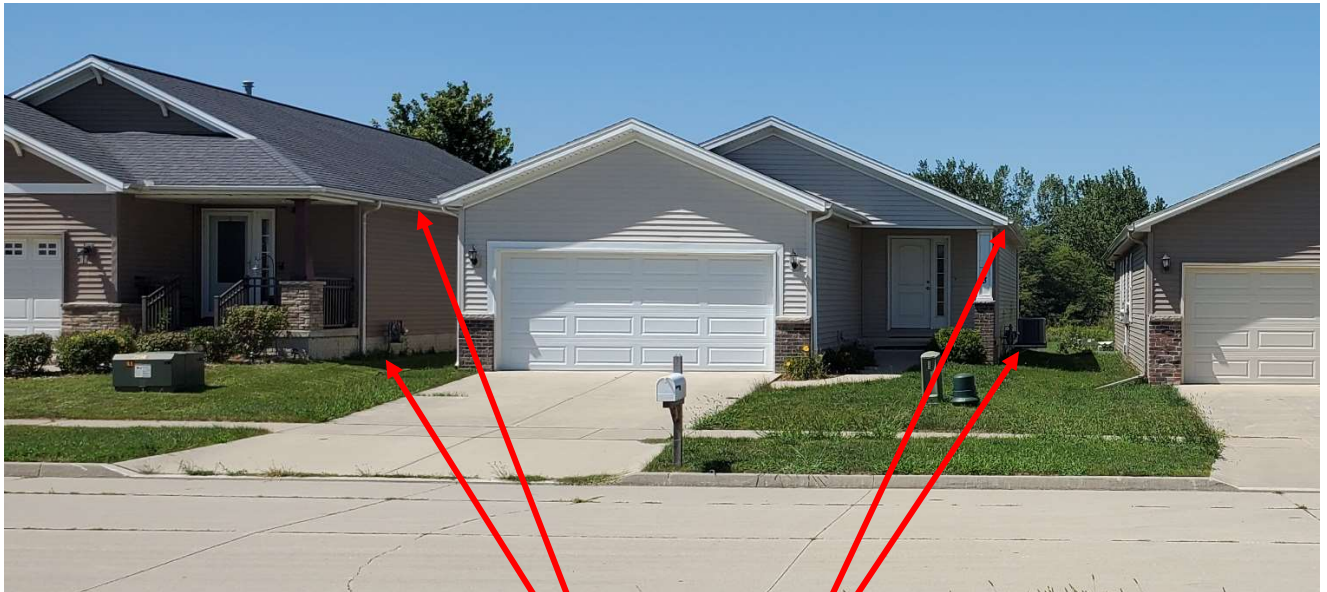
Attachment 5 - Site Plan



Attachment 6 - Existing Development Encroachment Example(s)

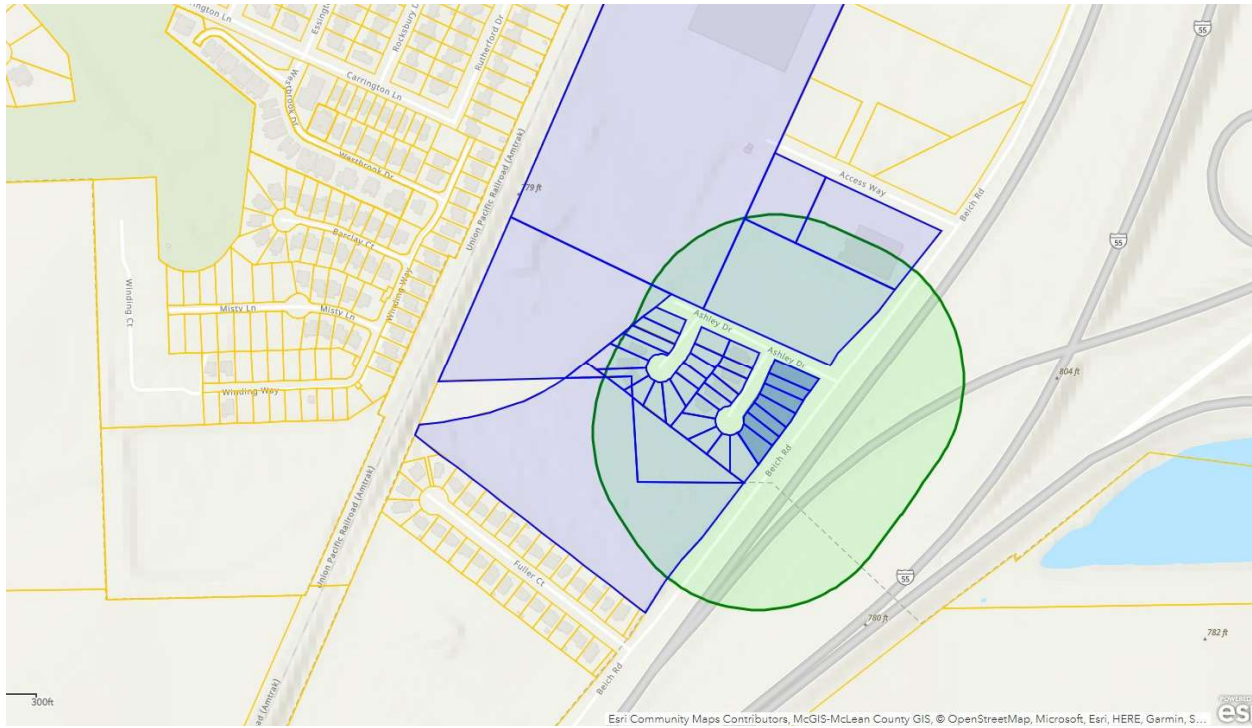


Principal building wall constructed on lot line



Encroachments onto adjacent properties, if building plan is built to-spec

Attachment 7 - Neighborhood notice map





## ZONING BOARD OF APPEALS

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**TO:** ZONING BOARD OF APPEALS  
**FROM:** Economic & Community Development Department  
**DATE:** September 21st, 2022  
**CASE NO:** V-13-22, Variances from § 44-403 of the Zoning Code  
**REQUEST:** Public hearing, review, and action on a petition submitted by submitted by BP Homes, LLC for Variances from § 44-403 of the Zoning Code, to allow reduced Front, Side, and Rear Yards in the R-2 (Mixed Residence) District, for the property located at 10 Megan Court. PIN: 21-19-202-027.

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### BACKGROUND

*Petitioners' request:*

The Petitioners seeks a variance from 1) § 44-403B, requirement of a minimum of 6-foot side yard to allow a 0-foot side yard on one side of the property, and 2) a Variance from § 44-403B requirement of a 25-foot front yard to allow a 20-foot front yard.

The Petitioners desire to construct a single-family detached “zero-lot line” home on a parcel that was originally platted to be such, but no longer permits the development type under the changed Zoning Code. This Variance is related to those in cases V-08-22 through V-14-22; each vacant lot remaining within a partially completed subdivision that surrounds the Megan Court cul-de-sac requires similar Variance(s) to allow completion of the subdivision development.

*Notice:*

The application was filed in conformance with applicable procedural and public notice requirements. Notice was published in *The Pantagraph* on Friday, September 2, 2022. Courtesy notices were mailed to 13 property owners within 500 feet of the subject property.

### ANALYSIS

*Property Characteristics:*

The property at 10 Megan Court consists of approximately 0.13 acres of land near the intersection of Beich Road and Ashley Drive, in the Bill's Place Subdivision. At 40 feet wide, the property is a sub-standard width, vacant lot, with a 10-foot wide utility easement on the south side which already contains the utilities necessary to serve the subject and surrounding dwellings. Nearby properties have been developed in the proposed “zero-lot line” format. The

streets and infrastructure necessary to support the neighborhood and subject dwelling are already in place.

*Surrounding Zoning and Land Uses:*

	Zoning	Land Uses
North	R-2 (Mixed Residence)	Vacant (Single Family Residence)
South	R-2 (Mixed Residence)	Vacant (Single Family Residence)
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Alissa Pemberton  
Assistant City Planner

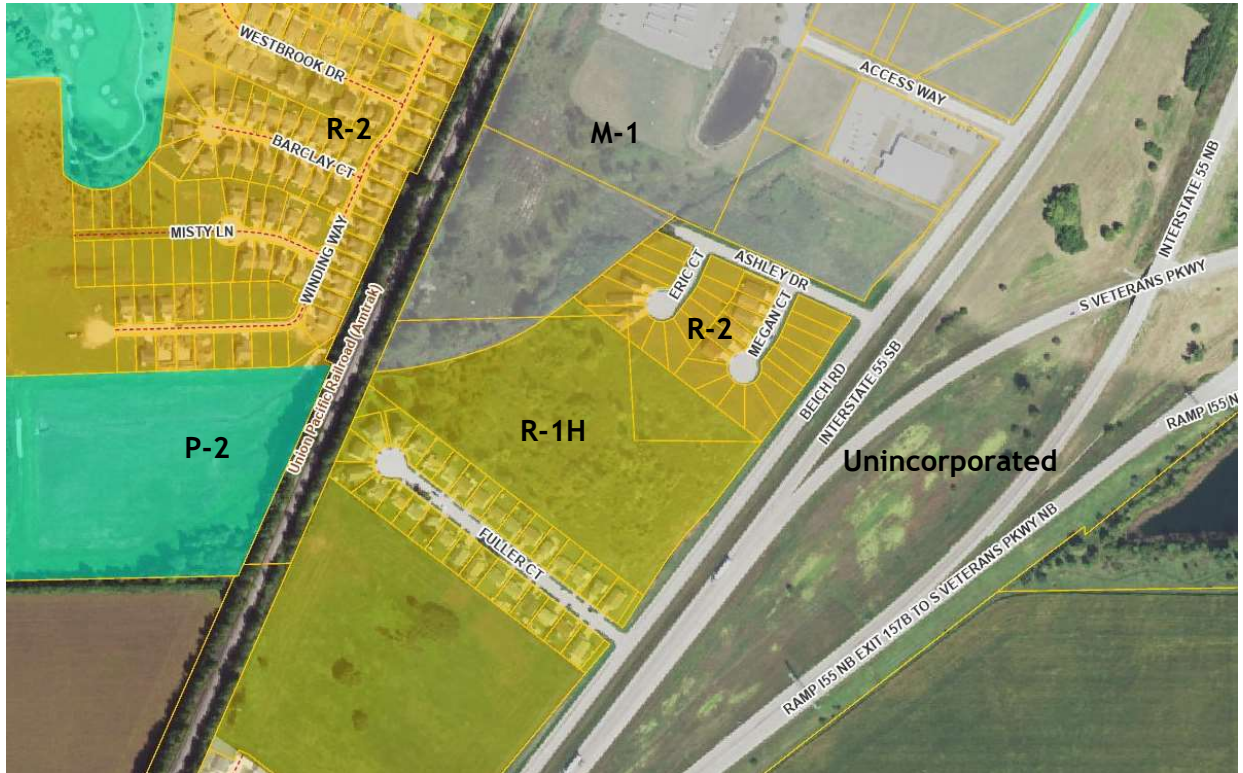
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#### Attachments:

1. Zoning Map
2. Aerial Image(s)
3. Ground-Level View(s)
4. Petitioner-Submission - Description of Project
5. Site Plan
6. Existing Development Encroachment Example(s)
7. Neighborhood notice map



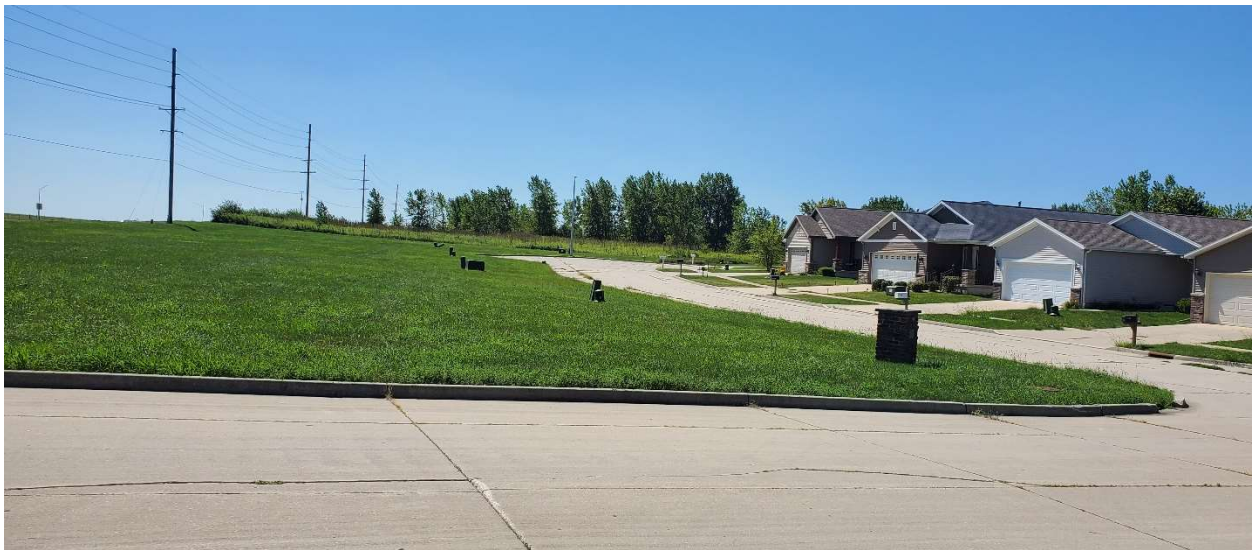
Attachment 1 - Zoning Map



Attachment 1 - Aerial Image



Attachment 3 - Ground-Level View(s)

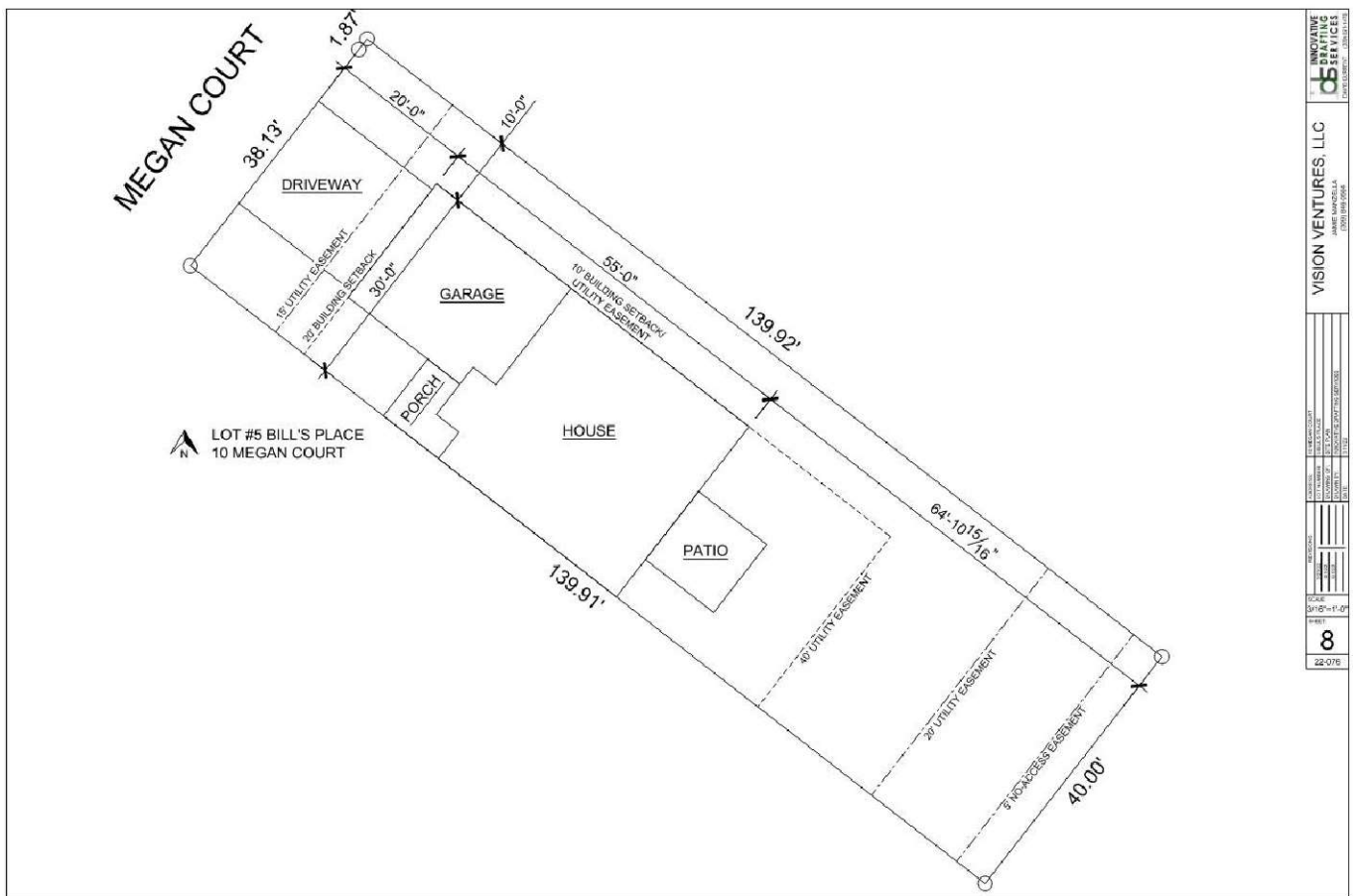


Attachment 4 - Petitioner-Submission - Description of Project

Construction of a new single family residence in a R-2 zoning area. When this area was originally developed the zoning code allowed for detached zero-lot line homes. Since then the zoning code has changed. To keep things conforming in the subdivision variances are required for side yard and front yard setbacks. We are asking for a variance on the front yard setback to allow it to be 20" and the south side yard to be 0".

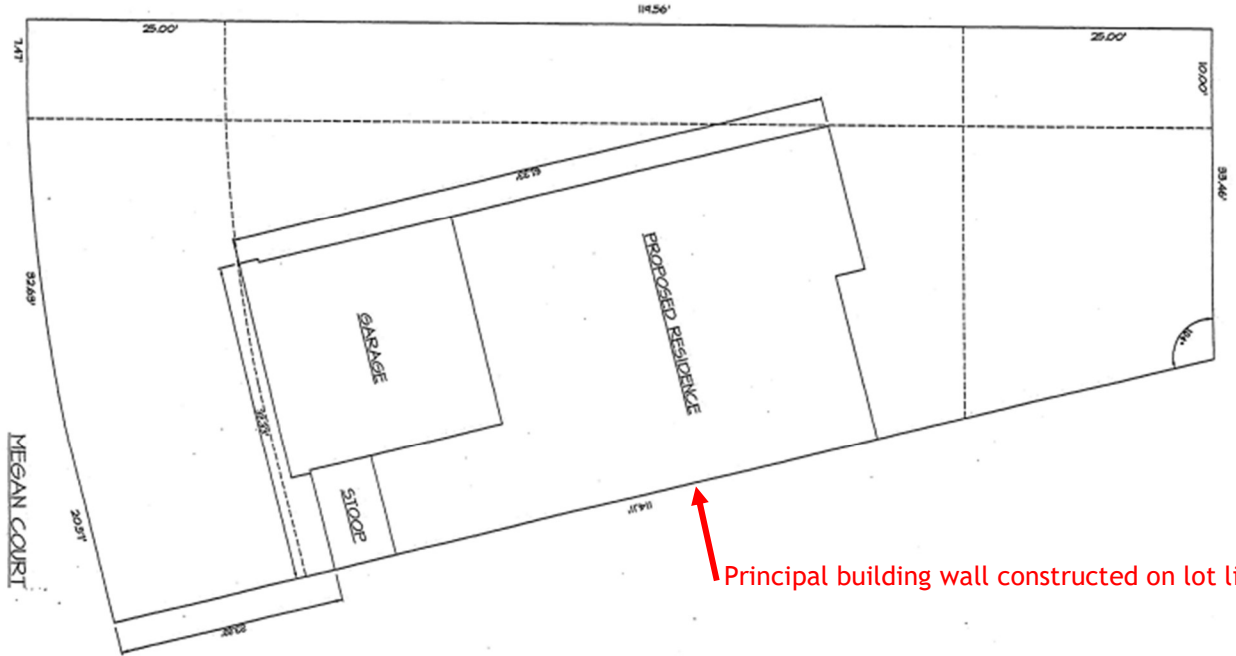
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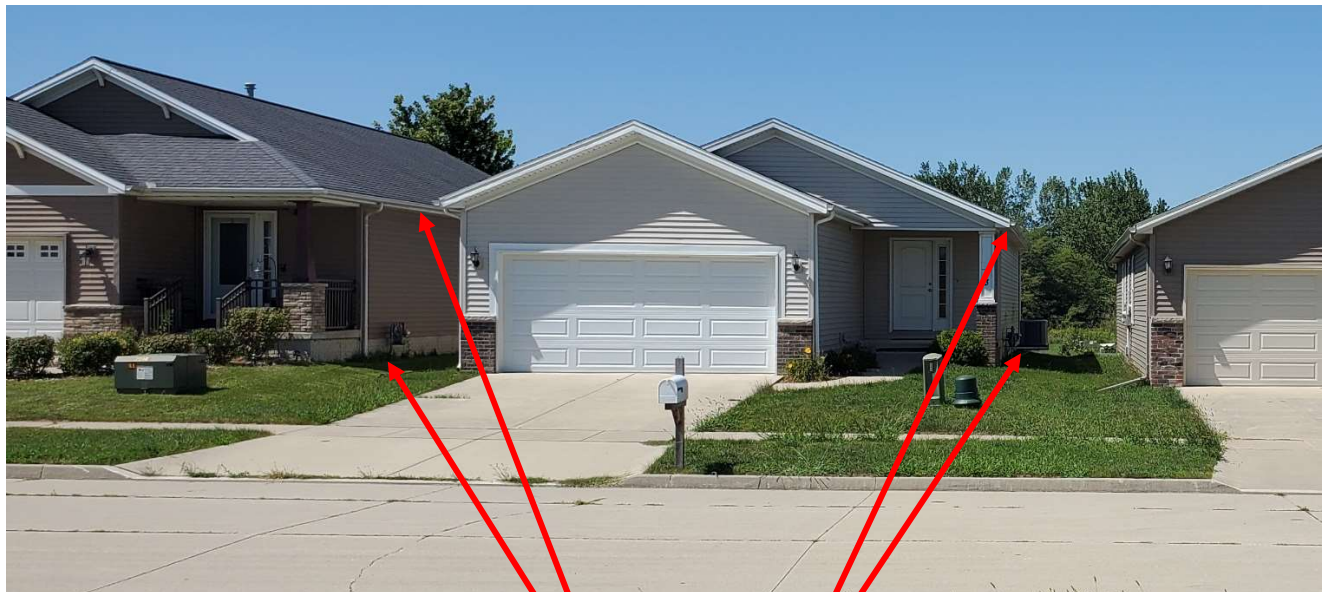


VISION VENTURES, LLC  
 INNOVATIVE DESIGN SERVICES  
 JAMES HANCOCK, AIA  
 1001 BIRCH DRIVE  
 SUITE 100  
 FORT WORTH, TX 76104  
 (817) 336-1111  
 8  
 22-07B

Attachment 6 - Existing Development Encroachment Example(s)

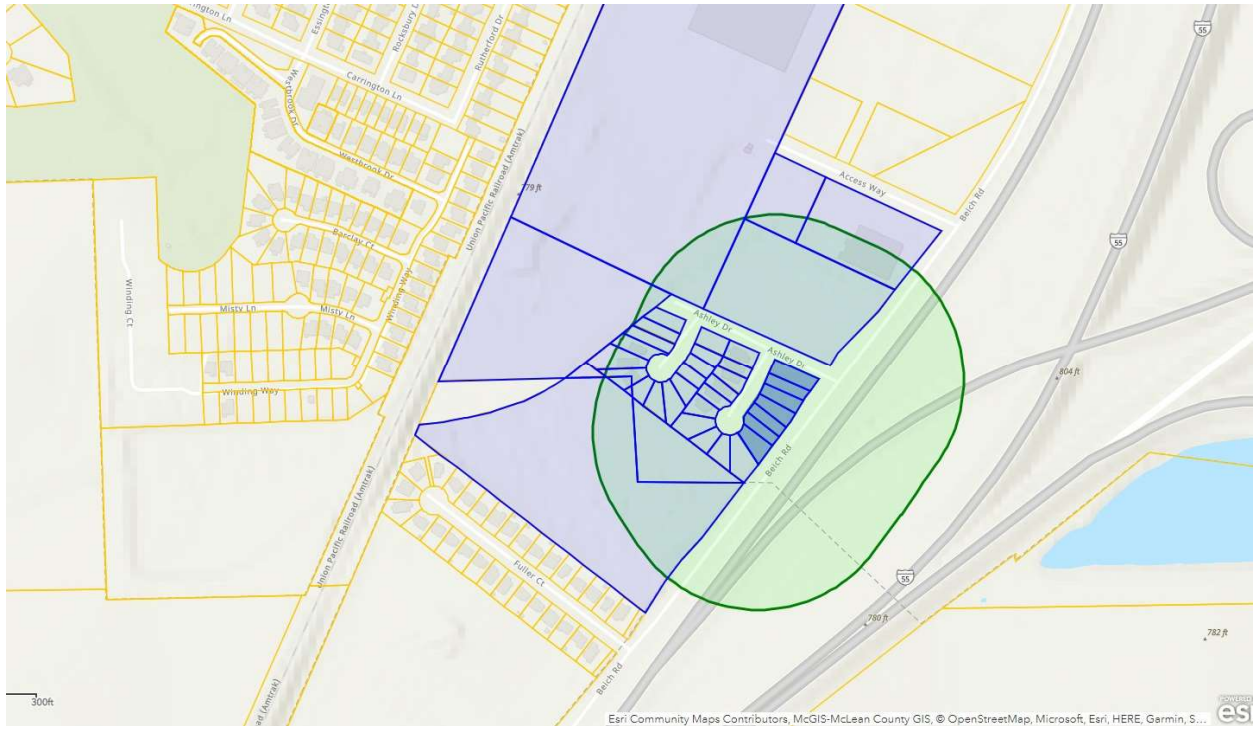


Principal building wall constructed on lot line



Encroachments onto adjacent properties, if building plan is built to-spec

Attachment 7 - Neighborhood notice map





## ZONING BOARD OF APPEALS

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**TO:** ZONING BOARD OF APPEALS  
**FROM:** Economic & Community Development Department  
**DATE:** September 21st, 2022  
**CASE NO:** V-14-22, Variances from § 44-403 of the Zoning Code  
**REQUEST:** Public hearing, review, and action on a petition submitted by submitted by BP Homes, LLC for Variances from § 44-403 of the Zoning Code, to allow reduced Front, Side, and Rear Yards in the R-2 (Mixed Residence) District, for the property located at 14 Megan Court. PIN: 21-19-202-025.

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### BACKGROUND

*Petitioners' request:*

The Petitioners seeks a variance from 1) § 44-403B, requirement of a minimum of 6-foot side yard to allow a 0-foot side yard on one side of the property, and 2) a Variance from § 44-403B requirement of a 25-foot front yard to allow a 20-foot front yard.

The Petitioners desire to construct a single-family detached “zero-lot line” home on a parcel that was originally platted to be such, but no longer permits the development type under the changed Zoning Code. This Variance is related to those in cases V-08-22 through V-14-22; each vacant lot remaining within a partially completed subdivision that surrounds the Megan Court cul-de-sac requires similar Variance(s) to allow completion of the subdivision development.

*Notice:*

The application was filed in conformance with applicable procedural and public notice requirements. Notice was published in *The Pantagraph* on Friday, September 2, 2022. Courtesy notices were mailed to 13 property owners within 500 feet of the subject property.

### ANALYSIS

*Property Characteristics:*

The property at 14 Megan Court consists of approximately 0.17 acres of land near the intersection of Beich Road and Ashley Drive, in the Bill's Place Subdivision. At 39 feet wide, the property is a sub-standard width, vacant lot, with a 10-foot wide utility easement on the south side which already contains the utilities necessary to serve the subject and surrounding dwellings. Nearby properties have been developed in the proposed “zero-lot line” format. The

streets and infrastructure necessary to support the neighborhood and subject dwelling are already in place.

*Surrounding Zoning and Land Uses:*

	Zoning	Land Uses
North	R-2 (Mixed Residence)	Vacant (Single Family Residence)
South	R-2 (Mixed Residence)	Vacant (Single Family Residence)
East	Unincorporated	Major Transportation Corridor (I-55)
West	R-2 (Mixed Residence)	Single Family Residence

*Description of Current Zoning District:*

The R-2 (Mixed Residence) District is intended to accommodate development characterized by a mixture of housing types at a high single-family and a low multiple-family dwelling unit density. Densities of up to approximately 13 dwelling units per acre are allowed. This district allows for the conversion of dwelling units in older residential areas of mixed dwelling unit types in order to extend the economic life of these structures and allow owners to justify expenditures for repairs and modernization and serves as a zone of transition between lower density residential districts and residential districts that permit greater land use intensity and dwelling unit density.

*Subject Code Requirements:*

§ 44-403A. Site dimensions table. All development in Residential Districts District must comply with the requirements in Tables 403A through 403D and Diagram 403A unless otherwise expressly stated.

District	Lot Characteristics		Site Design			Development Intensity		
	Min. Lot Width (W)	Min. Lot Area (square feet)	Front Yard (F)	Side Yard (S)	Rear Yard (R)	Min. Lot Area per Dwelling Unit (square feet)	Max. Building Height	
			Min.	Min.	Min.		Feet	Stories
R-2								
Detached Residential	50 feet	6,600	25 feet	6 feet	25 feet	6,600	35 feet	2.5
Attached and Multi-Residential	75 feet	7,000	25 feet	6 feet	25 feet	3,300	35 feet	2.5
Other Uses	50 feet	7,000	25 feet	6 feet	25 feet	7,000	15 feet	1

**STANDARDS FOR REVIEW**

As indicated in *Ch. 44, 17-8 Variations*, the Board of Zoning Appeals shall have the power to authorize variations to this Code where there would be practical difficulties or particular hardships in carrying out the strict letter of those sections of this Code stated herein.

- 1. That the property has physical characteristics that pose unreasonable challenges which make strict adherence to the Code difficult.**

Having been platted for a form of development which was subsequently made infeasible through the Zoning Code update in 2019, the lot has restrictions on structure location that other lots do not normally possess. Due to the sub-standard lot width and the existing utilities and associated easement, construction of a single-family detached dwelling presents unreasonable challenges with strict adherence to the Code. *Standard is met.*

- 2. That the Variance would be the minimum action necessary to afford relief to the applicant.**

Alternate siting of the proposed dwelling would require moving existing utilities, vacating the utility easement (a process to which Public Works has expressed opposition), and re-platting of the remaining properties within the subdivision. *Standard is met.*

- 3. That the special conditions and circumstances were not created by any action of the applicant.**

This subdivision, and the subject property, were platted in 2007 and intended for “zero-lot line” development (see former City of Bloomington Zoning Code § 44.12-11C). Prior to the Zoning Code change in 2019, the form of development planned for the Bill’s Place subdivision was permitted, by right, in the R-2 (Mixed Residence) District. *Standard is met.*

- 4. That granting the variation request will not give the applicant any special privilege that is denied to others by the Code.**

Applications for similar Variances have been submitted for the other associated properties; to prevent the need for future Variances in other subdivisions, text amendments have been proposed to restore this form of development which was unintentionally removed during the Code update. *Standard is met.*

- 5. That the granting of the variation will not be detrimental to the public welfare, alter the essential character of the neighborhood, nor unreasonably impair the use of development of adjoining properties.**

The existing development in the neighborhood is of the same character and siting as that proposed for the remaining vacant properties. *Standard is met.*

#### **ADDITIONAL CONSIDERATIONS**

One of the purposes for applying setbacks to primary structures is to help ensure that encroachment on adjacent properties does not become an issue; this is a potential concern for the properties that are the subject of these related Variance(s). Based on in-person review of



the existing construction present within the development, in comparison to the building plans submitted for the construction of those dwellings, it appears that most—if not all—of the existing zero-lot structures likely have eaves and attached utilities that encroach on the adjacent properties. Staff asserts that approval of a 0-foot side yard does not equate to City-endorsed encroachment onto adjacent properties during or after construction of the proposed dwelling and proposes a Condition to clarify such.

#### STAFF RECOMMENDATION

Staff finds that the application meets all the standards for a Variance application and recommends that the Zoning Board of Appeals take the following actions:

Motion to establish findings of fact that carrying out the strict letter of the Code does create a practical difficulty or particular hardship for the petitioner, and to approve the petition for Variances to § 44-403B, with the Condition that:

No portion of any structure shall encroach onto an adjacent property without an agreement approving of such, including but not limited to: eaves and gutters, chimneys, air conditioning compressors, and other functional or architectural features which may extend beyond the principal building wall.

Respectfully submitted,  
Alissa Pemberton  
Assistant City Planner

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#### Attachments:

1. Zoning Map
2. Aerial Image(s)
3. Ground-Level View(s)
4. Petitioner-Submission - Description of Project
5. Site Plan
6. Existing Development Encroachment Example(s)
7. Neighborhood notice map

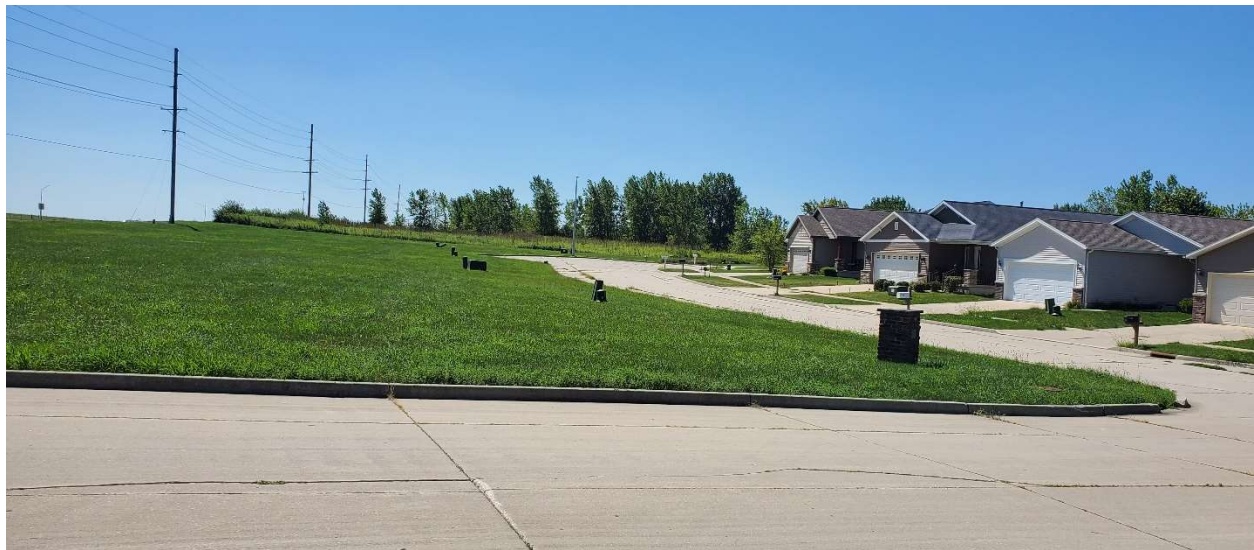
Attachment 1 - Zoning Map



Attachment 1 - Aerial Image



Attachment 3 - Ground-Level View(s)

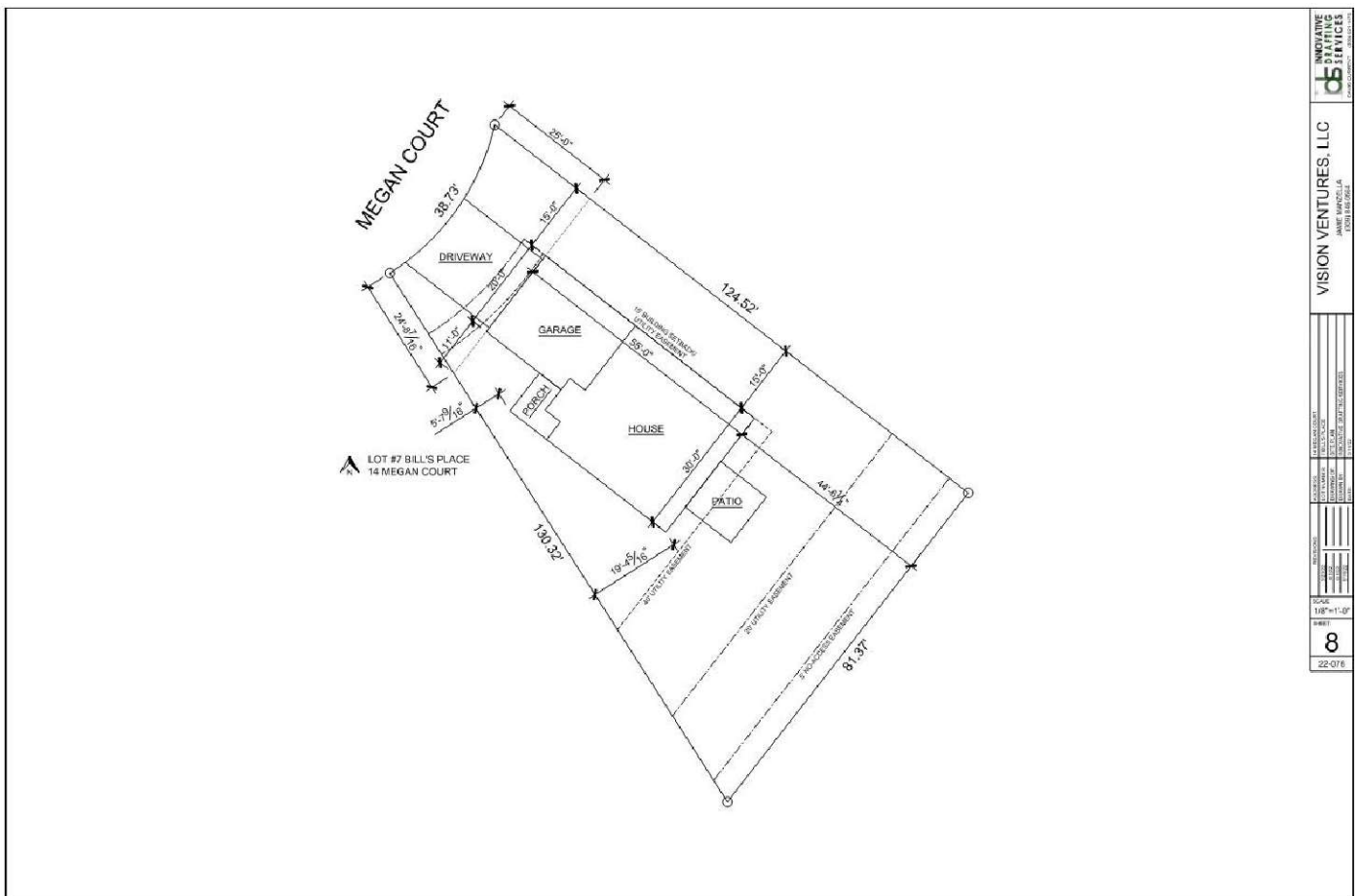


*Attachment 4 - Petitioner-Submission - Description of Project*

Construction of a new single family residence in a R-2 zoning area. When this area was originally developed the zoning code allowed for detached zero-lot line homes. Since then the zoning code has changed. To keep things conforming in the subdivision variances are required for side yard and front yard setbacks. We are asking for a variance on the front yard setback to allow it to be 20" and the south side yard to be 0".

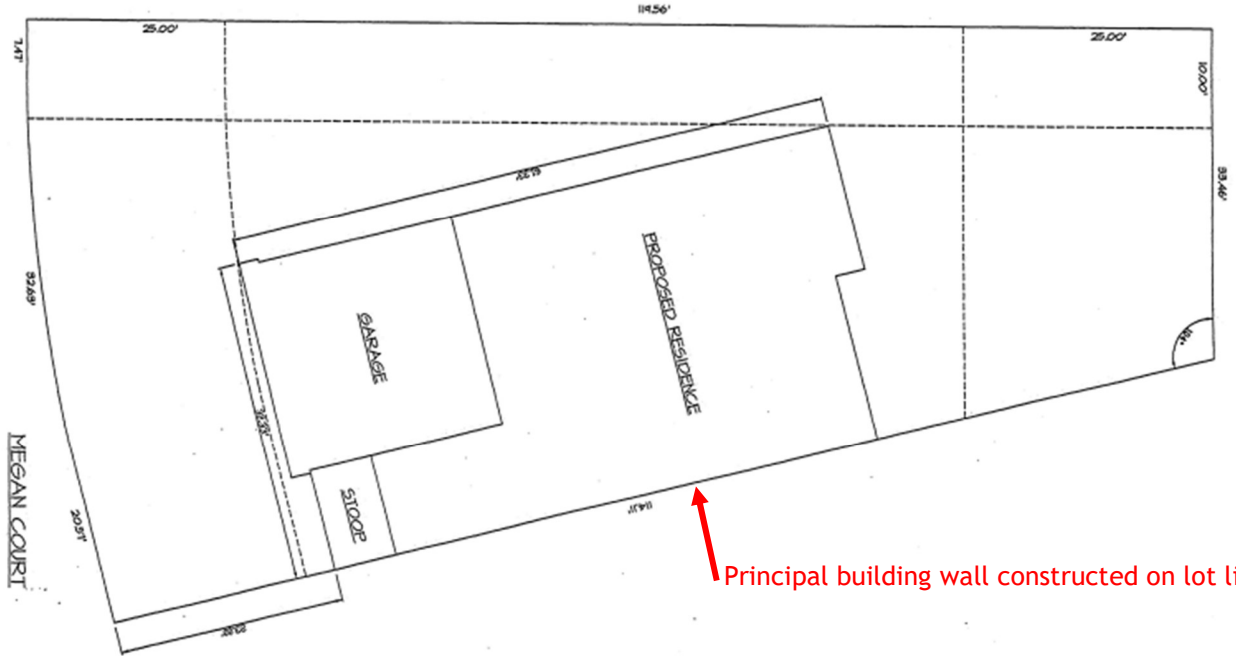
Have looked at downsizing house but due to small size of lots that is not possible. Considered reworking utility easements but there are already utilities in place.

*Attachment 5 - Site Plan*

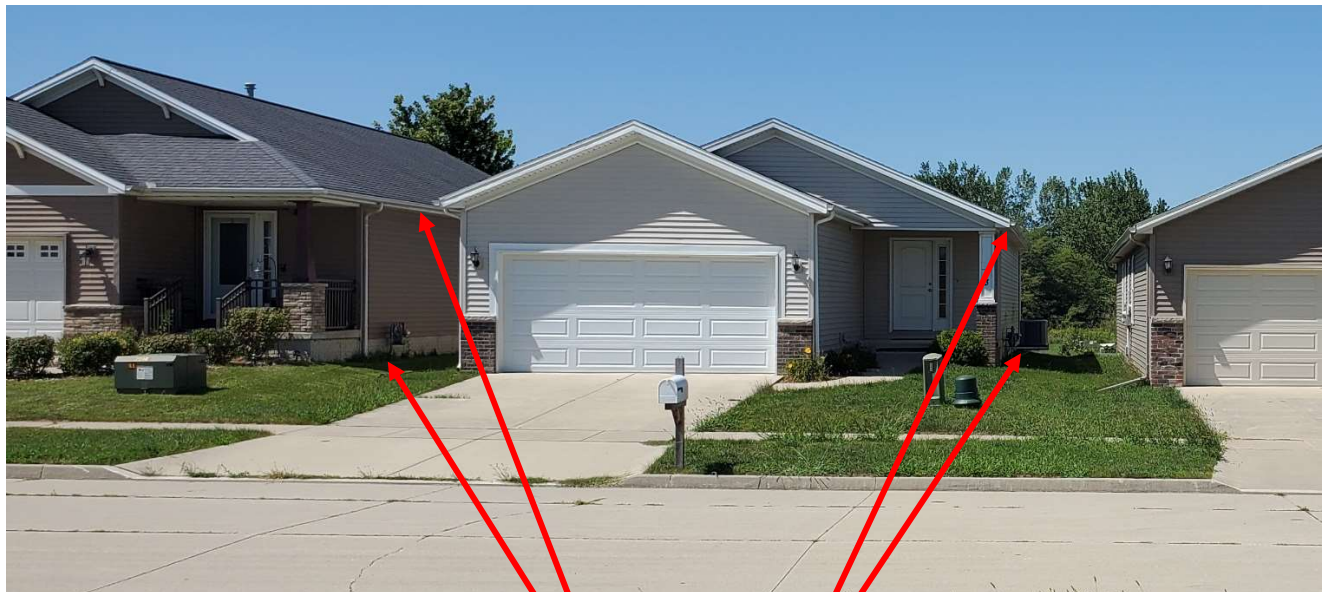


VISION VENTURES, LLC  
 INNOVATIVE DRAFTING & DESIGN SERVICES  
 22-018  
 SCALE: 1/8"=1'-0"  
 SHEET: 8

Attachment 6 - Existing Development Encroachment Example(s)



Principal building wall constructed on lot line



Encroachments onto adjacent properties, if building plan is built to-spec

Attachment 7 - Neighborhood notice map

