



MINUTES

Call to Order

The Planning and Zoning Commission meeting was called to order by Kendall Neill

Planning Commissioners Present

Lisa Richard
Rachel Lyon
Anthony Royse
Andy McLenon
Barb Emert
Kendall Neill
Mary Jo Meier
Brent Littleton

Planning Commissioners Absent

Michelle Anderson

Staff Present

Kelly Passauer, City Manager
David Cowan, Assistant City Manager
Jeff Chubb, City Attorney
Lydia Collins, Administrative Aide

Visitors Present

Harold Shelby Eytcheson
Doug Buckles

Minutes

- a. Consider approving minutes of the August 3, 2021, meeting.

Motion

Kendall Neill moved to approve the minutes of the August 3, 2021, meeting. Lisa Richard seconded the motion. Motion carries.

Planning Commission

- b. Public hearing to receive comments on a request for a conditional use permit for "Storage and warehousing of nonhazardous products" in a C-2 commercial services district.

Details:

Site Address:	323 East Main Street AKA 105 South 4 th Street
Legal Description:	The South 40 feet of Lots 1, 2, 3, 4 and 5, Block 52, Orig Plat, City of Independence, Montgomery County, Independence.
Property Owner:	Harold Shelby Eytcheson – 318 East Maple Street
Existing Use:	Lot behind Indy Nutrition, also 323 East Main Street, with one vacant building on the lot
Existing Zoning:	C-2, commercial services district
Future Land Use:	Storage

Background/History:

323 East Main Street is owned by The Shanks Rev Trust U/A 11/03/2015 and they sold Mr. Eytcheson the south 40 feet of Lots 1-5. Indy Nutrition currently has a business in the building on the north side of Lots 1-5. Mr. Eytcheson wishes to place a steel building on the lot to store his trailers, vehicles, tools and equipment. The lot is directly north of his property at 318 East Maple Street. He intends to tear down the existing building before putting in the new steel building.

Policy Explanation:

Conditional Use Permit

901.1. Purpose: Conditional uses are those types of uses which are considered by the city to be essentially desirable, necessary, or convenient to the community but which by their nature or operation have (1) a tendency to generate excessive traffic, (2) a potential for attracting a large number of persons to the area of the use, thus creating noise or other pollutants, (3) a detrimental effect upon the value of or potential development of other properties in the neighborhood, or (4) an extraordinary potential for accidents or danger to the public health or safety.

Such conditional uses cannot be allowed to locate as a "right" on any parcel of land within certain districts without consideration of existing conditions at the proposed location and of properties neighboring upon the specific site considered, nor without adequate and sufficient safeguards, when necessary, to lessen the impact of adverse factors.

902.2. Action by the planning commission: Upon receiving the application for conditional use permit from the zoning administrator, the planning commission shall publish notice and hold public hearing on the proposal. Procedures for public hearings shall be handled the same as a

zoning amendment as described in this ordinance. The decision of the planning commission to recommend approval or denial of the proposed conditional use shall be based on the following criteria:

- a. The proposed conditional use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitation.
- b. The proposed conditional use at the specified location will contribute to and promote the welfare or convenience of the public.
- c. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.
- d. The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate use of the neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:
 1. The location, nature and height of buildings, structures, walls and fences on the site, and
 2. The nature and extent of landscaping and screening on the site.
- e. Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations (article VII).
- f. Adequate utility, drainage, and other such necessary facilities have been or will be provided.
- g. Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.

902.3. Additional requirements: In consideration of requests for any conditional use permits the planning commission shall recommend to the governing body such conditions of use as it deems necessary to protect the best interests of the city, and the surrounding property and to achieve the objectives of this ordinance. These additional requirements shall include, but not be limited to, those special provisions applying the miscellaneous conditional uses, specified in article X.

A violation of a requirement, condition, or safeguard shall be considered a violation of this ordinance, and grounds for the zoning administrator to terminate and cancel such conditional use permit.

902.5. Action by the governing body: Upon hearing and consideration of the proposed conditional use, the planning commission shall at the earliest date possible, submit its recommendation and endorsed copy of the plans to the governing body for final action. Within 30 days of receipt of the report from the planning commission, the governing body shall adopt, modify or deny the planning commission recommendation. The action of the governing body shall be final.



Historical References:

1998 – Snyder Motors 2006 – Garden Station 2008 – Eileen Stinson
2008 – Twigs Garden Center 2009 – L & L Furniture & Sales
2009 – Twysted Sykles 2019 – Shanks Oil Co. 2019 – Indy Nutrition

Staff Recommendation:

This conditional use will not generate excessive traffic, cause any excess noise, will not devalue any surrounding property or cause any potential for accidents or danger to the public health or safety. If the variance is approved, it will comply with all provisions of these regulations. It will cause no inconvenience to the public. It will not dominate the immediate use of the neighboring property. Off-street parking and loading areas will be provided as well as adequate utility, and drainage. Adequate entrance and exit drives are provided and prevent traffic hazards and minimize traffic congestion in public streets

City staff recommends granting the conditional use permit, meeting Section 902.2 of the zoning code and with the following conditions:

1. The conditional use permit is not transferable to another location.
2. The applicant must follow all City Codes.

If any of the above conditions are not met, the conditional use permit will no longer be valid. The basis of the staff's recommendation is that granting the conditional use permit is consistent within the criteria of "a through g" of Section 902. 2 of the zoning code.

Kendall Neill opened the public hearing.

Harold Shelby Eytcheson said he would like to put a building on the lot. The old car wash is not tall enough for all his equipment. The rear door and side walls are 16 feet.

Lisa Richard asked how tall the building would be.

Harold Shelby Eytcheson said the rear door would be fourteen foot tall and the side walls will be 16 foot tall.

Lisa Richard asked what the color would be.

Harold Shelby Eytcheson said he had not picked out a color yet as he was waiting to get approval.

Lisa Richard asked if it would be steel metal grey.

Harold Shelby Eytcheson said it would probably be a brown or a grey or a blue. It will be painted it will not be bare metal.

Lisa Richard asked how long he had owned the property across the alley.

Harold Eytcheson said he believed it went through April of this year.

Tony Royse said he did not understand why we would need a conditional use permit. All it says here is that the conditional use permit is not transferable and the applicant must follow all City Codes which we have to anyway.

Lydia Collins said those are extra conditions.

Tony Royse said when the Boy's Home was approved they had a whole list of conditions that they had to follow and almost all of them in the past have had a list of conditions and I do not see any conditions here based on what this gentleman is wanting to do.

Lydia Collins said that she used the same conditions that were used on the last nonhazardous storage conditional use.

Kelly Passauer said it requires a conditional use because the permitted and conditional use table requires a conditional use for this particular use. It does not require a certain number of additional conditions. The purpose of the public hearing is to notify all the property owners within two hundred feet so that they have the opportunity to attend the hearing and voice any concerns that they have. That is the purpose as I understand it, not to add multiple additional conditions. Jeff Chubb is here, and he can correct me if I am wrong.

Jeff Chubb said Kelly was not wrong.

Tony Royse said that my next question or concern is that City Code requires an application for conditional use that contains a site plan drawn to scale showing existing proposed building location, parking areas, drives, location, outdoor lighting. It also requires an existing and proposed topography to show the drainage drawn on appropriate contour as specified which is basically a drainage plan. Location of and proposed connections to existing supply and sanitary sewer systems. None of that is in our packet.

Lydia Collins said it is because there is an existing building, and the existing building had all the drainage issue and this building doesn't have any drainage issues it is just a storage building.

Tony Royse said he is just reading what the code says we should be looking at. How do we know that?

Lydia Collins said it is storage of nonhazardous waste. There is no water or sewer.

Tony Royse said there is no exceptions on here. These are the three pages we are supposed to have.

Lisa Richard said so there is a drawing on page 9 of 10 in our packet.

Tony Royse said it does not show all the stuff that is required.

Lisa Richard said you are right about that. It shows quite a bit. It shows where the building is.

Tony Royse said if you go on further there is use regulations that you have to be met in the City too. Lot coverage, height of the building, minimum front yard, property line.

Kendall Neill said those are covered in the next item for the variance.

Tony Royse said since it is tying together, we would need to know that.

Kendall Neill said I do not know if it is our place to be looking into all that, basically what we are saying today is that yes, you can do this. All the other plans have to go through the City staff first with building permits.

Tony Royse said this is what the application permit says to have it does not say anything about going here and going there. The application comes to the City and to us to review and make a recommendation to City Commission for this conditional use permit. If we do not have all the stuff to look at to make this recommendation determination, I am not sure it would be right to do that.

Kelly Passauer said I know we have done other conditional use permits and if they are in an existing building the site plans are not required so not all conditional uses are exactly the same.

Jeff Chubb said I think it says please provide the following information. If you are in substantial compliance and you already have an existing building, then the presumption is that when the building is constructed these things will have been taken care of already. I do not think it is mandatory.

Tony Royse said the application and five copies of the development shall be filed to the Zoning Administrator twenty days prior to the Zoning Commission at which the proposed conditional use will be considered. The application shall include but not be limited to the below information on the list we are supposed to have. There is even another section where we can ask for additional information.

Andy McLenon said that we have had this come across several times. We have had individuals and businesses applying for conditional use permits and they never have provided those drawings that you are talking about. I get why they have not done it they do not want to spend the capital. I think what the problem is we have to review that piece of code that is in the City code because there are checks and balances down the road. I do not necessarily think we need to know that information upfront because we are not necessarily experts on that type of stuff. I understand the code is the code and we can figure out what we want to do on this, but I think long-term we need to revise that section because it does not need to be in there at this point in time because it is not how we do business.

Tony Royse asked if it is in the code and the next situation comes are we going to ignore that too?

Andy McLenon said I did not say to ignore it I said we need to change it.

Tony Royse said you said earlier that we are not all experts, I know this, but all we have to go by is what is in black and white.

Andy McLenon said we need to change the code.

Tony Royse said this is what the code is now.

Andy McLenon said I know that I am saying that the Planning Commission needs to change the code.

Lisa Richard said I think Tony is absolutely right. The requirement to have a site plan has not really been observed consistently over and over. The last one recently where their parking area was not designated, it was not clear all the things that needed listed on the plan. Sometimes you are going to get really complex conditional use applications that have drainage issues, and they have a need to specify where your parking is and your egress and ingress. This may not be one of those, but it certainly is something that we need to know about when we do these permits and it can be observed in every case at least to the point of, for this one say, that here is a picture that depicts the building, the buildings exact dimensions and its proximity to the boundaries of the lot. But staff did not feel that drainage was an issue in this instance and so they did not require, if it was just acknowledged that this is what we are using as a site plan, it is functionally equivalent for this application. So that is how I feel about this one. The map that is shown is a lot more than we got on the last one and I do agree with you, you are absolutely right the p's and q's are not there.

Tony Royse said in the packet it shows that building is going to butt up to that nutrition place.

Kendall Neill said let us move on with this one. I understand what everyone is saying but I think we are just getting on the same path again. Me personally, I do not feel comfortable telling somebody how they have to design everything because that is not my job. Now the way I believe it is, we say yes, we are going to allow you to go forth with this project, because if we require them to get CAD drawings and a PE stamp on it, well there is five thousand dollars right there.

Tony Royse said it does not say that here.

Kendall Neill said he is not going to draw it up himself, I am assuming, and have a contour map. Like Andy McLenon was saying, I think we need to do a deeper look at what this is saying, what our body is to do. In this particular instance I think it is a very simple, straightforward project that, I am open to having these discussions at a special meeting.

Tony Royse said what if the sewer line running to the nutrition place runs straight back to the alley and he builds that building over the sewer line. We do not know where the existing sewer line is related to that building and where it is going to go, that would be a problem. To say that we are going to let it go because we do not know we are required to get the information to help us know to get the information to ask questions and look at stuff we do not have that.

David Cowan said that is all handled through the building department. Before he can get a building permit we go through, number one we check the zoning to make sure you guys have approved it. Two, he has to comply with a ten-year flood event. He has to have a stamped set of plans. Utilities, there is a check-off whether he is a service extension or if there will be a system development charge, fire, all of those things go through and if there is a utility line that runs through there that is identified. At that point, he is made aware of the costs to relocate and those are all assessed prior to the building permit being issued if that helps clarify how some of this process works.

Tony Royse said another question, if it is all required anyway why the Planning Commission should have it as required by City code. They are going to have to spend the money somewhere along the line.

David Cowan said if you stop him here then he does not have to. If he does not pass this group Tony, then that is money that he has spent that he did not need to.

Kendall Neill said thank you and asked if the petitioner had anything else to present.

Harold Shelby Eytcheson said no.

Lisa Richard said there is a good point that the two buildings are going to be close, the picture does depict them practically touching each other.

Kendall Neill said that the owner of Indy Nutrition sold that to him, am I correct in that?

Harold Shelby Eytcheson said that is correct, yes, Jerry Shanks.

Kendall Neill asked Mr. Eytcheson if they were aware of what he was doing and if they were all in agreement.

Harold Shelby Eytcheson said yes.

Lisa Richard asked how far away from this building will the new building be.

Harold Shelby Eytcheson said there is currently a chain link fence, and it will be about the same place right there where the fence is.

Lisa Richard asked how far away that was from the building.

Harold Shelby Eytcheson said he would have to go measure it.

Lisa Richard asked Harold if he could estimate it, five feet?

Harold Shelby Eytcheson said more than that. I would guess ten feet.

Kendall Neill said that would be more in the variance, the length and width.

Lisa Richard said they are kind of more together. That does seem odd, you have two different, they are not, we refer to it as a lot but is not a separate lot is it?

Harold Shelby Eytcheson said originally, they were two separate businesses and when Jerry owned them, they were merged together.

Lisa Richard asked if it is a separate lot now.

Harold Shelby Eytcheson said it is, the address, I went up to the GIS Department at the County and they told me that my address is 105 South 4th, that lot is what it originally was.

Lisa Richard said so they are going to tax you as a separate lot.

Harold Shelby Eytcheson said yes, they are behind right now but they said they would do that.

Lisa Richard said so they will be doing that.

Lydia Collins said if you look the packet shows his ownership.

Lisa Richard said it shows it as one hundred and fifteen feet deep.

Harold Shelby Eytcheson said I could be wrong on that, I was told that it was separate at one time.

Lisa Richard asked if he had a deed from when he was granted the legal description of the property.

Harold Shelby Eytcheson said that yes, it is the south 40.

Lisa Richard asked if he was leasing it from Mr. Shanks.

Harold Shelby Eytcheson said no he purchased.

Lydia Collins said this shows ownership, right here. This is county ownership; it shows he owns it and it is the south forty foot.

Lisa Richard said yeah, yeah, I saw that but look at the bottom, the depth of the property. Lisa Richard said I see a potential confusion here, in the future.

Lydia Collins said the width is forty and the depth is one hundred fifteen.

Lisa Richard said yes, exactly.

Lydia Collins said and that is what he has on his picture.

Lisa Richard asked is yours one hundred fifteen deep?

Harold Shelby Eytcheson said yes.

Lisa Richard asked where he was going to put his building.

Harold Shelby Eytcheson said it will not fill the one hundred fifteen feet.

Lisa Richard said oh, okay.

Harold Shelby Eytcheson said he is proposing a building that is seventy-five by thirty feet.

Lisa Richard asked what the dimensions of the lot was.

Harold Shelby Eytcheson said the lot is one hundred fifteen by forty.

Lisa Richard said okay, so forty and one hundred fifteen along the alley.

Harold Shelby Eytcheson said yes that is correct.

Lisa Richard said okay, but this County, well that is interesting, so now we are viewing the lot the other way and its depth is from the residential.

Harold Shelby Eytcheson said that is correct.

Lisa Richard said well if the county has made this a lot and I think that makes it a lot clearer I would suggest as we go forward that we use the legal description instead of saying this property or anything that may later leave a confusion that we use the legal description that is stated in the packet here, insert that into our motions and just make it really clear what we are doing when we go on here, yep. Okay, thanks.

Kendal Neill said we have already heard the staff report so is there anyone in the audience that would like to comment on this case.

Doug Buckles said Shelby and my daughter are living in the house across the alley and I put in a letter that it is my intention that the house is going to become theirs at some point in the not too distant future and I fully support what he is wanting to do to wipe out an ugly blight across the alley, that old car wash, and build a new building there that looks nice.

Lisa Richard said so you actually own the house across the way.

Doug Buckles said to the south, yes.

Lisa Richard said so he is going to buy it, but he has already bought this other lot.

Doug Buckles said yes, right.

Lisa Richard said okay, we will talk about that when we get to the variance, I guess.

Motion

Mary Jo Meier moved to recommend approving the conditional use permit for "Storage and warehousing of nonhazardous products" in a C-2 commercial services district at 323 East Main Street.



Kendall Neill said let us say, what did we say 105

Kelly Passauer asked what is the address the county gave you.

Kendall Neill said 105 South 4th.

Lydia Collins said the county still has the address as 323 East Main and that is why I put it on there, it is the legal address.

Kelly Passauer said I would put also known as and then put in the other address.

Mary Jo Meier continued with the motion and said ***I amend that to say 323 East Main Street also known as 105 South 4th Street***

Lisa Richard said you need to say it is the south however many feet. Legal description South forty feet of lots number 1, 2, 3, 4, 5 of block 52. That is the legal description of the property we are dealing with whatever the address will be. I feel strongly that should go into any action that we take.

Kendall Neill asked Jeff Chubb what he had to say and asked if he had any recommendation.

Jeff Chubb said when you do these things, I do not think anything ends up being recorded at the Register of Deeds but it is always wise to use the legal description. In the application, it is required to put the legal description in but for discussion purposes you just use the street address. It is easier to say 105 South 4th than what she just said but they are one and the same.

Kendall Neil said okay, thanks.

Mary Jo Meier said I need to amend that one more time so, ***Mary Jo Meier moved to recommend approving the conditional use permit for "Storage and warehousing of nonhazardous products" in a C-2 commercial services district at 323 East Main Street, also known as 105 South 4th Street and include the legal description of the South forty feet of Lots 1, 2, 3, 4 & 5 of Block 52 Original Plat of the City of Independence.*** Barb Emert seconded the motion as amended. Motion carries 7-1, with Tony Royse voting nay.

Attachments:

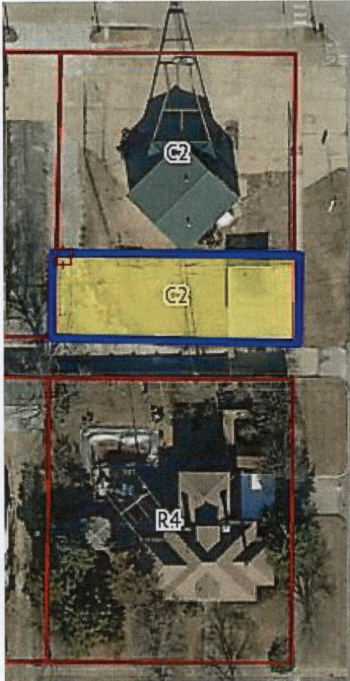
Property Location

Application

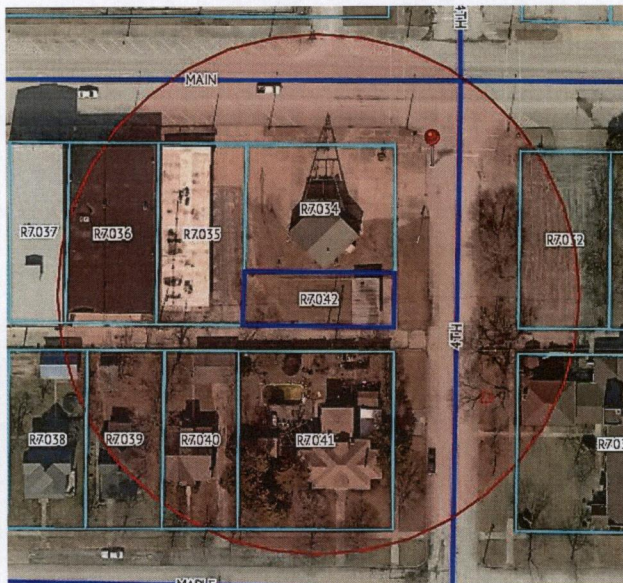
Surrounding Property Owners' Responses – The City has received no responses.

Hearing Notice

Property Location:



200 Foot Notification Area:



Board of Zoning Appeals (Does not include outside City appointments)

- c. Public hearing to receive comments on a variance request to change the setback allowed in a C-2, commercial services district at 323 East Main Street.

Details:

Site Address:	323 East Main Street
Legal Description:	The South 40 feet of Lots 1, 2, 3, 4 and 5, Block 52, Orig Plat, City of Independence, Montgomery County, Independence.
Property Owner:	Harold Shelby Eytcheson
Existing Use:	Lot behind Indy Nutrition, also 323 East Main Street, with one vacant building on the lot
Existing Zoning:	C-2, commercial services district
Future Land Use:	Storage

Background/History:

Mr. Eytcheson wishes to place a steel building on this lot to store his trailers, vehicles, tools and equipment with the following setback:

Side Yard (alley) – South side of property to 5 feet

Policy Explanation:

Variance.

Where the planning commission finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations, the planning commission may recommend a particular variance or exception to the governing body by letter; that said governing body may authorize a particular variance or exception to these subdivision regulations so that substantial justice may be done and the public interest secured, provided that such variation or exception shall not have the effect of nullifying the intent and purpose of these regulations; and further provided, the governing body shall not approve variations unless it shall make findings based upon the evidence presented to it in each specific case that:

- a. The granting of the variation will not be detrimental to the public safety, health or welfare or injurious to other property or improvements in the neighborhood in which the property is located.
- b. The conditions upon which the request for a variation is based are unique to the property for which the variation is sought and are not applicable generally to other property.
- c. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations are carried out.

The variation will not in any manner vary the provisions of the zoning ordinance or comprehensive development plan of the city.

510.0. - C-2, commercial services district.

510.4. Intensity of use regulations:

- a. *Maximum lot coverage:* 50 percent.

510.5. Height regulations:

- a. *Maximum structure height:* 35 feet or 2½ stories (whichever is smaller).

510.6. Yard regulations:

- a. *Minimum front yard:* 35 feet measured from property line.

- b. *Minimum side yard:* None.

Exception: Ten feet where abutting a side street; 15 feet where abutting a C-1 or O&P zone; 25 feet where abutting a residential zone.

- c. *Minimum rear yard:* Ten feet.

Exception: 25 feet where abutting a residential zone.

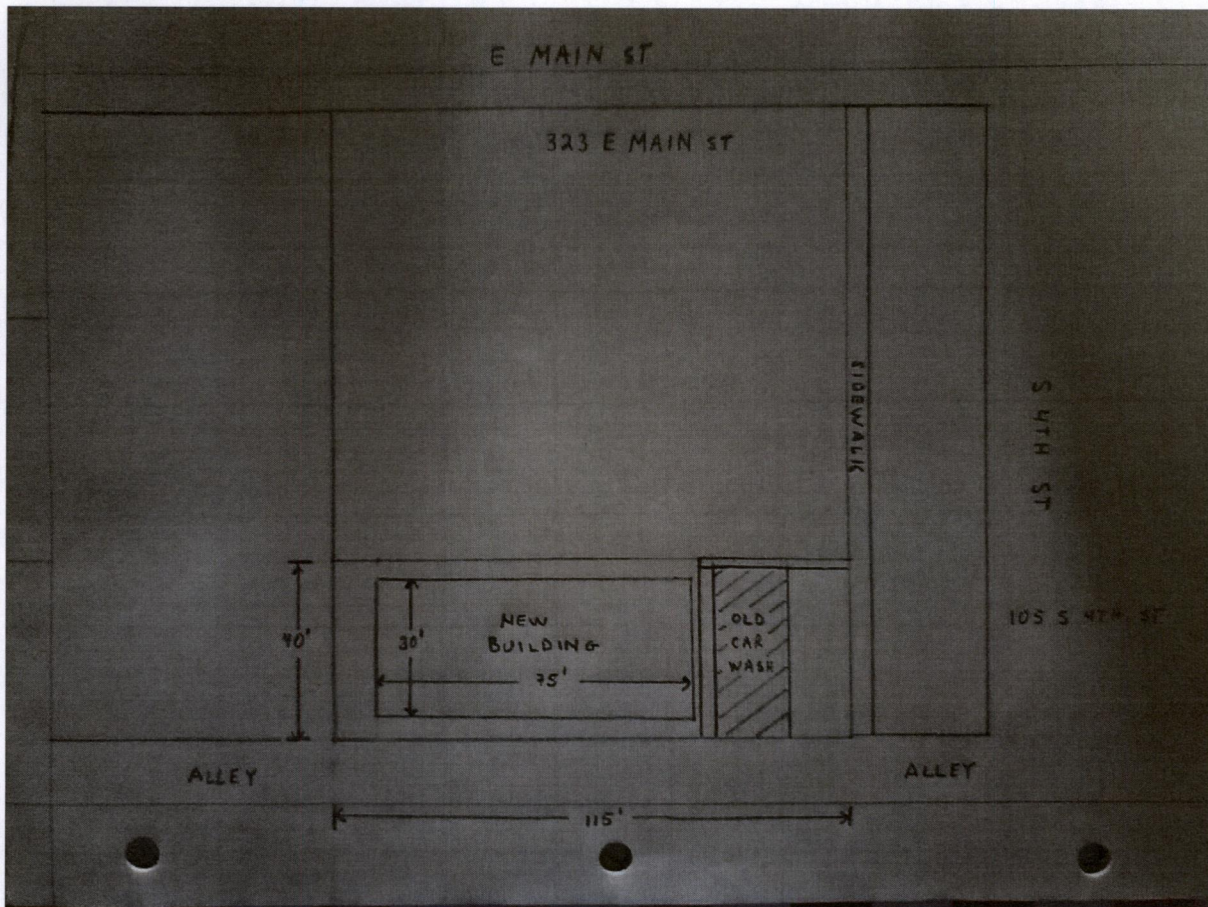
510.8. Use limitations:

- a. Exterior lighting fixtures shall be shaded where necessary to avoid casting direct light on any property located in a residential district.

Historical References:

1998 – Snyder Motors 2006 – Garden Station 2008 – Eileen Stinson
2008 – Twigs Garden Center 2009 – L & L Furniture & Sales
2009 – Twysted Sykles 2019 – Shanks Oil Co. 2019 – Indy Nutrition

	Yard Regulations	Proposed Change	Requested Encroachment
Front Yard (4th Street)	35 feet from property line	None	None
Side Yard (north)	None <i>Exception:</i> Ten feet where abutting a side street; 25 feet where abutting a residential zone.	None	None
Side Yard (south)	25 feet where abutting a residential zone	South side of property to 5 feet	20 feet
Rear Yard (next to C-2)	Ten Feet <i>Exception:</i> 25 feet where abutting a residential zone.	None	None



Staff Recommendation: City Staff recommends approving the variance based upon staff recommendation of the evidence presented in each specific case that:

- a. The granting of the variation will not be detrimental to the public safety, health or welfare or injurious to other property or improvements in the neighborhood in which the property is located.
 1. There is no issue with public safety, health or welfare as there is an existing building and a new building will be put in and the old car wash building will be removed.
 2. The new building will sit differently than the old building and will be turned a different way.
- b. The conditions upon which the request for a variation is based are unique to the property for which the variation is sought, and are not applicable generally to other property.
 1. The property was sold to Harold Shelby Eytcheson with the previous owner aware of the changes to be made.
- c. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as

distinguished from a mere inconvenience, if the strict letter of these regulations are carried out.

1. The building proposed is 30 foot wide and 75 foot long and will only fit with the new setback. The C-2 property abuts the residential property where Harold Eytcheson lives.

Kendall Neill opened the hearing.

Lisa Richard said I think we have the answer that the county is going to make this a separate lot.

Lydia Collins said they already have.

Lisa Richard said okay are you sure it is not more than fifty percent.

Lydia Collins said yes. It is one fifteen by forty and the building is seventy by thirty. He will have an extra forty feet on the front.

Lisa Richard said I have not done the math but if you multiply seventy five by thirty is that number greater than fifty percent?

Rachel Lyon said I actually just did the math, and it is less than fifty percent usage.

Lisa Richard asked is it?

Rachel Lyon said yes.

Lisa Richard said okay thank you. It is probably close though. The second issue that I have is when is a variance ever not appropriate. Under number seven of his application the following conditions which were not created by the owners' actions, are unique to the property in question, the property, not the people on the property or the people who own the property and are not commonly found in the same zone or district. I would expect to hear things about the actual property and why it needs to be nonconforming in some way for you to get a structure on there or something concrete rather than what basically boils down to as I moved in and this is something I would like to do and the situation is the house that I am buying does not have room for a garage so I really hate to do this and I suspect that I am going to probably have this explained to me why it is okay and I will accept that, but it seems very odd in my view to grant a variance because somebody wants to do something with the property or tell me what is unique about this property.

Lydia Collins said the existing property has a zero setback. It is right butt up against both sides and he will be five feet away which puts it five feet away, a new building that will look better than that old car wash and he just wants a variance on one side.

Lisa Richard said it is not a big deal really, but when will there ever be a variance not granted if this one is granted.

Kelly Passauer said I would say what is unique in this case Lisa is it is unusual to have the property across the street being a different zone and normally a C-2 zone has zero lot lines in most cases, it is only because it is adjoining a residential zone that it has the twenty-five feet on that one side. I would say that is unique because you normally do not see that where somebody is doing something with a variance and the zone they are dealing with is different than the zone that they are in so I would say that that is somewhat unique.

Lisa Richard said that is a good point I like that. Those are the kinds of things that help to nail down what is unique about this property. It is still a close question in my mind. I think variances should be hard to get. I mean you usually follow the rule and then sometimes there is a circumstance that is so unusual, the circumstances are beyond the control of the owner, and it is a hardship not just an I want. I want to have a garage, or I want that building, but a hardship.

Lydia Collins said he has measured his building to fit what he needs to put in there.

Lisa Richard said we can debate whether that is a hardship.

Lydia Collins said I think the difference is that it is all out in the open right now and he would like to contain it so that it does not look messy. That is why he has measured it to put everything in.

Lisa Richard said I think that requires that the conditions not be created out of the owner's actions might come out of state law because it is pretty universal, and it is a requirement in code so you we will probably be discussing it again. I am going to accept what Kelly said.

Kendall Neill said I guess technically he does not own the lot behind him right now.

Lisa Richard said that is another issue.

Kendall Neill continued, so if we wanted to get down to it?

Lydia Collins said Mr. Buckles does he own it and that is why he came up to say he is fine with it.

Kendall Neill said right, I was just getting to the point of were not created by the owner's actions, none of this really is.

Lydia Collins said I do not think it can be conceived as deliberate actions.

Kendall Neill said no.

Lydia Collins said he is just measuring to fit it in there and not store his items outside as an eyesore.

Kendall Neill said the way I see it, and anybody can correct me if I am wrong, is we are basically improving on the code here. Basically, the only way you could be within it is if you put a fence

up within twenty-five feet of the alley because then you would be right up on that building almost.

Kelly Passauer said you know the lot is forty feet deep so if you did that you would only have fifteen feet. So, the lot would really be unusable which would be another unique situation.

Lisa Richard asked if it is unique to have a commercial lot on a main arterial and then right behind a residential.

Kelly Passauer said you have that in some areas but usually not.

Lisa Richard said and, in those areas, do they set back twenty-five feet from those alleys?

Kelly Passauer said when you look at it the existing buildings do not.

Kendall Neill said it was probably all built before zoning codes.

Lisa Richard said so if they are going to rebuild, they are going to want a variance too.

Kendall Neill said yes.

Lisa Richard said I guess that is unique.

Motion

Mary Jo Meier moved to approve a twenty (20) foot variance on the south side yard of the property (reducing the south setback to five feet) for the steel building to be placed based on staff's recommendation that all City Code and conditions are met all in the legal description of the south forty feet of lots 1, 2, 3, 4 and 5 Block 52, Original City of Independence, Montgomery County, Kansas. Kendall Neill seconded the motion. Motion carries 7-1, with Tony Royse voting nay.

Attachments:

- Property Location
- Application
- Surrounding Property Owners' Responses (if any)
- Hearing Notice

Property Location:



d. Other Discussion

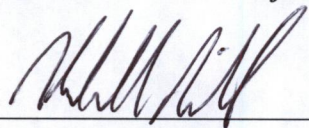
Kelly Passauer asked if Kendall Neill would like her to put on the next agenda the concerns of Tony Royse and Andy McLennon regarding modifying the code relating to the application requirements for a conditional use permit. Kendall Neill said yes.

Kelly Passauer advised that Housing Director April Nutt planned to attend their October meeting and further discuss tiny houses.

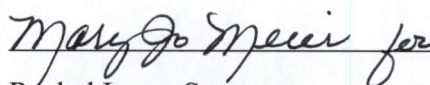
Adjournment

Motion

Kendall Neill moved to adjourn. Tony Royse seconded. Motion carried 8 -0.



Kendall Neill, Chairperson



Rachel Lyon, Secretary

TO DIRECTOR, FBI (100-374301)
FROM SAC, NEW YORK (100-443887) (P)
SUBJECT: JAMES EARL RAY, AKA
RE: NEW YORK TELETYPE TO BUREAU, JANUARY 16, 1964.

Enclosed for the Bureau are two copies of a letterhead memorandum (LHM) dated and captioned as above. The LHM was prepared by the New York Office on January 15, 1964, and contains information regarding the activities of James Earl Ray in New York City during the period from January 1, 1963, to January 14, 1964. The LHM also contains information regarding the activities of Ray in New York City during the period from January 15, 1964, to January 16, 1964.

Very truly yours,
Special Agent in Charge

100-443887-1000
JAN 19 1964
FBI - NEW YORK