

# Town of Brownsburg

## Board of Zoning Appeals

### Project Synopsis

**TO:** Board of Zoning Appeals; Tricia Leminger

**FROM:** Todd A. Barker, AICP

**DATE:** June 6, 2011

**RE:** CASE # BZUV 5-11-1070/ 2011-04BZA

---

**GENERAL INFORMATION:**

---

**APPLICANT:** John S. Capper IV

**STATUS OF APPLICATION:** Pending a vote before the Board of Zoning Appeals

**REQUESTED ACTION:** Use Variance to permit:

1. Professional service; accounting, auditing, bookkeeping, public finance, notary public and taxation;
2. Professional service; advertising, personnel, supplies;
3. Professional service; banking, lending institutions, insurance agents and brokers, etc.;
4. Professional service; educational services;
5. Professional service; engineering, architectural, real estate;
6. Professional service; laundry, photographic studio, beauty, barber, tailoring, etc.;
7. Professional service; legal;
8. Professional service; miscellaneous services;
9. Professional service; non-commercial research organizations (no labs);
10. Professional service; physicians and dentists; and
11. Professional service; social services.

**DATE OF APPLICATION:** May 13, 2011

**PURPOSE:** To permit the operation of a business within the "R-2" Single Family Residential District.

**ORDINANCE:** §155.201(b)(1) of the Brownsburg Zoning Ordinance, entitled "Permitted Uses"

**PROPERTY ADDRESS:** 401 North Green Street, Brownsburg, IN 46112

**PARCEL ID:** 32-07-11-142-004.000-016

**EXISTING ZONING:** R-2

**UTILITIES:**  
WATER: Town of Brownsburg

SANITARY: Town of Brownsburg  
STORMWATER: Town of Brownsburg

**EXISTING SURROUNDING ZONING:**

NORTH: R-2  
SOUTH: R-2, R-4A, C-3  
EAST: R-2, R-4A, C-3  
WEST: R-2

**EXISTING USES:**

NORTH: Commercial  
SOUTH: Single /Multi Family  
EAST: Single / Multi Family  
WEST: Private School / Single Family

**NEIGHBORHOOD CHARACTERISTICS:**

This section of North Green Street / S.R. 267 is a mix of commercial, institutional, and residential uses; including single family residential homes, multi-family residential units, the St. Malachy Parish School, and commercial business of Back to You Therapeutic Massage, Skin Revelations, Reliable Realty, Indiana Family Dentistry, Dr. Nancy N Bolt DDS, and the Hostetter & Lucas Building Co. Office Building.

**TOTAL PARCEL SIZE:**

0.26 Acres

**COMPREHENSIVE PLAN DESIGNATION:**

Commercial

**THOROUGHFARE PLAN:**

Designates North Green Street / S.R. 267 as a Primary Arterial, which recommends one-hundred fifteen (115) feet of total R/W.

**GREENWAYS MASTER PLAN:**

Identifies this section of the North Green Street / S.R. 267 corridor as an Urban Trail Corridor, which is designated as a twelve (12) foot wide sidewalk separate from edge of street by a two (2) foot wide green strip minimum.

**PUBLIC NOTICE:**

May 14, 2011 - Hendricks County Flyer

**PUBLIC HEARING DATES:**

June 13, 2011 - 7 p.m.

**PUBLIC COMMENTS:**

No comments regarding this petition have been received as of June 6, 2011.

---

**STATUTORY REQUIREMENTS/ FACTORS TO BE CONSIDERED:**

---

The requirements for issuing a Use Variance are outlined in the zoning ordinance and by Indiana Code §36-7-4-918.4. It is the responsibility of the petitioner to provide evidence that proves their request complies with the five points listed below.

USE VARIANCE

Variations of use from the terms of this Ordinance may be approved only upon a determination in writing that the following apply:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
3. The need for the variance arises from some condition peculiar to the property involved.
4. The strict application of the terms of this Ordinance will constitute an unusual and unnecessary hardship if applied to the property for which the variance is sought.
5. The approval does not interfere substantially with the Comprehensive Plan.

---

**PREVIOUS ACTIONS ON-SITE:**

---

1. In 2011 PCMA-2-11-1066 Capper Rezoning a Zoning Map Amendment before the Plan Commission, received an Unfavorable Recommendation and was Denied by the Town Council.

---

**PREVIOUS ACTION- SURROUNDING AREA:**

---

1. Bolt Redevelopment PCMA-6-10-1048 Zoning Map Amendment from R-2 Single Family Residential & R-4A Multi-Family Residential to C-3 Commercial - Approved;
2. Back To You Therapeutic Massage 2007-12BZA Use Variance to permit commercial in residential district - Approved;
3. Skin Revelations 2005-07BZA Use Variance to permit commercial in residential district - Approved;
4. Reliable Realty 2004-02BZA Use Variance to permit commercial in residential district Professional service; accounting, auditing, bookkeeping, public finance, notary public and taxation - Approved;

---

**SUPPLEMENTARY DOCUMENTATION INSERT:**

---

- |  |             |
|--|-------------|
| ▪ APPLICATION  | EXHIBIT - A |
| ▪ DETAILED STATEMENT OF REASON                             | EXHIBIT - B |
| ▪ ZONING MAP   | EXHIBIT - C |
| ▪ AERIAL INSERTS   | EXHIBIT - D |
| ▪ SITE PHOTOS (PROPERTY AS WELL AS SURROUNDING PROPERTIES) | EXHIBIT - E |

EXHIBIT - A  
APPLICATION

TOWN OF BROWNSBURG  
PLANNING & BUILDING

MAY 13 2011

APPLICATION TO  
THE TOWN OF BROWNSBURG  
BOARD OF ZONING APPEALS

USE VARIANCE

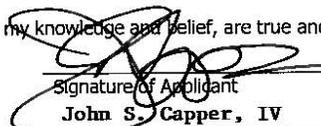
Docket #: BZUV 5-11-1070 / 2011-0467A Date Received: 5/13/11  
Application Fee: \$ 100.00 Receipt #: \_\_\_\_\_

COMPLETE THE FOLLOWING

1. Applicant's Name: John S. Capper, IV 2. Phone: 765-362-7340  
3. Mailing Address: 131 North Green Street, Crawfordsville, IN 47933  
4. Email Address: bmitchelletr@sbcglobal.net  
5. Owner's Name: Joseph A. Eaton 6. Phone: \_\_\_\_\_  
7. Mailing Address: 7363 Fox Hollow Ridge, Zionsville, IN 46077  
8. Email Address: \_\_\_\_\_  
9. Applicant is (Check One)  sole owner  joint owner  tenant  
 agent  other (specify) purchaser  
10. Premises Affected:  
A. Address: 401 North Green Street, Brownsburg, IN 46112  
B. Parcel Number(s): 014-111611-142004  
11. Existing Zoning: R-2 12. Existing Use: Residential  
13. Surrounding Properties:
- |         | North             | South                      | East                  | West                     |
|---------|-------------------|----------------------------|-----------------------|--------------------------|
| Zoning: | <u>R-2</u>        | <u>R-2, R-4A, C-3</u>      | <u>R2, R-4A, C-3</u>  | <u>R-2</u>               |
| Use:    | <u>Commercial</u> | <u>single/multi famill</u> | <u>single/multi f</u> | <u>school/single fam</u> |
14. Applicable section of the Zoning Ordinance: Section 155.036 - see detailed statement of reasons attached  
(one section per application)  
15. Detailed Statement of Reasons for this request: (refer to § 155.036 of the zoning ordinance) \_\_\_\_\_  
For the purpose of operating a small business office on the above referenced property

16. Notarization:

The above information and attached exhibits, to my knowledge and belief, are true and correct.

  
Signature of Applicant Date: 5/6/2011  
John S. Capper, IV  
Print

State of Indiana )  
County of Montgomery ) SS:  
Subscribed and sworn to before me this \_\_\_\_\_

6th day of May, 2011

County of Residence: \_\_\_\_\_  
Montgomery  
My Commission Expires: \_\_\_\_\_  
07/02/2016

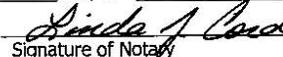
  
Signature of Notary  
Linda J. Cord  
Print

EXHIBIT – B  
DETAILED STATEMENT OF REASONS

Request a Use Variance for the R-2 residence located at 401 North Green Street, Brownsburg, Indiana for a small professional business office use.

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner as the property is located in a business corridor.
3. The need for the variance is that the property is zoned R-2 and has been on the market as a residence for approximately two years and has not sold. The property is in a business corridor with several adjacent or nearby properties also containing businesses via a Use Variance. The property will have no value or limited value unless a Use Variance is granted to allow a small business to occupy the property.
4. The strict application of the terms of the zoning ordinance R-2 will constitute an unusual and unnecessary hardship if applied to the property for which the variance is sought. Although the property is zoned R-2, the property is adjacent to state road 267, a north-south business corridor and with said zoning, it would deprive the owner the right to the use of the property as is presently zoned.
5. The approval does not interfere substantially with The Comprehensive Plan. The Plan recommends commercial zoning.

The property consists of 1,048 square feet on the main floor, 350 square feet on the upper level, and 280 square feet in the bonus room totaling 1,678 square feet of living space and by utilizing the two-car detached garage for staff, there is sufficient space for at least (5) parking spaces.

Dated: 05/12/2011

  
\_\_\_\_\_  
John S. Capper, IV

EXHIBIT – C  
ZONING MAP

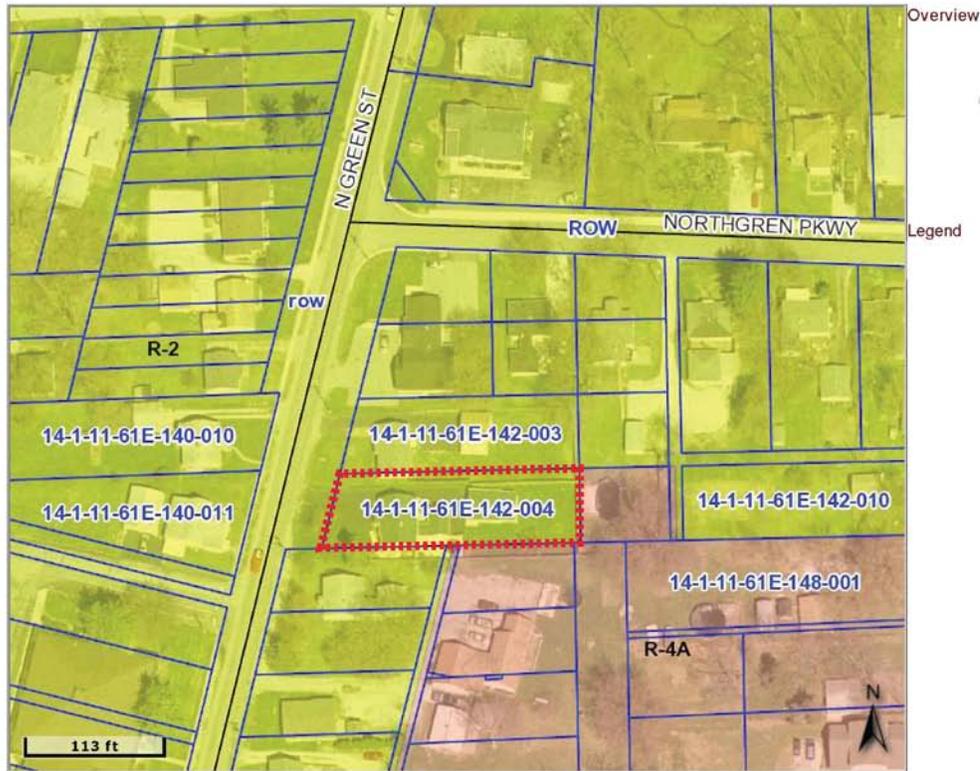
Town of Brownsburg, IN



BZUV-5-11-1070 John Capper  
Use Variance

Date Created: 6/6/2011

401 N. Green Street



<b>Parcel ID</b>	32-07-02-410-004.000-016	<b>Alternate ID</b>	014-102611-410004	<b>Owner Address</b>	BVSC Inc 10640 DEME DR STE H Indianapolis, IN 46236
<b>Sec/Twp/Rng</b>	2-16-1	<b>Class</b>	COMMERCIAL NEIGHBORHOOD SHOPPING CENTER		
<b>Property Address</b>	102 Northfield Dr Brownsburg	<b>Acreage</b>	n/a		
<b>District</b>	Town Of Brownsburg				
<b>Brief Tax Description</b>	Lot 2 Brownsburg Square Sec 2 14.150-2 <i>(Note: Not to be used on legal documents)</i>				

Last Data Upload: 9/15/2010 8:50:20 AM



EXHIBIT – D  
AERIAL INSERTS

Town of Brownsburg, IN



BZUV-5-11-1070 John Capper  
Use Variance

Date Created: 6/6/2011

401 N. Green Street



Overview



Legend

<b>Parcel ID</b>	32-07-02-410-004.000-016	<b>Alternate ID</b>	014-102611-410004	<b>Owner Address</b>	BVSC Inc 10640 DEME DR STE H Indianapolis, IN 46236
<b>Sec/Twp/Rng</b>	2-16-1	<b>Class</b>	COMMERCIAL NEIGHBORHOOD SHOPPING CENTER		
<b>Property Address</b>	102 Northfield Dr Brownsburg	<b>Acreage</b>	n/a		
<b>District</b>	Town Of Brownsburg				
<b>Brief Tax Description</b>	Lot 2 Brownsburg Square Sec 2 14.150-2 <i>(Note: Not to be used on legal documents)</i>				

Last Data Upload: 9/15/2010 8:50:20 AM

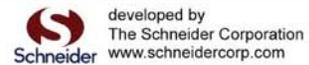


EXHIBIT – D  
AERIAL INSERTS continued

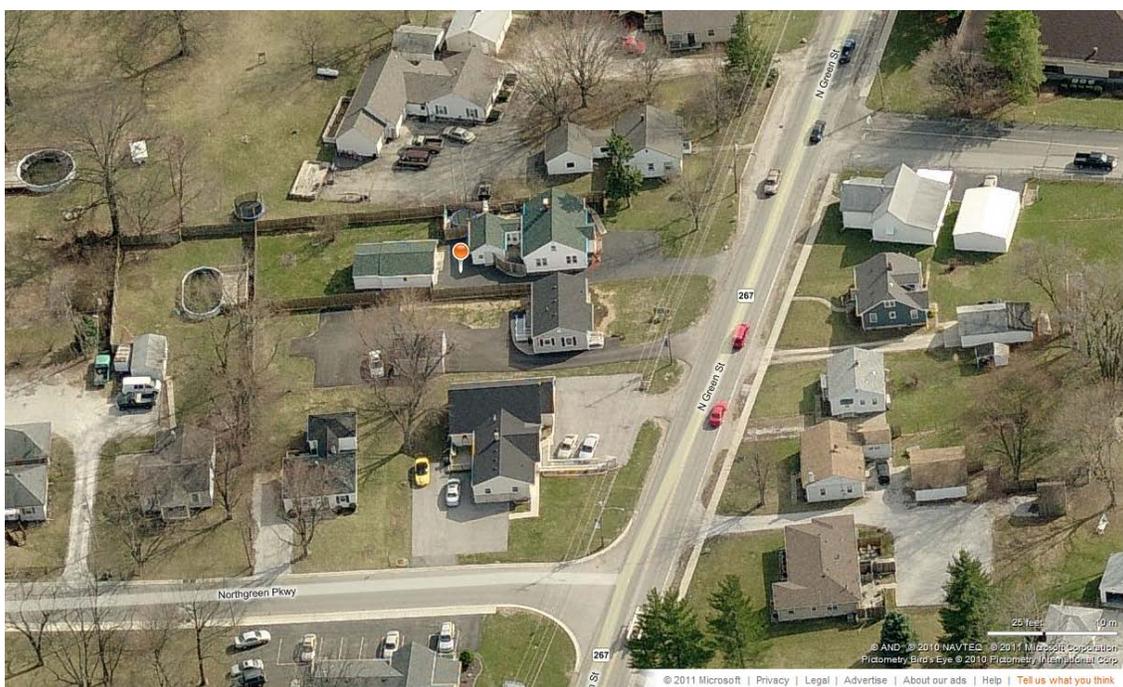


EXHIBIT – E  
SITE PHOTOS



EXHIBIT – E  
SITE PHOTOS continued



EXHIBIT – E  
SITE PHOTOS continued



---

**STAFF ANALYSIS:**

---

The Future Land Use Plan within the Brownsburg 2020 Comprehensive Plan recommends this property be Commercial. The trends and character of the general area have been moving toward a commercial corridor. See the Adjacent Land Use / Zoning Matrix - History section of this report. There are several recommendations in the Comprehensive Plan that address commercial development within the SR 267 / N. Green Street Corridor that are applicable in this case:

- Avoid creating small parcels along arterial and collector thoroughfares in order to discourage excess curb cuts and strip development.
- Design future commercial sites for convenient access and safety; minimize curb cuts and distracting signage and encourage access between adjacent developments.
- Provide for growth through the redevelopment of vacant or underutilized areas.
- For future development along the proposed North-South Corridor (aka Ronald Reagan Parkway) and SR 267 increase the spacing of drive cuts to 500 feet.
- Require the use of frontage roads for future development along SR 267 and proposed North-South Corridor (aka Ronald Reagan Parkway).

These recommendations include suggestions for redevelopment of underutilized areas which, based on the traffic counts along SR 267 / N. Green Street and the trends in the area of converting from residential to commercial uses, seems to be applicable in this case, as well as recommendations regarding vehicular access to sites as redevelopment happens. The Board should inquire about the Petitioners intent to use the property and consider including conditions of development should this property redevelop utilizing structures other than the existing home.

As we are all aware traffic on SR 267 / N. Green Street is challenging. Although this project does not meet the criteria to require a full traffic study I contacted Kevin Miller with VS Engineering, our traffic consultant, to acquire some information on the potential impacts of the proposed change of use. Kevin provided the following analysis:

[The existing single family home is estimated to generate 10 trips per day and 1 trip during both the AM and PM peak hour. Based on the square footage provided in the detailed statement of reasons, the same space would generate 15 trips per day and 2 each during the AM and PM peak hour. Keep in mind, when the square footage of a land use such as office space is so small, the trip generation numbers can be skewed. The actual trips generated by an office of this size will depend on the nature of the type of service being provided (does this office have clients that come to it regularly throughout each day or simply function as space for several employees to complete their work each day, without many external trips to the office made by clients). That being said, the impact of the land use change from single family to such a small amount of office space should have a negligible impact on traffic operations with a minimal increase in the number of trips generated.]

Based on a site visit to the property and measurements from aerial photography staff is concerned with the claim of a total of five (5) parking spaces. The area in front of the building is sufficient for two (2) vehicles. To account for additional spaces the detached garage would need to be utilized for an additional two (2) spaces, beyond that the existing paved area becomes limited. There is sufficient area east of the existing house and garage that could accommodate additional parking spaces. Within the Detailed Statement of Reasons the petitioners state that the total area of the structure is one-thousand six-hundred seventy-eight (1,678) square feet. That square footage requires a minimum of six (6) parking spaces

I spoke with Mr. Capper on Friday 6/3/2011 regarding the classification/terminology of the "Use" listed within the proposed Detailed Statement of Reasons. The proposed Detailed Statement of Reasons requests the Use "Small Business Office"; in our phone conversation I suggested the petitioners request a Use or Uses currently identified by our zoning ordinance and explained that following Professional Service Uses are reconized by our ordinance:

1. Professional service; accounting, auditing, bookkeeping, public finance, notary public and taxation;
2. Professional service; advertising, personnel, supplies;
3. Professional service; banking, lending institutions, insurance agents and brokers, etc.;
4. Professional service; educational services;
5. Professional service; engineering, architectural, real estate;
6. Professional service; laundry, photographic studio, beauty, barber, tailoring, etc.;
7. Professional service; legal;

8. Professional service; miscellaneous services;
9. Professional service; non- commercial research organizations (no labs);
10. Professional service; physicians and dentists; and
11. Professional service; social services.

During our phone conversation Mr. Capper agreed that amending the Detailed Statement of Reasons to utilize the terminology of the existing ordinance was acceptable.

---

**RECOMMENDATIONS:**

---

In the event that the Board determines to grant the Use Variance, I recommend that Board of Zoning Appeals consider obtaining commitments from the petitioner for the following:

- That any request to increase the area of the existing structure or any request for new structure(s) will require the property owner and/or tenant to meet all development standards at the time of the request to increase the area or new structure(s) is made.
- Limit uses on the property to which would generate a comparable volume of traffic to that of the professional office use with 1,436 sq. ft. of office space (i.e. the 15 trips per day and 2 each during the AM and PM peak hour as described in the comments from Kevin Miller of VS Engineering) unless the property is involved in a comprehensive large scale redevelopment process that meets the Comprehensive Plan recommendations outlined in item #2 of the Staff Analysis & Project Facts portion of this report.
- Assurance from the petitioner that they will provide sufficient paved area for both employees and customers to turn their vehicles around so that no one has to attempt to back out onto SR 267 / N. Green Street.
- That the property owner be willing to either grant an easement, donate or sell property to the Town of Brownsburg pursuant to an appraisal that is sufficient in area along SR 267 / N. Green Street, to implement the 2008 Greenways Master Plan, which recommends an Urban Trail in this area; at the time there is a trail project proposed by the Town of Brownsburg and/or at the time the trail is extend to the north or south property line of the property subject to this rezoning.
- Prior to opening for business a life safety inspection must be completed by the Brownsburg Building Department and Brownsburg Fire Territory. If any violations/concerns are identified the property owner/tenant shall address all violations/concerns to the satisfaction of the Brownsburg Building Department and/or Brownsburg Fire Territory. After the initial life safety inspection an annual life safety inspection must be conducted to ensure that the life safety features are in adequate working order.
- That six (6) on-site parking spaces, that meet the Town's minimum parking area requirements (min. 9' x 20'), be provided on hard surface and, as long as the garage spaces are required to meet the minimum parking requirements, that no business activities may take place in the detached garage.
- That any redevelopment of this property be required to mimic the architectural commitments within PCMA-6-10-1048 Bolt Redevelopment.

Any motion approving the request should clearly indicate if the Board is approving the request for the property or for a particular owner.

During the Public Hearing for PCMA-2-11-1066 Capper Rezoning the Zoning Map Amendment from earlier this year, I stated that in my opinion the Zoning Map Amendment process, and not the Use Variance process, was the appropriate method to convert this property to a non-residential use. It is still the opinion of staff that the Zoning Map Amendment process is the appropriate method therefore staff is not rendering a recommendation on this petition.

---

**STAFF CONTACT:**

---

NAME: Todd A. Barker, AICP	Jonathan K. Blake
TITLE: Director of Planning	Planning Technician
PHONE: 317-852-1128	317-852-1128
EMAIL: <a href="mailto:tbarker@brownsburg.org">tbarker@brownsburg.org</a>	<a href="mailto:jblake@brownsburg.org">jblake@brownsburg.org</a>