

Town of Brownsburg Board of Zoning Appeals Project Synopsis

TO: Board of Zoning Appeals; Tricia Leminger

FROM: Todd A. Barker, AICP

DATE: January 3, 2012

RE: CASE # BZDV-12-11-1090/ 2011-12BZA

GENERAL INFORMATION:

APPLICANT: John S. Capper IV

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

REQUESTED ACTION: Development Standards Variance

DATE OF APPLICATION: December 15, 2011

PURPOSE: To reduce the minimum setback required for a monument sign in the Historic District

ORDINANCE: §155.297(B)(5)(d)(1) of the Brownsburg Zoning Ordinance, entitled "Historic District signage"

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:	Professional Service; Miscellaneous Service
SOUTH:	Single Family Residential
EAST:	Single Family Residential, Multi-Family
WEST:	Single Family Residential, Private School

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 (SR 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 (SR 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: Hendricks County Flyer, December 21, 2011.

PUBLIC HEARING DATES: January 9, 2012- 7:00 p.m.

PUBLIC COMMENTS: No written comments have been received as of the date of this report.

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.

DEVELOPMENT STANDARDS VARIANCE

Variances 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 strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

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.
2. In 2011 BZUV-5-11-1070 Capper Use Variance before the Board of Zoning Appeals, was Approved by the Board of Zoning Appeals.

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 a commercial use in a residential district - Approved;
3. Skin Revelations 2005-07BZA Use Variance to permit a commercial use in a residential district - Approved;
4. Reliable Realty 2004-02BZA Use Variance to permit a commercial use in a residential district, including and limited to: Professional service; accounting, auditing, bookkeeping, public finance, notary public and taxation - Approved;

SUPPLEMENTARY DOCUMENTATION INSERT:

- | | |
|--------------------------------|-------------|
| ▪ APPLICATION | EXHIBIT - A |
| ▪ DETAILED STATEMENT OF REASON | EXHIBIT - B |
| ▪ SUPPORTING DOCUMENTATION | EXHIBIT - C |

- ZONING MAP
- AERIAL INSERTS
- RIGHT OF WAY
- SITE PHOTOS

EXHIBIT - D
EXHIBIT - E
EXHIBIT - F
EXHIBIT - G

EXHIBIT – A
APPLICATION

TOWN OF BROWNSBURG
PLANNING & BUILDING

DEC 15 2011

APPLICATION TO
THE TOWN OF BROWNSBURG
BOARD OF ZONING APPEALS

DEVELOPMENT STANDARD VARIANCE

Docket #: 2011-12-02A / BZDV-12-11-1090

Date Received: 12/15/11

Application Fee: \$1000.00

Receipt #: 3026

COMPLETE THE FOLLOWING

1. Applicant's Name: John S. Capper, IV 2. Phone: 765-362-7340
3. Mailing Address: 131 N. Green Street, Crawfordsville, IN 47933
4. Email Address: jcapper@capperlaw.com
5. Owner's Name: John S. Capper, IV 6. Phone: 765-362-7340
7. Mailing Address: 131 N. Green Street, Crawfordsville, IN 47933
8. Email Address: jcapper@capperlaw.com
9. Applicant is (Check One) sole owner joint owner tenant
 agent other (specify) _____
10. Premises Affected:
A. Address: 401 North Green Street, Brownsburg, IN 46112
B. Parcel Number(s): 32-07-11-142-004.000-016
11. Existing Zoning: R-2 12. Existing Use: business
13. Surrounding Properties:

	North	South	East	West
Zoning:	R-2	R-2, R-4A, C-3	R-2, R-4A, C-3	R-2
Use:	Commercial	single/multi fam	single/multi fam	school/single fam
14. Applicable section of the Zoning Ordinance: Section 155.297.B4 - see detailed statement of reason attached
(one section per application)
15. Detailed Statement of Reasons for this request: (refer to § 155.036 of the zoning ordinance) _____

16. Notarization:

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

Signature of Applicant

Date: 12/15/11

John S. Capper, IV

Print

State of Indiana)

County of Montgomery) SS:

Subscribed and sworn to before me this

15th day of December, 2011

County of Residence:

Signature of Notary

Montgomery

Linda J. Cord

My Commission Expires:

Print

07/02/2016

EXHIBIT – B
DETAILED STATEMENT OF REASONS

Request a variance from the zoning ordinances regarding the placement of our approved business sign. The variance is to locate a sign at the right-of-way line instead of the required five (5) feet set-back so the location of our sign will be more visible and congruent with neighboring signs of similarly situated properties.

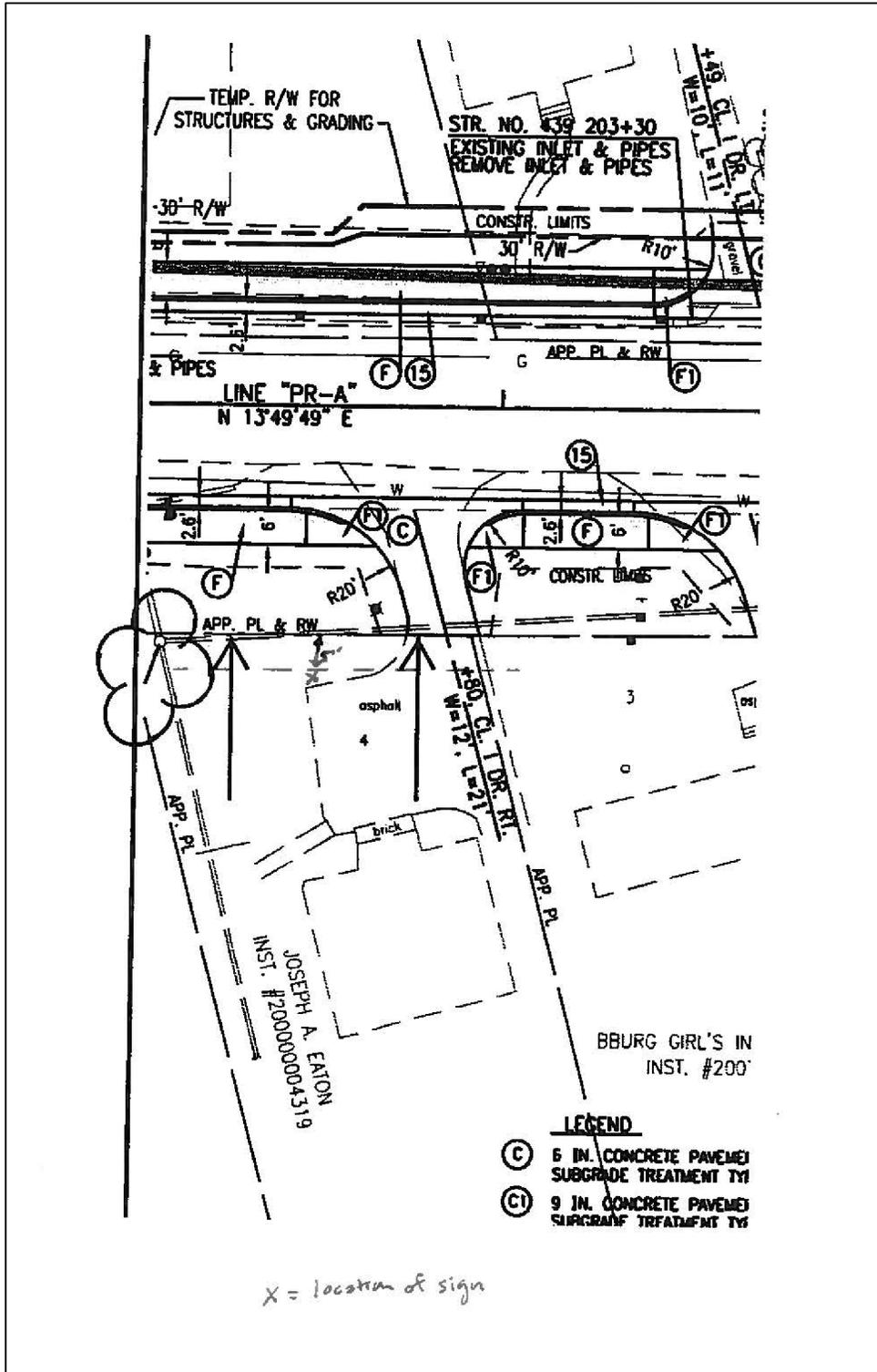
1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community as the proposed location of the sign will not interfere with the established right-of-way and will be in accordance with the signs of similarly situated neighboring properties.
2. The use and value of the areas adjacent to the property will remain unaffected by the proposed location of the sign as no infringement of the established right-of-way will occur, neighboring signs currently in place are actually located closer (or in) the right-of-way, or are already rental properties.
3. Under the Historic District signage requirements, the setback for this property is in excess of most properties on Green Street due to a right-of-way which is significantly greater, most likely, because of an undeveloped turn lane. A setback as envisioned by the signage requirements and in light of the neighboring signage would be significantly out of place and less visible, in part, due to parking and the neighboring rental house.

Dated: 05/12/2011
Amended: 01/02/12


John S. Cappel, IV

TOWN OF BROWNSBURG
PLANNING & BUILDING
JAN 03 2012

EXHIBIT - C
SUPPORTING DOCUMENTATION



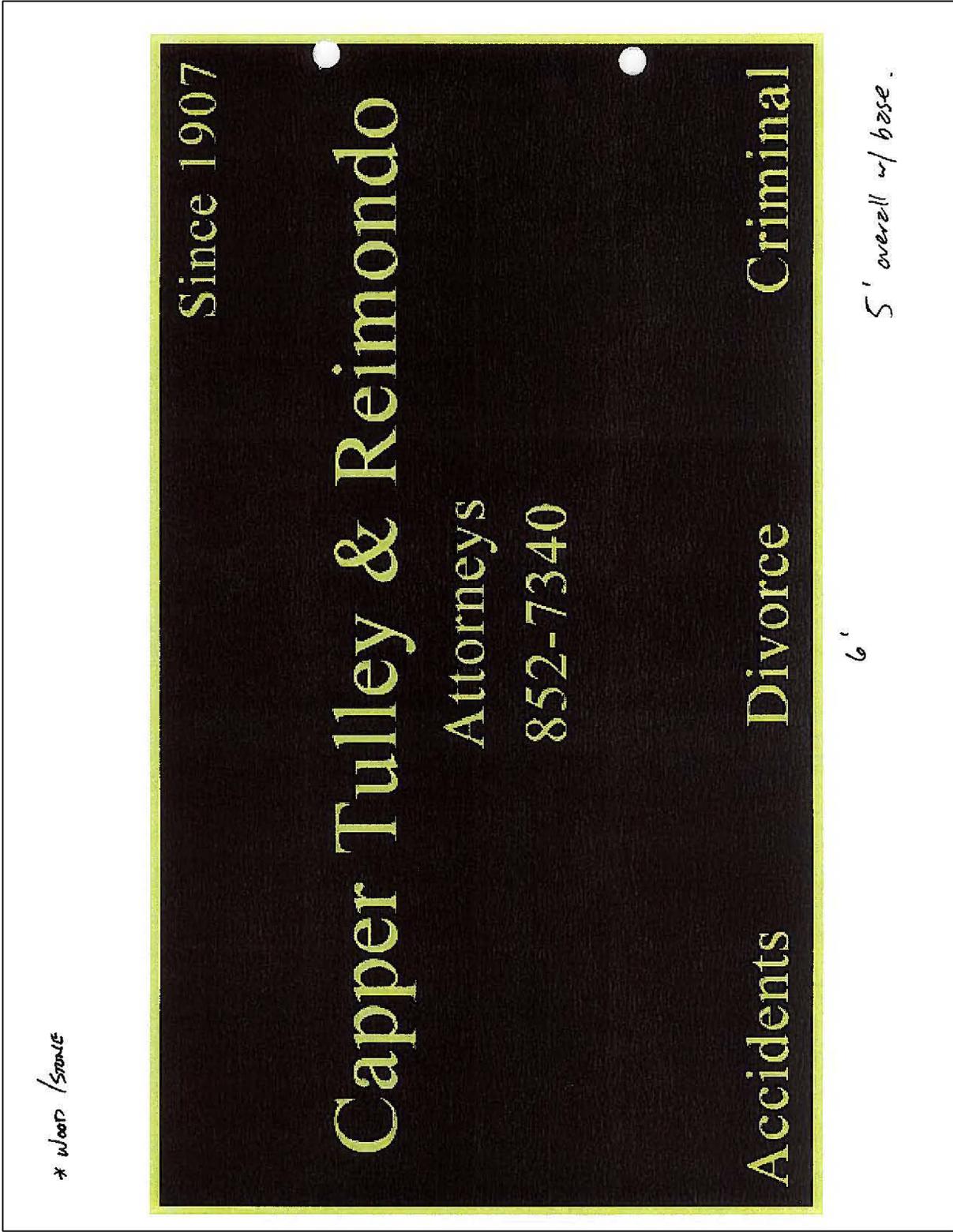
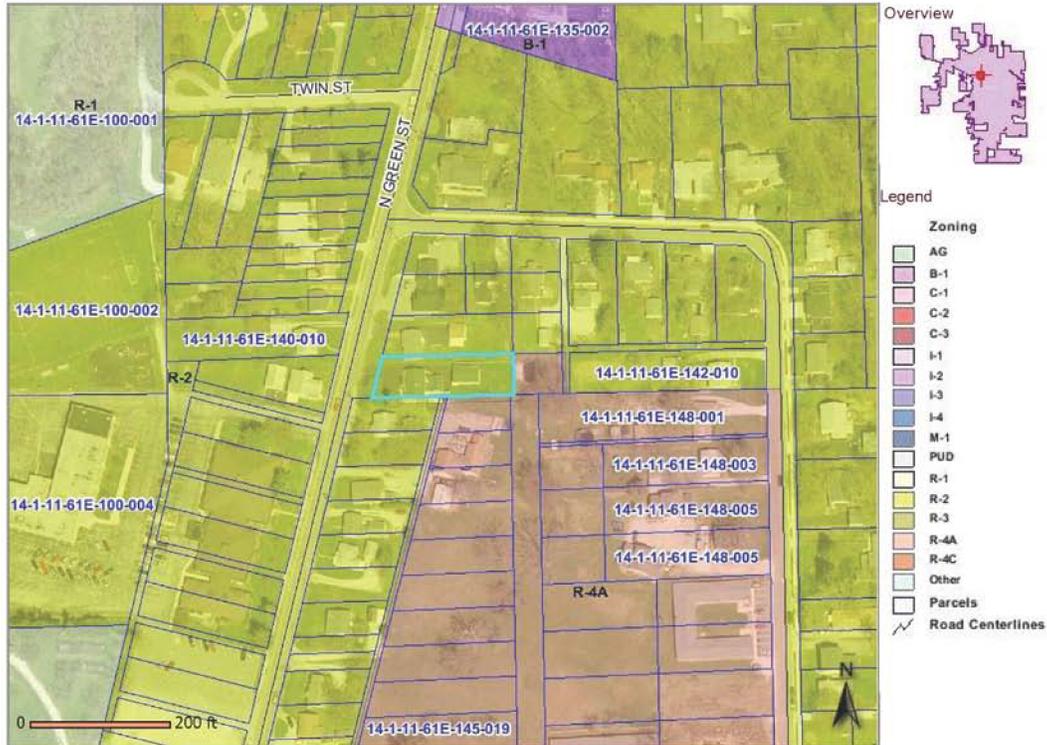


EXHIBIT – D ZONING MAP

Town of Brownsburg, IN



Date Created: 4/18/2011
Map Scale: 1 in = 200 ft



Parcel ID	32-07-11-142-004.000-016	Alternate ID	014-111611-142004	Owner Address	Eaton Joseph A 7363 FOX HOLLOW RIDGE Zionsville, IN 46077
Sec/Twp/Rng	11-16-1	Class	RESIDENTIAL ONE FAMILY DWELLING ON A PLATTED LOT		
Property Address	401 N Green St Brownsburg	Acreage	0.00		
District	Town Of Brownsburg				
Brief Tax Description	Pt Lot 4 Northgren Park Add 14.77-4-1 <i>(Note: Not to be used on legal documents)</i>				

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



EXHIBIT – E
AERIAL INSERTS

Town of Brownsburg, IN



Date Created: 4/18/2011
Map Scale: 1 in = 50 ft



Overview

Legend

- Parcels
- Road Centerlines

Parcel ID	32-07-11-142-004.000-016	Alternate ID	014-111611-142004	Owner Address	Eaton Joseph A 7363 FOX HOLLOW RIDGE Zionsville, IN 46077
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EXHIBIT – F
RIGHT-OF-WAY

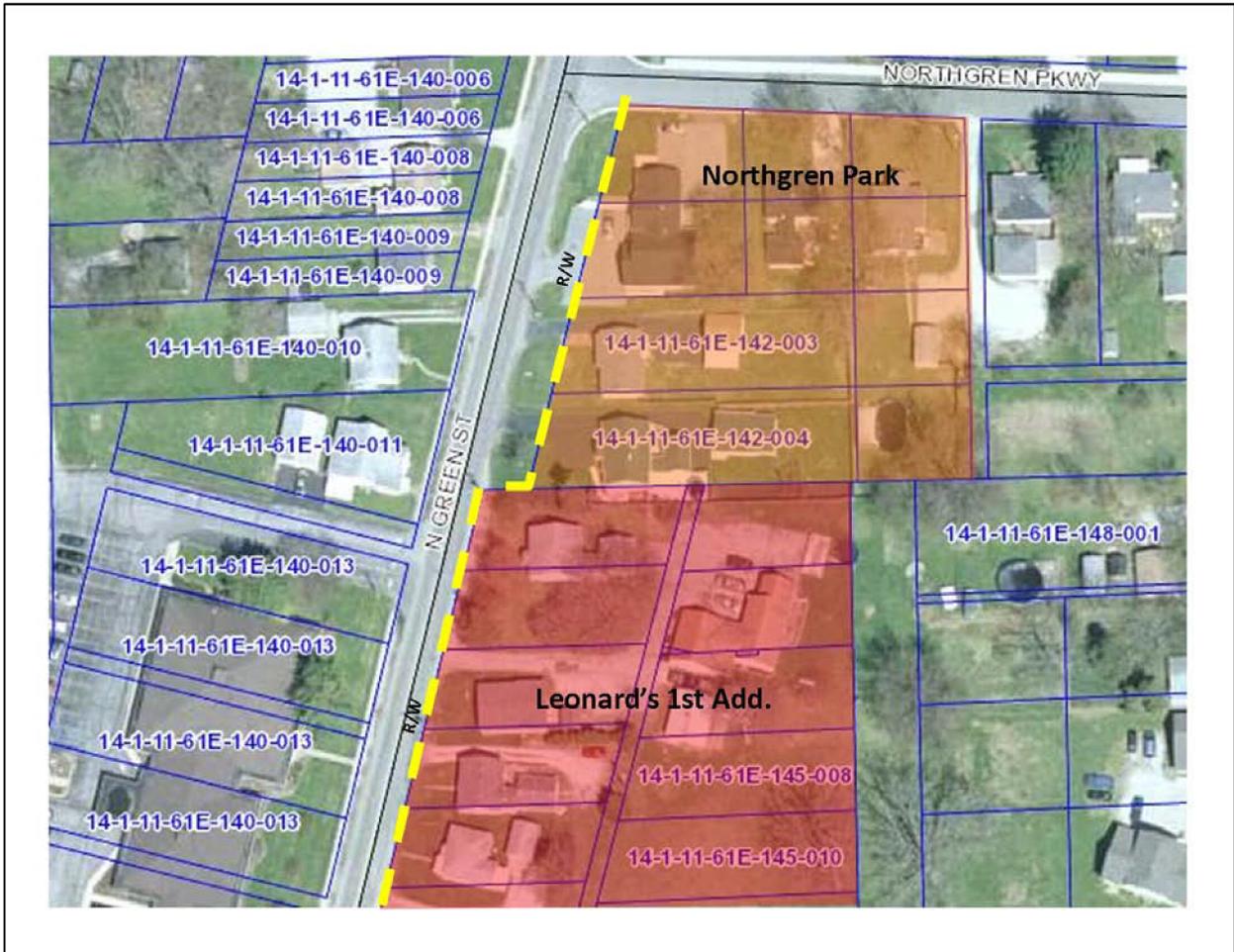


EXHIBIT – G
SITE PHOTOS



STAFF ANALYSIS:

In April, 2011, Mr. Capper appeared before the Plan Commission requesting a Zoning Map Amendment to the 'C-3' classification for the premises identified in this petition. After a public hearing and comments from the Commission, the Commission sent an Unfavorable Recommendation to the Town Council on the request, where it was ultimately defeated. Thereafter Mr. Capper submitted a Use Variance application to the Board of Zoning Appeals to allow Professional Legal Services as a permitted use on the property. As you will recall, the BZA approved this request with contingencies.

Mr. Capper is now before the BZA requesting a reduction of the signage setback requirements for his law firm based on the Detailed Statement of Reasons, dated 05/12/2011 and amended on 01/02/2012. Based upon the application, Mr. Capper is requesting the sign be located adjacent to the east public right-of-way line for State Road 267 (also the common property line for Mr. Capper's property).

Upon a review of the subdivision plats for the Northgren Park Addition and Leonards 1st Addition, staff found that the public right-of-way dedicated within the Northgren Park Addition was approximately twenty-eight (28) feet east of the right-of-way within Leonard's 1st Addition. This additional right-of-way leaves the petitioner at a disadvantage with respect to signage and building setback requirements, as the front of the home on the neighboring property, to the south, is in line with the public right-of-way on Mr. Capper's property (see Exhibit 'F'), which will partially obstruct Mr. Capper's sign even if this variance is approved.

RECOMMENDATIONS:

Based on the analysis of the submitted information by the petitioner, the Development Standard Variance sections of the Zoning Ordinance and my comments above, it is my opinion that this request has SATISFIED the requirements for the approval of a Development Standard Variance in accordance with the Brownsburg Zoning Ordinance and Indiana Law §36-7-4-918.5.

If the Board elects to approve this petition I recommend including the following conditions of approval:

1. That the sign must comply with § 155.141 (C) Vision Clearance Areas of the Zoning Ordinance:
 - a. *"On a lot which has a driveway, abuts an alley or which is next to a lot which has a driveway, the two clear sight triangular areas are formed by the street right-of-way line, both sides of either the alley right-of-way or of the surface edge of the driveway, and the line connecting points ten (10) feet from the intersection of the street right-of-way line and driveway or alley lines extended."* and;
2. At the time of the design/construction of the proposed Urban Trail Corridor as identified in the Greenways Master Plan, if the location of this sign by virtue of the variance approval impedes the placement of the Urban Trail Corridor the Town shall not be responsible for any cost to relocate the sign.

STAFF CONTACT:

NAME:	Todd A. Barker, AICP	Jonathan K. Blake
TITLE:	Director of Planning	Planning Technician
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EMAIL:	tbarker@brownsburg.org	jblake@brownsburg.org