

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

In compliance with the appropriate provisions of the Brownsburg Zoning and Subdivision Control Ordinances, the Board of Zoning Appeals (hereinafter "Board") held a public hearing pursuant to notice at 7:00 p.m. on January 9, 2012, to hear Docket # BZDV-12-11-1090, a petition for a Development Standard Variance from §155.297(B)(5)(d)(1) to reduce the minimum setback requirement for a monument sign in the Historic District.

The petitioner, John S. Capper, IV, appeared by agent, Robert Reimondo, and presented testimony and evidence in support of his application.

FINDINGS OF FACT

The Board, having this matter presented at a public hearing on January 9, 2012, having considered the arguments of the petitioner, and being duly advised in the premises, now finds and makes the following Findings of Fact:

1. That the legal address of the real estate subject to the petition is 401 N Green Street, Brownsburg, Indiana, and is further identified as Indiana Parcel Number 32-07-11-142-004.000-016
2. That the real estate to which the petition is addressed is within the Town of Brownsburg, Hendricks County, Indiana, and is subject to the terms and provisions of the Town of Brownsburg Municipal Code, Zoning and Subdivision Control Ordinances.
3. That Capper and Reimondo, LLC is the current owner of the real estate subject to the petition.
4. That the real estate to which the petition is addressed is currently zoned 'R-2' Single Family Residential.
5. That the petitioner is requesting a reduction of the minimum setback requirement for a monument sign in the Historic District.
6. That a forty-one foot (41') half right-of-way exists along the western boundary of the real estate, which does not exist on the property immediately south of it.
7. That §155.297(B)(5)(d)(1), subsection (b)(v) identifies the minimum setback requirements for Monument signs in the Historic District – *"Monument signs may be setback seven (7) feet from the right-of-way."*
8. That §155.297(B)(5)(d)(1), subsection (b)(v)(A) authorizes a reduction of the minimum setback as follows – *"For each foot a sign is lowered below the permitted*

maximum height, the sign may be located one (1) foot closer to the right-of-way than the required setback; provided no sign is placed closer than five (5) feet from the right-of-way, and not sign is placed within a utility easement."

9. That the required minimum setback from the forty-one foot right-of-way would place the sign approximately thirty feet (30') beyond the edge of the road pavement.
- 10.

CONCLUSIONS OF LAW

Based upon the above Findings of Fact, the Board does now conclude:

1. That the Petition on file, with all notice requirements having been met, with the petitioner having appeared before the Board and having presented their petition, and with members of the public having been given the opportunity to be heard in opposition or in support of such Petition, that the Board is entitled to approve or disapprove said Petition.
2. That 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.
3. That the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner by the proposed location of the sign because no infringement of the established right-of-way will occur, neighboring signs currently in place are actually located closer (or into) the right-of-way.
4. That the strict application of the terms of the zoning ordinance will result in practical difficulties due to the Historic District signage requirements, the setback for the subject real estate is in excess of most properties on Green Street due to the additional right-of-way for an undeveloped turn lane.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, the Board does now **APPROVE** the Development Standard Variance requested by John S. Capper, IV, known as Docket No. BZDV-12-11-1090 located at 401 N Green Street, Brownsburg IN 46112; subject to and conditioned upon the following:

1. That the sign must comply with §155.141(C) "Vision Clearance Areas" of the Zoning Ordinance, as follows: *"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 costs to relocate the sign.
3. The approval of the Findings of Fact and Conclusions of Law.

Date: _____ By: _____
President, Board of Zoning Appeals

Date: _____ Attest: _____
Secretary, Board of Zoning Appeals