

# Staff Report – Board of Zoning Appeals

<b>Docket #:</b>	BZA2023-006	<b>Hearing Date:</b>	March 13, 2023
<b>Applicant:</b>	William Niemier, 21 E. Main Street, Box 441, New Palestine, IN 46163		
<b>Owner:</b>	Kovacs Enterprises, 2400 Forest Hills Boulevard, Greenwood, IN 46143		
<b>Subject Property Address:</b>	189 E. Worthsville Road		
<b>Staff Contact:</b>	Gabe Nelson, nelsong@greenwood.in.gov, 317-887-5231		

## Request:

Petitioner is requesting variances from UDO 10-03-14 (D) Commercial Building Design Standards, Front Elevation (2), Minimum transparency of 30%, to allow transparency be reduced to 0% on the Independence Drive frontage, and Section 10-03-14 (D) Commercial Building Design Standards, Front Elevation (1), Minimum of 50% mortared masonry, to allow mortared masonry be reduced to 42% on the Worthsville Road frontage.

## Location:

The subject property is located at 189 E. Worthsville Road. Parcel ID # 41-05-08-041-037.001-030

See attached Exhibit A – Aerial Location Map

## Indiana Code Reference(s):

- Section 36-7-4-918.5 (Dimensional Variances)

## Surrounding Land Uses:

- A. Existing: Commercial, Large (CL), Undeveloped Land
- B. North: Residential, Mobile Home (RMH), Greenwood Estates Mobile Home Park
- C. South: Commercial, Large (CL), Kroger Plaza
- D. East: Commercial, Large (CL), GetGo Gas Station
- E. West: Commercial, Large (CL), Ace Hardware Plaza

See Exhibit B: Zoning Map

## Statutory Criteria:

- Indiana Code Section 36-7-4-918.5 Dimensional/Development Standard Variances may be approved only upon a determination in writing that:
  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.
- Indiana Code Section 8-21-10-3 No Hazard to Air Navigation (if applicable)
  1. The structure is regulated under Indiana Code 8-21-10-3 and the Board of Zoning Appeals has received a copy of the Determination of No Hazard to Air Navigation issued by the Federal Aviation Administration and the Board of Aviation Commissioners has been delivered notice in accordance with Indiana Code 8-21-10-3 not less than sixty days before the proposal is considered.

## **VARIANCE #1: To reduce transparency from 30% to 0% (Independence Drive)**

### **Greenwood Code References:**

Unified Development Ordinance, Section 10-03-14 (D) Commercial Building Design Standards, Front Elevation  
(2) Minimum transparency of 30%. See Exhibit C: Site Plan and Exhibit D: Building Elevations

### **PETITIONER'S DETAILED STATEMENTS OF REASONS**

**1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because:**

The proposed development and use is consistent with the intended use under the comprehensive plan and is consistent with existing surrounding uses.

**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 because:**

The construction of a new Starbucks building will actually increase the value of the adjacent area.

**3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:**

The unique location of the subject property creates two fronts. Satisfying the 30% transparency requirement is not possible because the kitchen will be located in the second frontage area facing Independence Drive.

**4. The structure is/is not regulated under Indiana Code 8-21-10-3 for hazard air navigation.**

Not applicable.

## **VARIANCE #2: To reduce mortared masonry from 50% to 42% (Worthsville Road)**

### **Greenwood Code References:**

Unified Development Ordinance, Section 10-03-14 (D) Commercial Building Design Standards, Front Elevation  
(1) Minimum of 50% mortared masonry. See Exhibit C: Site Plan and Exhibit D: Building Elevations

### **PETITIONER'S DETAILED STATEMENTS OF REASONS**

**1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because:**

The proposed development and use is consistent with the intended use under the comprehensive plan and is consistent with existing surrounding uses.

**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 because:**

The construction of a new Starbucks building will actually increase the value of the adjacent area.

**3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:**

The unique size and shape of the subject property prevents construction of a large enough building to provide 50% brick along the frontage of the building.

**4. The structure is/is not regulated under Indiana Code 8-21-10-3 for hazard air navigation.**

Not applicable.

**Comments and Findings:**

Staff finds no issue with the applicant's statements of reason. The two variance requests arise due to the layout of this lot having road frontages on opposite sides. The requirement for transparency on both frontages is difficult as the kitchen is located on one end of the building, as is common for almost all restaurants. Transparency in this space is difficult and a variance is the appropriate action in this situation.

The variance for the masonry requirement on the primary entrance facing Worthsville Road is based on the typical Starbucks façade. The building design is part of the Starbucks brand, and with less than a 10% reduction in the required masonry, still meets the spirit of the Greenwood UDO. The addition of mortared masonry to meet the 50% threshold would take away the proposed aesthetics and provide no actual benefit to the design.

**Summary and Proposed Conditions:**

Staff provides a positive recommendation for both variances with the following condition.

1. The final plans shall substantially conform to the site plan depicted in Exhibit C and building elevations depicted in Exhibit D.

**Attachments:**

Exhibit A: Aerial Location Map

Exhibit B: Zoning Map

Exhibit C: Site Plan

Exhibit D: Building Elevations



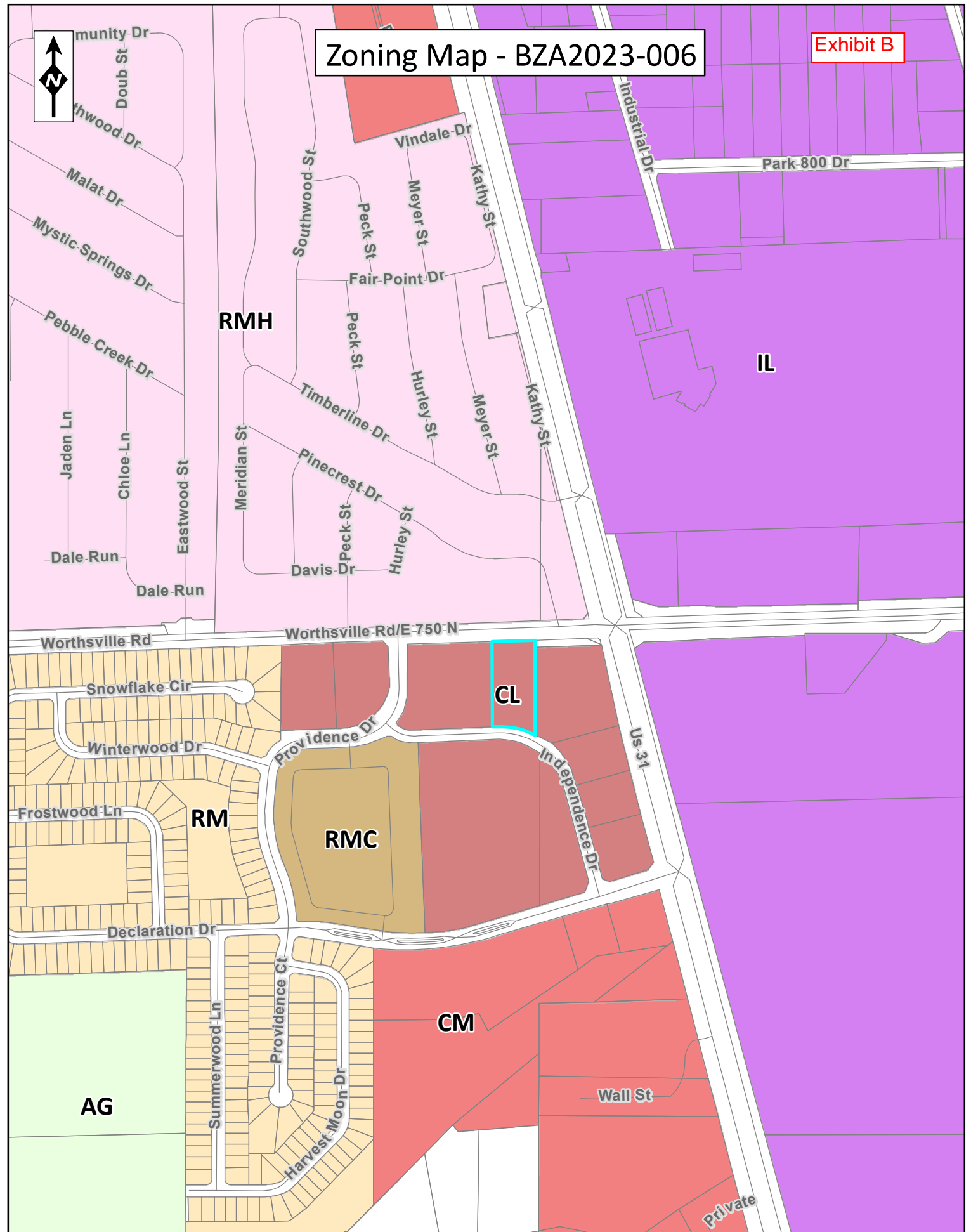


# Aerial Map - BZA2023-006

Exhibit A

1 inch = 200 feet





# Zoning Map - BZA2023-006

Exhibit B

1 inch = 500 feet

CDS, City of Greenwood  
3/7/23





