

Staff Report – Board of Zoning Appeals

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| Docket #: | BZA2023-052 Use Variance | Hearing Date: | January 8, 2024 |
| Applicant: | Allyson & Dylan Wilson, 5704 Skipping Stone Dr., Indianapolis, 46237 | | |
| Owner: | Ronnie Grube, 5120 N 400 W, Bargersville, IN 46106 | | |
| Subject Property Address: | 260 W. Main Street | | |
| Staff Contact: | Gabe Nelson, nelsong@greenwood.in.gov, 317-887-5230 | | |

Request:

Petitioner requests approval of a use variance in order to operate a personal care and beauty service (salon) use at 260 W. Main Street. The property is currently zoned OT-Old Town, and salons are not a permitted use in the OT zone.

Location:

The subject property is located on the north side of W. Main Street just east of S. Madison Avenue. Parcel ID # 41-02-32-013-105.000-026.

Exhibit A – Aerial Vicinity Map and Exhibit D – Legal Description

Existing & Surrounding Zones/Land Uses:

Existing: Old Town (OT), Vacant Commercial
 North: Old Town (OT), Hoosier Brewing Company
 South: Old Town (OT), Bella Vita/Revery
 East: Old Town (OT), The Colonnade
 West: Old Town (OT), Grafton Peek Ballroom

Exhibit B – Existing Zoning Map

Indiana Code Reference(s): Section 36-7-4-918.4 (Use Variance)

Statutory Criteria:

- Indiana Code Section 36-7-4-918.4 Use Variances may be approved only upon a determination in writing that:
 - The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
 - The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
 - The need for the variance arises from some condition peculiar to the property involved;
 - The strict application of the terms of the Zoning Ordinance will constitute an unusual and unnecessary hardship if applied to the property for which the variance is sought; and
 - The approval does not interfere substantially with the Comprehensive Plan.
- Indiana Code Section 9-21-10-3 No Hazard to Air Navigation (if applicable): 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.

Greenwood Code References: Unified Development Ordinance, Section 10-02-1 (Master List of Uses by Zone and District) does not permit Personal Care and Beauty Services in the OT zone.

Petitioner's Detailed Statements of Reasons and Staff Comments:

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

The relocation of Penelope June Salon across the street not only refrains from causing any harm but, in fact, contributes positively to the public health, safety, morals, and general welfare of the community. As an active participant in the Old Town Greenwood community, Penelope June has a long-standing commitment to the community's well-being. In addition to providing top-notch salon services, the salon has actively engaged in various community initiatives, including offering free back-to-school haircuts for underprivileged children. Furthermore, the salon regularly participates in local charity events and fundraisers, fostering a strong sense of camaraderie and support within the community. Penelope June's relocation will continue to uphold these values.

Staff Comment: Staff agrees with petitioner's statement.

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 relocation and expansion of Penelope June Salon will significantly contribute to the well-being and enrichment of our neighboring community. The salon's enhanced presence will attract more foot traffic to the area, potentially boosting the local economy. Furthermore, the additional employment opportunities arising from the salon's expansion will provide our neighbors with more job prospects. With Penelope June's reputation for community engagement and charitable work, the expansion will foster a stronger sense of unity and collaboration among the residents, enhancing the overall neighborhood experience and contributing to the thriving atmosphere of our local community.

Staff Comment: Staff agrees with petitioner's statement.

3. The need for the variance arises from some condition peculiar to the property involved, because:

The current zoning regulations do not permit the operation of personal health and beauty services. This variance application reflects the salon's commitment to adapt to the changing landscape of the neighborhood and provide essential beauty and wellness services that cater to the residents, ultimately enhancing the quality of life and well-being of the community.

Staff Comment: Salons and personal care type businesses are precisely the type of businesses that should be located within the OT zoning district and there are no reasons for this not being a permitted use in the OT zone.

4. The strict application of the terms of the zoning ordinance will constitute an unusual and unnecessary hardship if applied to the property for which the variance is sought, because:

Penelope June Salon and the community would face considerable hardships. Denying the variance could ultimately lead to a missed opportunity for mutual growth and could negatively impact the overall well-being and spirit of the community.

Staff Comment: While the petitioner may be correct in how denial would affect their business, they do not address how denial (or approval) would affect this particular property. A use variance is tied to the particular property, so the important fact here is whether or not this property could be used for any type of permitted use. With a precedent set previously, there are a number of permitted uses that could be located in this particular building that would not require a use variance and therefore would not meet this requirement.

5. The approval does not interfere substantially with the Comprehensive Plan, because:

By actively supporting the community's vision for revitalization and growth, Penelope June Salon's expansion signifies a dedicated effort to contribute to the area's economic vitality, cultural enrichment, and social engagement. The salon's participation in local initiatives, along with its commitment to providing high-quality beauty services, demonstrates a synergy with the goals of the comprehensive plan, emphasizing the importance of fostering a dynamic, inclusive, and thriving community in Old Town Greenwood.

Staff Comment: Staff agrees with petitioner's statement.

Recommendation and Proposed Conditions:

Due to the recent standard for a similar property that prohibiting personal care and beauty service is not an unusual and unnecessary hardship (BZA2023-036) staff refrains from advocating for approval of this petition.

Attachments:

Exhibit A – Aerial Map

Exhibit B – Existing Zoning Map

Exhibit C – Proposed Floor Plan

Exhibit D – Legal Description

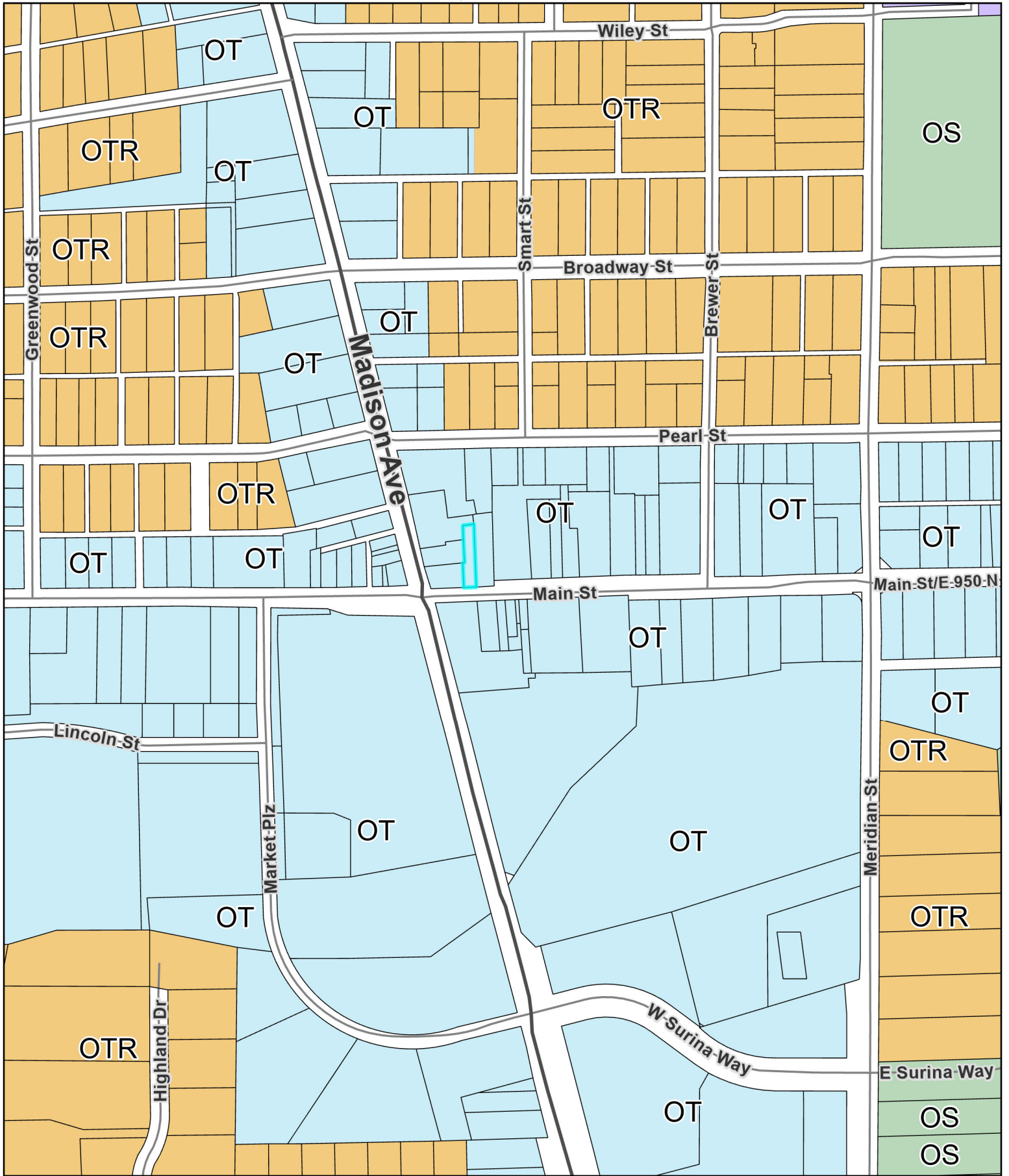
Aerial Map

Exhibit A



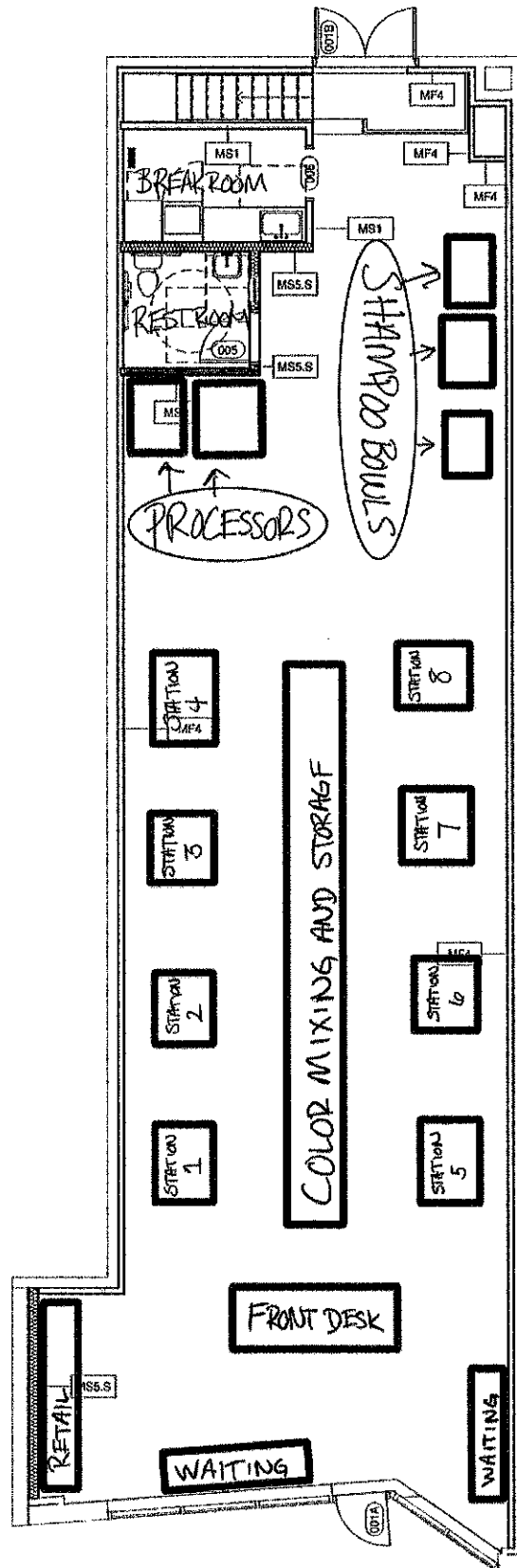
Existing Zoning Map

Exhibit B



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|------------------------|----------------------------|---|--------------------------------------|
| AC - Airport | IC - Interstate Commercial | OS - Open Space | RMC - Residential Multi-Unit Complex |
| AG - Agriculture | IL - Industrial Large | PUD - Planned Unit Development | RMH - Residential Mobile Home |
| CL - Commercial Large | IM - Industrial Medium | RL - Residential Large Lot | |
| CM - Commercial Medium | OT - Old Town | RM - Residential Medium Lot | |
| CS - Commercial Small | OTR - Old Town Residential | RA - Residential Attached Single-Family | |





Legal Description

Part of the West Half of the Northeast Quarter of Section 32, Township 14 North, Range 4 East of the Second Principal Meridian, Johnson County, Indiana, described as follows: Beginning on the South line of said quarter section at a point 481.36 feet East of the Southwest corner of said quarter section, said point being at the Southeast corner of the tract of land conveyed by Frank Peek and wife to the First Federal Savings and Loan Association of Greenwood, January 19, 1939 and recorded In Deed Record No. 81, page 363, and on the middle line of the Easterly wall of the two story brick building on said premises; thence Easterly on the South line of said quarter section 30 feet, more or less, to the West line of a lot owned by Oren B. Sharp; thence North 1 degree and 15 minutes West, with the West line of said Sharp lot, 131.34 feet to the lot now owned by said Frank Peek; thence Westerly on the South line of said Peek tract, 25 .08 feet to the Northeast corner of a lot formerly owned by James H. Kelly; thence Southerly 79.86 feet to the Southeast corner of said Kelly tract; thence Westerly to the Northeast corner of the said lot conveyed to the First Federal Savings and Loan Association; thence Southerly with the middle line of said partition wall, 47.56 feet to the place of beginning.

Commonly known as 260 West Main Street.