



# Staff Report BZA16-009-VA

## Maple Grove Commercial Lot 3- Setback Variance

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**Docket BZA16-009-VA Maple Grove Commercial Subdivision Lot 3- Setback Variance.** The petitioner is requesting approval of a Variance of development standards for the purpose of allowing a commercial structure on a 1.15 acre lot that encroaches on the side yard setback. The subject property is located on lot 3 of the Maple Grove Commercial Subdivision along Whitestown Parkway and Grove Pass. The petitioner is Innovative Engineering and the property owner is Diversified Property Group, LLC.



### History

The proposed site is platted as part of a block of lots known as Maple Grove Commercial Subdivision. The entire subdivision is to serve up to four buildings with a potential of multiple tenants. Lot 3 is the lot requesting approval to encroach the side yard setback requirement.

Lot 3 is currently seeking Concept Plan Approval through the Whitestown Plan Commission. This hearing is scheduled for Monday, October 17<sup>th</sup>. The concept plan includes approval of a 10,500 square foot building.

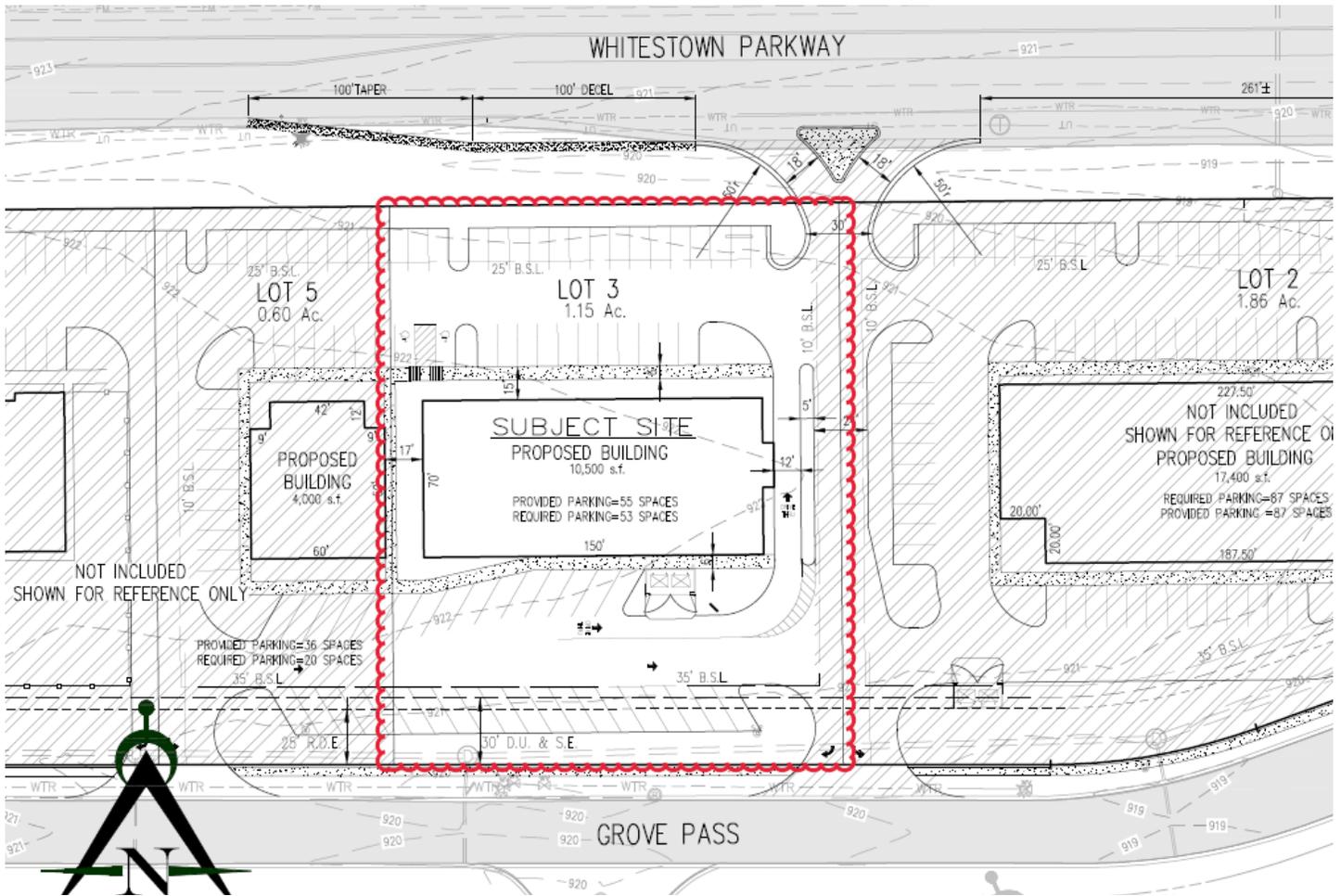
### Site Location and Proposed Development

Lot 3 of the Maple Grove Commercial Subdivision is requesting approval for a variance to encroach the ten foot side yard setback to allow a potential outside patio area. The accessory structure patio area is proposed to abut to Lot 5's dental office building. The petitioner is planning to build a 10,500 square foot building with multiple tenant availability.

In order to provide adequate number of parking spots and accessible access drives, the building is set to comply with the design standards, however a reduction of the side yard setback will allow the building's tenants to provide potential outdoor patio area.

It is unknown how far this accessory patio structure will encroach the side yard setback. The variance should prepare and allow the structure to abut the zero lot line.

See the proposed lot in relation to the proposed Lot 5 building in the drawing below:



Proposed Elevations



NORTH ELEVATION



## Requested Variance

Reduce the 10 foot side yard setback to allow an accessory structure to encroach up to zero lot line.

### ***UDO, Chapter 2.9. General Business***

<b><i>LOT STANDARD</i></b>	<b><i>NON-RESIDENTIAL</i></b>
MIN. FRONT YARD SETBACK	20
<b>MIN. SIDE YARD SETBACK</b>	<b>10</b>
MIN. REAR YARD SETBACK	10
MIN. OPEN SPACE	15%

## Decision Criteria

Per the Zoning Ordinance, *Section X.C.5.a(3)* the Board of Zoning Appeals shall use the following three decision criteria, consistent with the requirements of the Indiana Code IC 36-7-4-918.5, when taking action on all variance requests:

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

*The same architect is coincidentally designing both buildings. All building designs will require approval of the Indiana Department of Homeland Security Division of Fire and Building Safety Plan Review Branch.*

*The Lot 3 and Lot 5 buildings will be similar in character, design and appearance. Separation of the site in two lots necessitates a side yard setback reduction, but that reduction will have no adverse impact on the community in general.*

2. The use or value of the area adjacent to the property included in the variances will not be affected in a substantially adverse manner.

*The adjacent property is being designed coincidentally by the same architect. The Applicant has invested large sums of money and completed many projects in the Town. The Applicant has worked to establish level of professionalism and quality and believes that past work has proven long term commitment to the Town.*

*The Applicant plans to continue in the future to invest heavily in the Town. Successful future endeavors will depend on the Applicant continuing to provide that level of quality and commitment to the Town. Creation of two buildings with a narrow side setback will have no adverse impact on the adjacent neighboring properties.*

3. The strict application of the terms of the Ordinance will continue the unusual and unnecessary hardship as applied to the property for which the variances are sought.

*Strict application would require that the proposed building be moved to the west. That movement would reduce parking/ access road area creating an overcrowded and potentially unsafe traffic conditions.*

*The intended occupant of Lot 5 insists on owning its building as a free-standing structure. This variance is the only way to accommodate both structures without having to reduce the size and marketability of the Lot 3 building or reduce needed parking and access road areas.*

In addition to the three decision criteria, the Whitestown UDO allows accessory structures such as a patio or awning to encroach the side yard setback within 2 feet per Section 4.3.b.5- Architectural features (cornices, chimney, eave, sill, canopy, or similar feature) or open platforms, porches, or landings may extend into a required side or rear yard not more than two (2) feet, and may project into a required front yard not more than three (3) feet.

## **Staff Recommendations**

Staff recommends that the Board of Zoning Appeals **approve** the variance to reduce the 10-foot rear setback requirement to allow an accessory structure to encroach on the setback up to a zero lot line.