

McCordsville

ESTD  1988

INDIANA

Board of Zoning Appeals Staff Report

Meeting Date: March 26, 2025

PETITIONER: Trax BBQ

PETITION: BZA-25-001

REQUEST: Petitioner requests approval of a Special Exception and Development Standard Variances for a restaurant on the subject property.

LOCATION: The property is located at 6314 W Broadway.

ZONING: The property is zoned Neighborhood Commercial (CN) Zoning District.

<u>Zoning</u>	<u>Land Use</u>
North: CN	Restaurant
South: OT	Retail
East: CN	Commercial Service
West: CN	Retail

STAFF REVIEW: The current use of the building is office. The petitioner seeks to operate a sit-down restaurant, with catering services, on the property. The petitioner is seeking to build-out the space in multiple phases. The property involved in this request includes all of 6314 W Broadway and a portion of 6346 W Broadway. A site plan and survey are included in the petitioner's packet. The total acreage of the newly created lot would be 0.622 acres.

Also, of note, regarding the subject property is the presence of a significant "apparent" deed gap between the subject property and the lot to the east. The petitioner's survey shows some of the existing improvements for the subject property within this deed gap, as well as some proposed improvements. The Town will not insert ourselves into any property owner dispute; however, we would like a letter from the survey company, in layman's terms, with the explanation of the apparent deed gap and its ownership.

The first phase will include renovation of the main floor and the basement. The main floor will serve as the restaurant, including customer seating, walk-up bar, restrooms, and other necessities. The basement will house the kitchen and commissary. The petitioner also plans for "overflow seating" on the second floor. The petitioner also plans to install signage and paved ADA parking spaces.

Phase II will include transforming the second floor into additional restaurant seating, restrooms, and a full, seated bar. Phase III is proposed to focus on exterior aspects, including, but not limited to paving the parking lot and drive aisles, sidewalks, drainage, and developing a plan for curb-cuts.

In order to bring this to fruition, as proposed, the petitioner is seeking approval of a Special Exception land-use to allow the restaurant use and multiple Variances, mostly related to parking.

The proposed site plan shows 34 standard parking spaces and an additional 7 motorcycle parking spots. Unfortunately, the Town's ordinances do not count motorcycle parking spaces as parking spaces, so for the purposes of the parking review, there are a total of 34 parking spaces. The floor plan schematic shows 75 seats on the main floor and an unknown number of seats on the second floor and on the outdoor patio. The petition does not denote the number of employees on the largest shift. The Town's parking standards require 1 space per 3 seats and 1 space per employee on the largest shift. Assuming there are no more than 9 employees on the largest shift, the parking, as proposed is sufficient for the main floor, but is not sufficient for any seating on the outdoor patio and/or second floor.

Special Exception: Section 154.041

The petitioner wishes to operate a restaurant in the building. Restaurants are Special Exceptions in the CN Zoning District. Staff views the restaurant land use favorable, as we believe it will assist the Town's goals to create a quainter village feeling and appearance along W Broadway, with neighborhood shops and eateries, as the area is redeveloped.

Variance No. 1: Section 154.114 (E)(2)

The petitioner requests a variance to maintain the existing asphalt parking surface until Phase III, which is an unknown timeline. The Zoning Ordinance requires all parking and drive aisles to be paved. Staff is supportive of not requiring the paved parking at the out-set of the project, but a committed deadline is needed and addressed in staff's suggested conditions of approval.

Variance No. 2 : Section 154.114 (E)(5)

The petitioner plans denote a total of 34 parking spaces. The petitioner's full build-out will include more than 75 seats. It is staff's interpretation that at full build-out, the parking spaces provided will not meet the Town's Zoning Ordinance requirements for 1 parking space per 3 seats, plus 1 parking space per employee on the largest shift. Staff's recommendation will be to prohibit seating on the 2nd floor until additional parking can be identified.

Variance No. 3: Section 154.111(A)

The CN Zoning District requires the following setbacks for parking lots: (a) front-yard – 50', (b) side-yard – 10', and (c) rear-yard – 20'. The petitioner's plans do not meet the required setbacks along the south (front), west (side), and east (side) property lines. Old Town lots were originally developed in the 1800s. In order for these lots to accommodate modern land uses and their needs modifications of existing standards are

needed. The petitioner has worked to acquire additional Real Estate and will be incorporating landscaping and a modified setback where it matters most – along W Broadway. Staff is in support with some suggested conditions of approval.

Variance No. 4: Section 5.01(D)(5)(b)

A five (5) foot sidewalk is required along W Broadway. The petitioner is proposing to delay this installation until a later phase, which has an unknown timeline. Staff is supportive of not requiring the sidewalk at the out-set of the project, but a committed deadline is needed and addressed in staff's suggested conditions of approval.

Variance No. 5: Section 154.121(D)(1)

Streetlights, meeting the Town's specifications, are required along W Broadway. The petitioner is proposing to not install such streetlighting. Again, staff is in support. Streetlights must be spaced in organized and analyzed pattern based upon various metrics. This needs to occur in the perspective of the larger picture along W Broadway, likely with a larger streetscape project.

Variance No. 6: Section 154.119(B)(4)(a)

Perimeter parking lot landscaping is required along the perimeters of parking lots. The petitioner's west parking edge is on the property line and shares access with the neighboring lot. Therefore, the petitioner is requesting relief from the perimeter parking lot landscaping standards. Staff is in support of this request with some suggested conditions of approval.

Variance No. 7: Section 154.119(B)(4)(b)

Interior parking lot landscaping is required in the form of landscape island or peninsulas in parking lots. The petitioner is seeking to maximize parking on the lot and therefore requesting relief from the interior parking lot landscaping standards. Staff is in support of this request with some suggested conditions of approval.

BZA AUTHORITY: The Board of Zoning Appeals shall have the power to authorize special exceptions. In approving special exceptions, the Board of Zoning Appeals may attach any conditions to the special exception as it deems necessary to assure compliance with the purpose of this chapter. The following requirements shall be met:

- (1) The special exception shall be permitted by this chapter;
- (2) The special exception can be served with adequate utilities, access roads, drainage, and other necessary facilities;
- (3) The special exception shall not involve any element or cause any condition that may be dangerous, injurious, or noxious to any other property or persons, and shall comply with the development standards of this chapter;
- (4) The special exception shall be sorted, oriented, and landscaped to produce a harmonious relationship of buildings and grounds to adjacent buildings and properties;
- (5) The special exception shall produce a total visual impression and environment which is consistent with the environment of the neighborhood;
- (6) The special exception shall organize vehicular access and parking to minimize traffic congestion in the neighborhood;
- (7) The special exception shall preserve the purpose of this subchapter.

The Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the underlying zoning ordinance. A variance may be approved under Indiana Code § 36-7-4-918.5 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; and
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject Property.

STAFF RECOMMENDATION: Staff recommends approval of the Special Exception and Variances contingent upon the findings and suggested conditions of approval below.

1. An off-site access easement, guaranteeing ingress/egress across the adjoining lot to the west for access to the on-site parking spaces and trash receptacle.
2. A public access easement, dedicated to the Town, shall be provided for the width of the subject property, along the SR 67 right-of-way, up to twelve (12) feet deep, for the purpose of future installation of a sidewalk, landscaping, streetlighting, and other necessary infrastructure.
3. Phase I shall include the curbing along SR 67 roadway for the width of the subject property. This curbing shall include the curb-cuts extending back and around to the parking spaces, as generally shown on the Concept Plan.
4. Phase I shall include a concrete apron at the entrance.
5. The landscape area, along the SR 67 right-of-way, shown as grass on the Concept Plan, shall be installed with Phase I. This area shall be a minimum 15' deep. This landscape area will be cleared of gravel and topsoil will be added to a depth to support turf grass and shrub plantings. The petitioner shall install the topsoil, turf grass (seed), and shrubs (planted in compliance with the town's perimeter parking lot landscape standards). This area shall also be permitted to feature a sidewalk, streetlighting, and other necessary infrastructure, as determined by the Town.
6. A perimeter landscape area, at least 5' wide shall be installed along the east perimeter of the parking lot. This landscape area shall be cleared of gravel and replaced with topsoil to a depth to support turf grass and shrub plantings. The petitioner shall install the topsoil, turf grass (seed), and shrubs (planted in compliance with the town's perimeter parking lot landscape standards). In the future, if the ownership of the deed gap is determined to be tied to another property, this condition shall be voided.
7. The area along the west building façade, where the mechanicals and smoker are proposed, must be kept orderly and free of other equipment.
8. A free-standing light fixture, meeting the Town's standards for site lighting, shall be located near the entrance.
9. The remainder of the parking lot and drive aisles, not paved within Phase I, located on the subject property, shall be paved within two years of the certificate of occupancy being issued.
10. The sidewalk along W Broadway shall be constructed within two years of the certificate of occupancy being issued.
11. The exterior of the building shall remain an un-painted brick structure. The general appearance of the building shall remain unchanged, while allowing for necessary improvements for safety and structural needs, as well as signage in accordance with Town regulations. Any exterior building renovations or changes shall be submitted to the ARC for determination of approval with this condition.

12. The Special Exception shall run with the land but is limited to an eat-in restaurant as defined in the McCordsville Zoning Ordinance.
13. The restaurant shall be limited to 100 seats (inside and outside), unless additional parking is secured. If additional parking is secured, the petitioner must make a filing with the Planning & Building Department and the Department shall review and find the parking in compliance with Town Ordinances prior to the seat limitation being lifted.

FINDINGS:

If the Board is inclined to approve the Special Exception and Variances, then the Department recommends adopting the staff's suggested conditions of approval above and the findings below.

Special Exception: Section 154.041

- (1) The special exception shall be permitted by this chapter. Finding: *The land use is listed as a Special Exception in the CN Zoning District.*
- (2) The special exception can be served with adequate utilities, access roads, drainage, and other necessary facilities. Finding: *All necessary utilities are either present or will be provided by the petitioner in the course of redevelopment of the property, as determined and approved by the Town Engineer.*
- (3) The special exception shall not involve any element or cause any condition that may be dangerous, injurious, or noxious to any other property or persons, and shall comply with the development standards of this chapter. Finding: *The Town does not anticipate any unsafe conditions. It should be noted that the use, includes an outdoor smoker, and while we do not consider it to be noxious it will produce a smell.*
- (4) The special exception shall be sorted, oriented, and landscaped to produce a harmonious relationship of buildings and grounds to adjacent buildings and properties. Finding: *Staff has worked carefully to produce a site plan in conjunction with the petitioner that will achieve this criterion. Staff finds that is the case, contingent upon the suggested staff conditions of approval.*
- (5) The special exception shall produce a total visual impression and environment which is consistent with the environment of the neighborhood. Finding: *The building will remain mostly as it is today. This is important as it is a historic/landmark building for the community.*
- (6) The special exception shall organize vehicular access and parking to minimize traffic congestion in the neighborhood. Finding: *Staff has worked carefully to produce a site plan in conjunction with the petitioner that will achieve this criterion. Staff finds that is the case, contingent upon the suggested staff conditions of approval.*
- (7) The special exception shall preserve the purpose of this subchapter. Finding: *Staff finds that this request is in keeping with the subchapter.*

Variance No. 1 from Section 154.114 (E)(2) (Parking Lot Surface)

- 1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community: Finding: *It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community. The gravel parking is not un-safe.*
- 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: Finding: *It is unlikely the use and value of adjacent*

property will be affected in a substantially adverse manner. A parking surface is the surface used by most businesses in the area, so this surface is consistent with the surrounding area.

3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject Property: *Finding: The strict application of this criteria could result in the petitioner being unable to coordinate grade levels and other coordination with neighboring properties. The 2-year timeline will provide sufficient time to address these issues.*

Variance No. 2 : Section 154.114 (E)(5) (Quantity of Parking Spaces)

1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community: *Finding: It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community. The proposed parking lot meets the Town's requirements for drive aisle width and curb cut locations.*

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: *Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed parking lot will include adequate parking for the main floor. The addition of an outdoor patio is not expected to create a substantially adverse manner due to the unlikelihood that the facility is fully seated both inside and outside. However, staff does not recommend allowing seating on the second floor until additional parking is identified.*

3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject Property: *Finding: The Town finds that our suggested condition of approval, prohibiting the use of the seating on the second floor until additional parking can be identified addresses this practical difficulty.*

Variance No. 3: Section 154.111(A) (Setbacks)

1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community: *Finding: It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community. The proposed site design accounts for cross access of parking areas to the west and inclusion of landscaping in excess of that in the surrounding area to the south, along W Broadway.*

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: *Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed setbacks are greater than most of the existing conditions on surrounding property.*

3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject Property: *Finding: The subject property was originally platted in the 1800s when the primary mode of transportation was the horse and buggy. The size, shape, access points, etc of these lots still reflect this. The strict application of the ordinance is not a reasonable condition for redevelopment of these lots.*

Variance No. 4: Section 5.01(D)(5)(b) (Sidewalk)

1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community: *Finding: It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community. The Old Town area lacks a wider pedestrian infrastructure system at this time.*

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: *Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. Pedestrian infrastructure in the area is*

either very limited or non-existent.

3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject Property: *Finding: The installation of sidewalks along Broadway is an important piece of needed infrastructure, but the installation at the out-set of the project is not necessary due to the lack of a larger pedestrian infrastructure system. The 2 year timeline will provide sufficient time for the town to continue working on a larger plan for pedestrian infrastructure, while still requiring development to install the infrastructure necessary for modern development and in accordance with the Town's ordinances.*

Variance No. 5: Section 154.121(D)(1) (Streetlight)

1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community: *Finding: It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community. The Old Town area lacks a wider streetlighting system at this time.*

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: *Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. Streetlight infrastructure in the area is either very limited or non-existent.*

3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject Property: *Finding: The installation of streetlights along Broadway is an important piece of needed infrastructure, but the installation of streetlights must be completed with a larger design in mind. Streetlights need to be located in an organized pattern, denoting proximity and distances to other streetlights, entrances, intersections, buildings, and other features that should be illuminated. The Town needs to create a streetlight plan for the Old Town section along W Broadway. It is a practical difficulty for a small subject property, like this, to gauge and determine the correct spacing for the corridor.*

Variance No. 6: Section 154.119(B)(4)(a) (Perimeter Parking Lot Landscaping)

1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community: *Finding: It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community. The proposed site design accounts for cross access of parking areas to the west and inclusion of landscaping in excess of that in the surrounding area to the south, along W Broadway.*

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: *Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed landscaping is greater than most of the existing conditions on surrounding property.*

3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject Property: *Finding: The subject property was originally platted in the 1800s when the primary mode of transportation was the horse and buggy. The size, shape, access points, etc of these lots still reflect this. The strict application of the ordinance is not a reasonable condition for redevelopment of these lots.*

Variance No. 7: Section 154.119(B)(4)(b) (Interior Parking Lot Landscaping)

1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community: *Finding: It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community. The proposed site design accounts for cross access of parking areas to the west and inclusion of landscaping in*

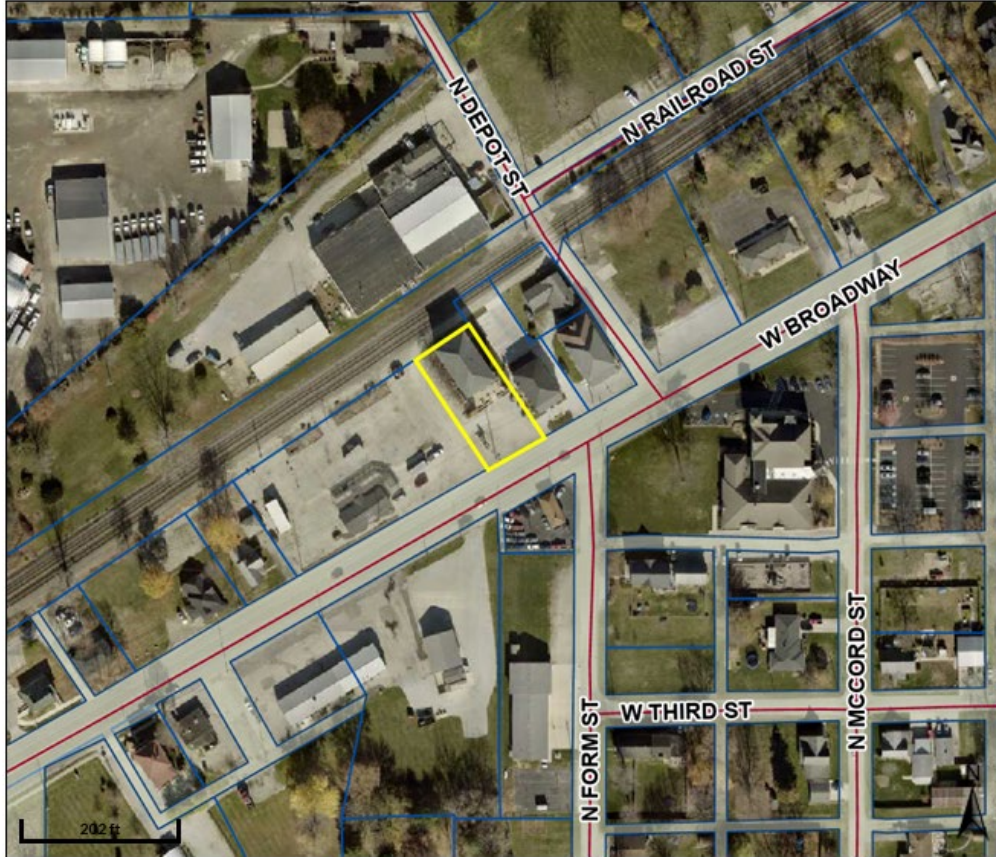
excess of that in the surrounding area to the south, along W Broadway.

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: *Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed landscaping is greater than most of the existing conditions on surrounding property.*

3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject Property: *Finding: The subject property was originally platted in the 1800s when the primary mode of transportation was the horse and buggy. The size, shape, access points, etc of these lots still reflect this. The strict application of the ordinance is not a reasonable condition for redevelopment of these lots.*

Denial: If the Board is inclined to deny the Special Exception or any of the requested variances, then the Department recommends denying, and tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.

A public hearing shall be held prior to any vote on this matter. The BZA can choose to Approve, Approve with Conditions, Deny, or Continue the petition.



Overview



Legend

-  Corporate Limits
- Roads**
 -  I
 -  S
 -  U
 -  <all other values>
-  Rights of Way
-  Parcels

Parcel ID	30-01-26-100-006.000-018	Alternate ID	30-01-26-100-006.000-018	Owner Address	G T Real Estate LLC
Sec/Twp/Rng	n/a	Class	447 - Office Bldg (1 or 2 Story)		6314 W Broadway
Property Address	6314 W Broadway McCordsville	Acreage	n/a		McCordsville, IN 46055
District	MCCORDSVILLE TOWN				
Brief Tax Description	SW NE 26-17-5 .913AC & PT VAC ALLEY (Per Beacon Acreage is .310) (Note: Not to be used on legal documents)				

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Exhibit A – Site Photos



