

CITY OF SHELBYVILLE

Adam M. Rude
Director



Allan Henderson
Deputy Director

BOARD OF ZONING APPEALS

MEETING DATE: 5/10/2022

Case #:	BZA 2022-08: 818 Elston Drive, Use Variance			
Petitioner's Name:	Timothy Lower, Landco Property Management, LLC			
Owner's Name:	Landco Property Management, LLC			
Petitioner's Representative:	Timothy Lower			
Address of Property:	818 Elston Drive			
Subject Property Zoning Classification:	IL – Light Industrial			
Comprehensive Future Land use:	Heavy/Medium Industrial			
	North	South	East	West
Surrounding Properties' Zoning Classifications:	BH – Business Highway	IL – Light Industrial	IL – Light Industrial	IL – Light Industrial
Surrounding Properties' Future Land Use	Gateway Mixed Use	Heavy/Medium Industrial	Commercial	Commercial/Residential
History:	Construction began on the mini storage and office building in 1987. The self-storage has always been used for the intended purpose. In 2008 the first office space was leased to DFR (Division of Family Resources). DFR occupied the space for 8 years. After 2016, the structure sat vacant until 2020. In 2020, the Shelby County Probation Department rented the space for 6 months. In February of 2022, Nuesound leased the remaining office space.			
Vicinity Map:				
Action Requested:	Approval of a use variance to allow for residential use in an IL – Light Industrial zoning district.			

1. Landco Property Management, LLC currently owns and operates the self-storage facility at 818 Elston Drive. The property is zoned IL – Light Industrial. Landco Property management currently operates their offices out of the main building, leases space to another business and leases an apartment space. The apartment space was originally designed and built for the on-site manager to live and operate the self-storage facility. Current IL – Light Industrial district standards do not allow residential use. However, the Unified Development Ordinance does allow for legal nonconforming uses – in this case the apartment in an IL – Light Industrial district. However, if a legal nonconforming use is abandoned or is discontinued for one (1) year or more it shall lose its legal nonconforming status. The apartment on the property has not been used as an apartment for more than one-year. Landco Property Management would like to receive approval of a use variance to allow for the residential use.

Use Variance Findings of Fact

Finding of Fact #1 – General Welfare: Explain why granting the request for a use variance will not be harmful to the public health, safety and general welfare of the City of Shelbyville.

Applicant provided the following response to Finding of Fact #1 “This variance will return the space back to an apartment as it was originally designed. There will be no harm done using it as an apartment again.”

The planning staff has determined that a use variance will not be harmful to the public health, safety and general welfare of the City of Shelbyville, as long as the residential use is contained to the existing building and existing unit. The apartment is currently one of three units, two (2) office spaces and one (1) apartment, in an approximately 5,300 square foot building. There is ample parking for a minimum of two (2) vehicles for the apartment and no additional remodeling or alterations of the building need to occur to create the apartment unit.

Finding #1 has been satisfied by the petitioner

Finding of Fact #2 – Adjacent Property: Explain why the use variance should not affect the use and value of adjacent properties.

Applicant provided the following response to Finding of Fact #2 “This variance will return the space back to an apartment as it was originally designed. There will be no impact to use or value of adjacent properties by using it as an apartment again.”

The planning staff has determined the use variance should not affect use and value of adjacent properties. The creation of an apartment in the existing building follows the historic use of the building as office space with on-site residence for a property manager. Surrounding businesses and industrial facilities will be able to continue to operate as they currently do.

Finding #2 has been satisfied by the petitioner

Finding of Fact #3 – Practical Difficulty: Explain why the conditions that are peculiar to this property create a hardship from using it for the permitted uses in the zoning district.

Applicant provided the following response to Finding of Fact #3 "The space was designed as an apartment originally, so using it as anything industrial would be impractical. It would also be difficult to use and rent as office space which we attempted to do without success before converting it back to an apartment."

The planning staff has determined that not allowing the use variance does provide practical difficulty in the use of the property. The original intent of the space was to allow for the on-site residence of a property manager. This is common model for self-storage facilities. The space was not designed to accommodate other permitted uses as listed under the IL – Light Industrial zoning district, but rather just the self-storage facility. Most of the other permitted uses would have a far greater impact than allowing the residential use, because they would require complete reconfiguration of the existing office building, potential demolition of storage units and increase parking.

Finding #3 has been satisfied by the petitioner

Finding of Fact #4 – Unnecessary Hardship: Explain why the property cannot be reasonably used for the permitted uses in the zoning district.

Applicant provided the following response to Finding of Fact #4 "The property is set up as an apartment and would not be reasonable to use for industrial purposes due to its size and layout. We have also been unable to find renters for it as office space due to its size and layout."

The planning staff has determined that not allowing the use variance will create an unnecessary hardship in the use of the property within the II – Light Industrial district. Since the building was originally designed to allow for an apartment and given the size of the apartment, the conversion back or to another use allowed in the district would be cost prohibitive, creating the unnecessary hardship. Unit C is already ideally suited for the requested use, but Planning Staff believes only Unit C should be allowed as a residential unit.

Finding #4 has been satisfied by the petitioner

Finding of Fact #5 – Comprehensive Plan: Explain how the use variance will not interfere with the Comprehensive Plan. (Use statements and future land use map from the Comprehensive Plan that support your argument.)

Applicant provided the following response to Finding of Fact #5 "The space could potentially be converted to tech/light industrial in the future as needed. However, the spaces fits the Comprehensive Plan because it will be a clean, well-maintained property for a resident to live. This supports the following goal "The City needs to find ways to attract additional new housing opportunities, so people have more choices for location and lifestyle within Shelbyville."

The planning staff has determined the use variance does not interfere with the intent of the Comprehensive Plan. The future land use map contained in the Comprehensive Plan identified the area around the subject property as gateway mixed use including residential, commercial, and industrial. The built environment goals of the plan promote the development and redevelopment of

existing sites. The petitioner is continuing to use the property as a self-storage facility and diversifying with the residential use.

The following Objective and Action Steps from the Comprehensive Plan support the Use Variance:

Objective 2: Guide Healthy Development Patterns Using Future Land Use Mapping:

Action 1: Utilize the Future Land Use Map as a living, breathing document to guide future development decisions.

Action 3: Target mixed-use flexibility for gateway development.

Finding #5 has been satisfied by the petitioner

STAFF RECOMMENDATION: APPROVAL WITH CONDITIONS

1. Only Unit C be allowed as a residential unit in the building.

SPECIAL EXCEPTION USE: BZA 2022-08: 818 Elston Drive, Use Variance

FINDINGS OF FACT BY THE SHELBYVILLE BOARD OF ZONING APPEALS

Staff Prepared

Motion: (I) would like to make a motion to approve the requested use variance to allow the subject property to have a residential unit, pursuant to the findings of fact presented in the planning staff's report and conditions outlined therein.

- 1. The proposed Use Variance **will not** be harmful to the public health, safety and general welfare of the City of Shelbyville, pursuant to the planning staff's report.
- The proposed Use Variance **will** be harmful to the public health, safety and general welfare of the City of Shelbyville, pursuant to the planning staff's report.
- 2. The proposed Use Variance **will not** affect the use and value of adjacent properties, pursuant to the planning staff's report.
- The proposed Use Variance **will** affect the use and value of adjacent properties, pursuant to the planning staff's report.
- 3. The strict application of the terms of the Shelbyville Zoning Ordinance **will not** result in a practical difficulty in the use of the property, pursuant to the planning staff's report.
- The strict application of the terms of the Shelbyville Zoning Ordinance **will** result in a practical difficulty in the use of the property, pursuant to the planning staff's report.
- 4. The strict application of the terms of the Shelbyville Zoning Ordinance **will** result in unnecessary hardship for the permitted uses in the zoning district, pursuant to the planning staff's report.
- The strict application of the terms of the Shelbyville Zoning Ordinance **will not** result in unnecessary hardship for the permitted uses in the zoning district, pursuant to the planning staff's report.
- 5. The proposed Use Variance **is consistent** with the intent of the zoning district and goals objectives within the comprehensive plan, pursuant to the planning staff's report.
- The proposed Use Variance **is not consistent** with the intent of the zoning district and goals objectives within the comprehensive plan, pursuant to the planning staff's report.

Additional conditions imposed by the Board of Zoning Appeals:

- 1.
- 2.
- 3.

Shelbyville Board of Zoning Appeals

By: _____

Chairperson / Presiding Officer

Attest: _____

Adam M. Rude, Secretary

5/10/2022 - BZA 2022-08: 818 Elston Drive, Use Variance

APR 26 2022



USE VARIANCE APPLICATION

Shelbyville Planning & Building Department
44 West Washington Street
Shelbyville, IN 46176
P: 317.392.5102

For Office Use Only:

Case #: BZA 2022 - 08

Hearing Date: 5.10.22

Fees Paid: \$ 500.00

Final Decision:

Approved Denied

1.

Applicant

Name: Timothy Lower, Managing Member: Landco Property Management, LLC
Address: 500 Saraina Rd #201
Shelbyville, IN 46176
Phone Number: 317-896-0623
Fax Number: N/A
Email: dlower@landcopm.com

Property Owners Information (if different than Applicant)

Name:
Address:
Phone Number:
Fax Number:
Email:

2.

Applicant's Attorney/Representative

Name:
Address:
Phone Number:
Fax Number:
Email:

Project Engineer

Name:
Address:
Phone Number:
Fax Number:
Email:

3. Project Information:

General Location of Property (and address is applicable): 818 Elston Dr. Ste C Shelbyville, IN 46176

Current Zoning: Industrial Existing Use of Property: Residential Apartment

Proposed Use of Property: Residential Apartment

4. Attachments

- Affidavit and Consent of Property Owner (if applicable)
Proof of Ownership (copy of deed, recent property card)
Letter of Intent
Supporting Documentation and Exhibits (Optional)
Vicinity Map
Application Fee
Findings of Fact

The undersigned states the above information is true and correct as s/he is informed and believes.

Applicant: Timothy Lower Date: 4/26/22

State of Indiana
County of Shelby SS:

Subscribed and sworn to before me this 26 day of April, 2022.

Samantha R Rodgers
Notary Public Printed



SAMANTHA R. RODGERS
Notary Public Residing in DePue County.
State of Indiana
Commission No. 697949
My Commission Expires March 14, 2025

My Commission Expires: March 14 2025



USE VARIANCE FINDINGS OF FACT

Petitioner's Name: Timothy Lower, Managing Member: Landco Property Management, LLC

Location: 818 Elston Dr. Ste C Shelbyville, IN 46176

Special Exception for: Residential Apartment

The Shelbyville Board of Zoning Appeals must determine that the following criteria have been met in order to approve an application for a Use Variance. Using the lines provided, please explain how your request meets each of these criteria.

1. **General Welfare:** Explain why granting the request for a use variance will not be harmful to the public health, safety and general welfare of the City of Shelbyville.

This variance will return the space back to an apartment as it was originally designed. There will be no harm done by using it as an apartment again.

2. **Adjacent Property:** Explain why the use variance should not affect the use and the value of adjacent properties.

This variance will return the space back to an apartment as it was originally designed. There will be no impact to use or value of adjacent properties by using it as an apartment again.

3. **Practical Difficulty:** Explain the conditions that are peculiar to this property that create a hardship from using it for the permitted uses in the zoning district.

The space was designed as an apartment originally so using it as anything industrial would be impractical. It would also be difficult to use and rent as office space which we attempted to do without success before converting it back to an apartment.

4. **Unnecessary Hardship:** Explain why the property cannot be reasonably used for the permitted uses in the zoning district.

The property is set up as an apartment and would not be reasonable to use for industrial purposes due to its size and layout. We have also been unable to find renters for it as office space due to its size and layout.

5. **Comprehensive Plan:** Explain how the use variance will not interfere with the Comprehensive Plan. (Use statements and Future Land Use map from the Comprehensive Plan that support your argument).

The space could potentially be converted to tech/light industrial in the future as needed. However, the space fits the Comprehensive Plan because it will be a clean, well maintained property for a resident to live. This supports the following goal: "(The city) need(s) to find ways to attract additional new housing opportunities so people have more choices for location and lifestyle within Shelbyville."

AFFIDAVIT & CONSENT OF PROPERTY OWNER
APPLICATION TO THE SHELBYVILLE BOARD OF ZONING APPEALS

STATE OF Indiana)
COUNTY OF Shelby) SS:

I, Timothy Dustin Lower, AFTER BEING DULY SWORN, DEPOSE AND SAY THE
(Name of property owner)
FOLLOWING:

1. That I am the owner of real estate located at 818 Elston Dr. Ste C Shelbyville, IN 46176;
(Address of subject property)
2. That I have read and examined the Application made to the Shelbyville Board of Zoning Appeals by:
Timothy Dustin Lower
(Name of applicant)
3. That I have no objections to, and consent to the request(s) described in the Application made to the Shelbyville Board of Zoning Appeals.

Timothy Dustin Lower
Owner's Name (Please Print)

Timothy Dustin Lower
Owner's Signature

Subscribed and sworn to before me this 24 day of April, 2022.

[Signature] / Samantha R Rodgers
Notary Public Printed

Residing in Deputy County My Commission expires March 14 2025



SAMANTHA R. RODGERS
Notary Public
State of Indiana
Commission No. 697949
My Commission Expires
March 14, 2025