

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: March 2, 2015****CASE NUMBER**

5953

APPLICANT NAME

Jerry Arnold (Don Williams, Agent)

LOCATION103 North Warren Street
(Northwest corner of North Warren Street and St. Michael Street)**VARIANCE REQUEST****BULK SITE:** Bulk Site Variances to allow a wooden surfaced terrace to occupy 26% of the primary frontage on North Warren Street, a 12" high terrace for outdoor seating, and allow a metal canopy in the Downtown Development District.**ZONING ORDINANCE
REQUIREMENT****BULK SITE:** The Zoning Ordinance requires a terrace to occupy 100% of the building façade except where driveways are permitted, terraces must be paved or landscaped with a minimum of 20" high terrace for outdoor seating, and does not allow metal canopies in the Downtown Development District.**ZONING**

SD-WH, Special District - Warehouse

AREA OF PROPERTY

0.24± Acres

**CITY COUNCIL
DISTRICT**

District 2

**ENGINEERING
COMMENTS**

No comments.

**TRAFFIC ENGINEERING
COMMENTS**

No traffic impacts anticipated by this variance request. Line of sight for this corner of the intersection is minimal based on the directionality of the one-way streets.

ANALYSIS

The applicant is requesting Bulk Site Variances to allow a wooden surfaced terrace to occupy 26% of the primary frontage on North Warren Street, a 12" high terrace for outdoor seating, and allow a metal canopy in the Downtown Development District; the Zoning Ordinance requires a terrace to occupy 100% of the building façade except

where driveways are permitted, terraces must be paved or landscaped with a minimum of 20" high terrace for outdoor seating, and does not allow metal canopies in the Downtown Development District. The applicant also has a 1-lot subdivision application for this site on the Planning Commission's March 5, 2015 agenda.

The applicant is proposing to renovate and expand an existing, vacant, unroofed building to include a new 20' x 30' addition proposed as grain storage and bathrooms, to serve a new brewery and tasting room. It should be noted that the applicant has had a pre-development meeting with staff regarding this site, however, at that time the development consisted of a single metes-and-bounds parcel with no new construction. Since the proposed scope of work has been increased, a new pre-development meeting will be required prior to the issuance of permits.

The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application; and, unless the Board is presented with sufficient evidence to find that the variance will not be contrary to the public interest, and that special conditions exist such that a literal enforcement of the Ordinance will result in an unnecessary hardship. The Ordinance also states that a variance should not be approved unless the spirit and intent of the Ordinance is observed and substantial justice done to the applicant and the surrounding neighborhood.

Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined from the facts and circumstances of each application.

The applicant states:

We plan to turn the vacant, unroofed, existing building into a brewery and tasting room. We plan to expand the building for bathrooms and grain storage. We have purchased the adjacent lot for building expansion. We have a pending subdivision application for a one-lot subdivision (SUB 2015-00010). We expect to complete the work before the end of 2015.

We request a 12" high terrace (20" minimum required) to allow outdoor seating. Providing an accessible ramp to the terrace would require a 20' long ramp, which our small site can not accommodate. A terrace for the full frontage would eliminate our front door entrance and truck entrance to the existing concrete slab. We also request a 21'x 42' metal canopy (not fabric awning as required) over the raised wood terrace for less than full frontage. We believe a fabric awning of this size could not reasonably meet required 135 mph wind speed. We believe our small lot size works against us in trying to meet the Downtown Zoning Ordinance

The Zoning Ordinance allows for a site within the Downtown Development District to have one curb-cut per street frontage. It should be noted that the proposed site plan illustrates an existing gravel driveway along North Warren Street, a proposed gravel driveway for grain delivery along St. Michael Street, and an existing concrete drive entrance along St. Michael Street. The existing

concrete drive along St. Michael should be removed, and replaced with landscaping and curbing, or a new variance application should be submitted.

The primary entrance of a structure in the Downtown Development District shall be through the façade, parallel to the primary frontage. The applicant has identified North Warren Street as the intended primary frontage, therefore it should be noted that one of the two illustrated doors along North Warren Street shall be the primary entrance to the structure.

A site developed with a terrace frontage, such as proposed by the applicant, requires a raised terrace between 20 and 36 inches above sidewalk grade to occupy 100% of the width of the façade at the primary frontage (except where driveways are permitted), and shall be paved or landscaped. The proposed site plan illustrates a 12" high terrace that will occupy 24.5% of the width of the faced at the primary frontage. The applicant mentions that a terrace constructed to the required minimum height would require a long ramp that would not fit on the subject site, however, there is no mention of a ramp being required on the outside of the structure to access the terrace. Furthermore, there is no justification provided as to why a terrace is not proposed along the entire façade, except for the driveway, as required, nor why a paved or landscaped terrace is not an acceptable option.

The proposed site plan illustrates a proposed metal canopy over the proposed terrace, extending 13' along the façade of the structure (38% overall). A site with a terrace frontage is not required to have an awning; however, should the applicant wish to have an awning, it must be fabric, not extend beyond the terrace, and shall span a minimum of 80% of the frontage. The applicant states that a fabric awning of the proposed size "could not reasonably" meet building code standards for windloads, however no supporting evidence is provided. While that may be true, the applicant could use several smaller awnings which would be able to meet all building code requirements. It should be noted all awnings require a minimum clearance of 8' above the terrace level.

There are several pieces of information missing, which makes it difficult for staff to determine if the site will fully comply with the Zoning Ordinance in the Downtown Development District. No information is provided by the applicant regarding how waste will be handled. If a dumpster is proposed for the site, a revised site plan illustrating a dumpster in compliance with Section 64-3.I.12. of the Zoning Ordinance will be necessary. Also not illustrated on the site plan, is the location of the proposed HVAC system, electric meters, gas meters, and water meters, which are to not to be located along any frontage. There is also no mention of what material the proposed exterior façade will consist of, nor the proposed roof slope of the existing building, the proposed addition, or the proposed metal awning.

It should be noted that all of the applicant's current variance requests are due to the proposed frontage type as a terrace. It should be noted that in the Special District – Warehouse sub-district, seven out of eight frontage types are an option, and the applicant appears to have chosen a frontage type that may not be the best suited to the layout of the site. It is important to remember that variances deal with hardships directly related to the property itself, and not the applicant. There are no reasons preventing the site from being developed with a compliant frontage as required by the Zoning Ordinance.

RECOMMENDATION: Based on the preceding, staff recommends to the Board the following findings of fact for Denial:

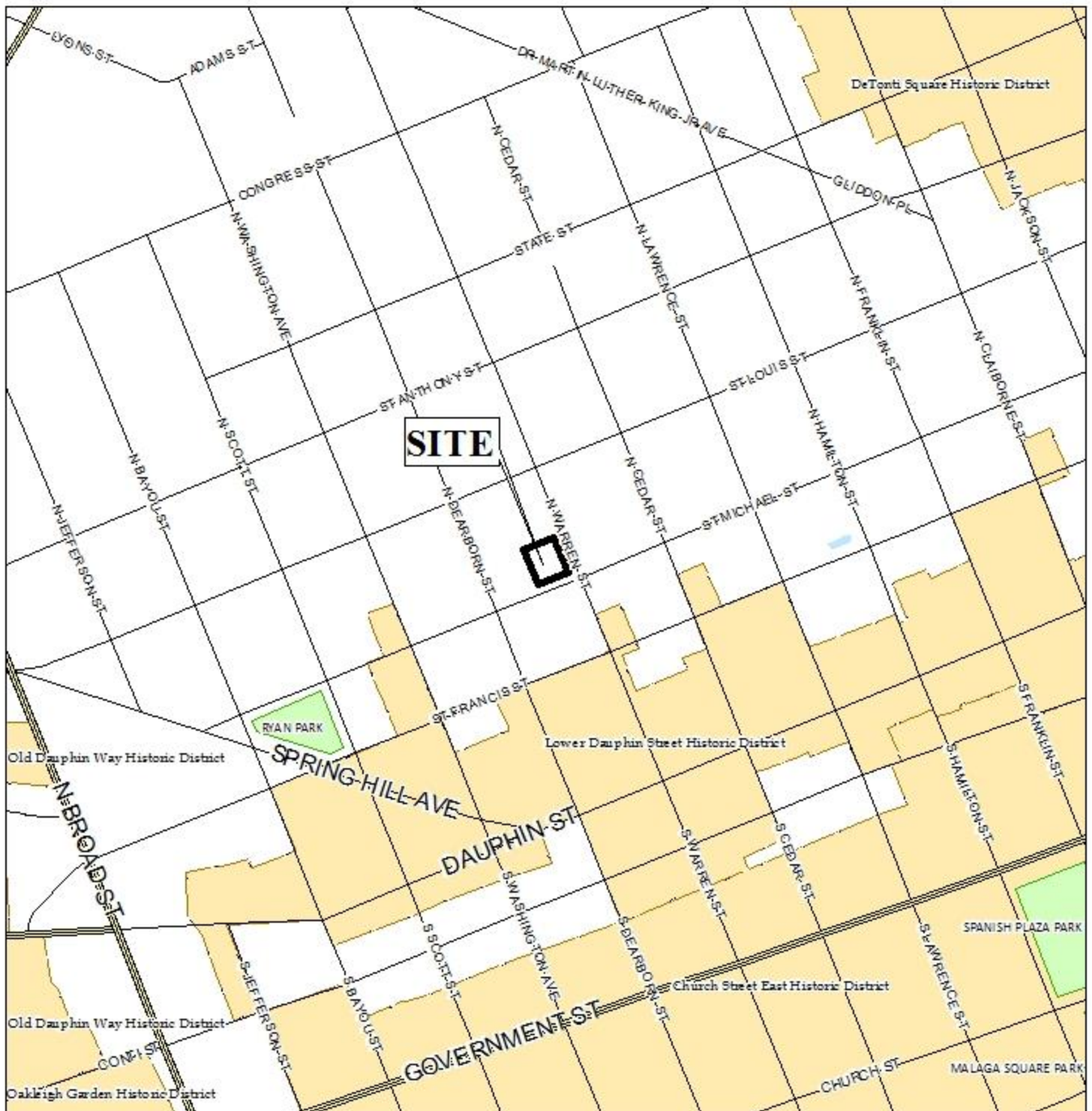
- 1) Approving the variance will be contrary to the public interest due to the fact that it will deviate from the recently adopted Downtown Development District Code and Regulating Plan, which intends to guide building siting and form to vary by context and intensity in coordination with community identity and preferences;
- 2) Special conditions do not exist with this site such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship, as the site could be developed with a compliant frontage type allowed in the Special District – Warehouse sub-district; and
- 3) That the spirit of the chapter shall not be observed and substantial justice shall not be done to the applicant and the surrounding neighborhood by granting the variance due to the fact that the requested variances would be out of character with the districts identified in the Regulating Plan created by the recently adopted Downtown Development District Code.

Revised for the April 6th meeting:

The application was heldover at the applicant's request. The applicant met with staff on March 11th to discuss various options. Based upon what was discussed at the meeting, the applicant is now asking for an additional month to allow for the revision of the proposed site plan.

The application is recommended for Holdover until the May 4, 2015 meeting to allow for revisions to be submitted by April 13, 2015.

LOCATOR MAP



APPLICATION NUMBER 5953 DATE April 6, 2015

APPLICANT Jerry Arnold, (Don Williams, Agent)

REQUEST Bulk Site Variances



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by miscellaneous commercial and residential units.

APPLICATION NUMBER 5953 DATE April 6, 2015

APPLICANT Jerry Arnold, (Don Williams, Agent)

REQUEST Bulk Site Variances

 R-A	 R-3	 T-B	 B-2	 B-5	 MUN	 SD-WH	 T5.1
 R-1	 R-B	 B-1	 B-3	 I-1	 OPEN	 T3	 T5.2
 R-2	 H-B	 LB-2	 B-4	 I-2	 SD	 T4	 T6



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by miscellaneous commercial and residential units.

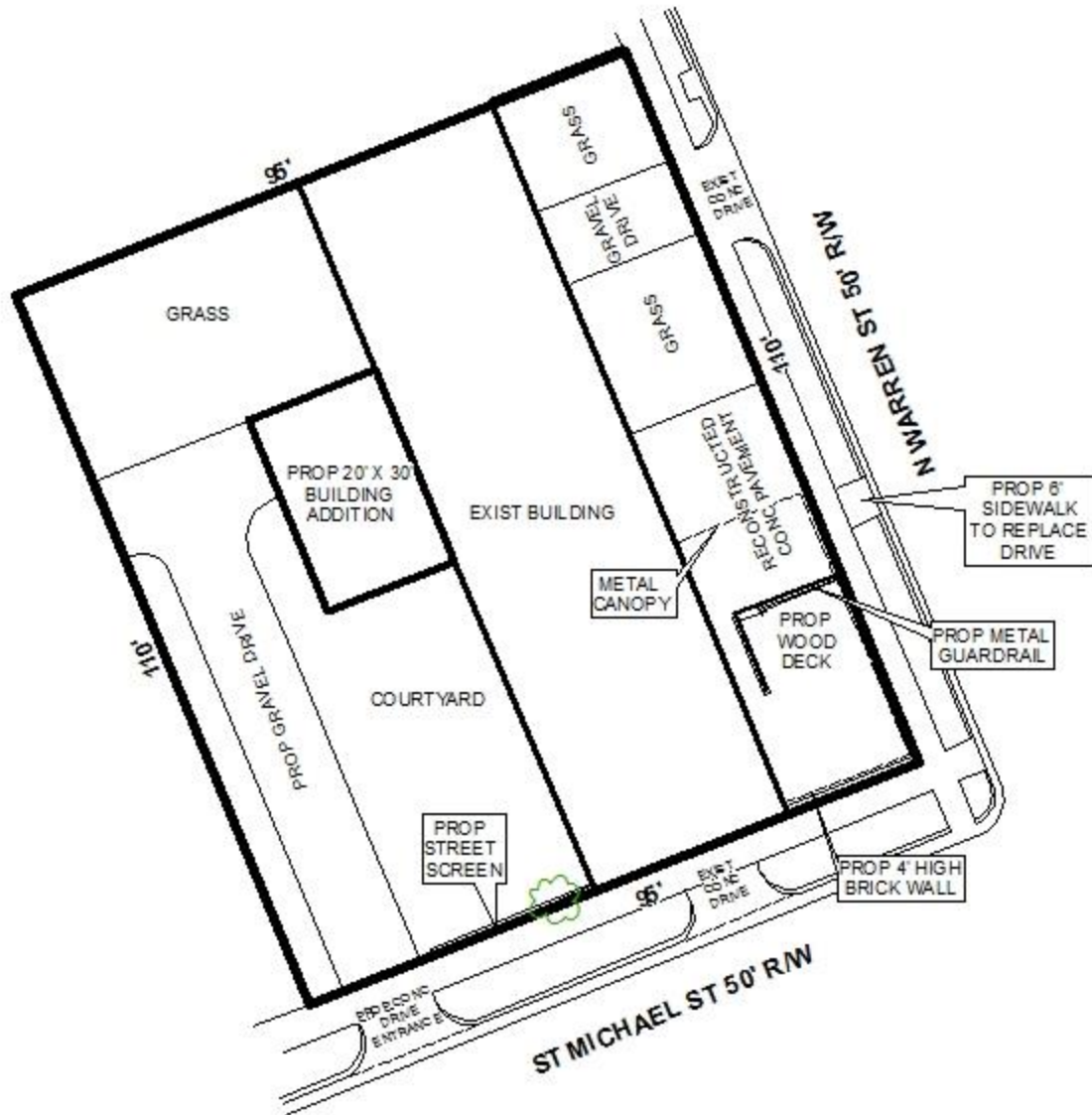
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SITE PLAN



The site plan illustrates the existing building, proposed addition, and proposed drive.

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