



**CITY OF COLUMBUS  
BOARD OF ZONING APPEALS  
(June 28, 2016 Meeting)**

**STAFF REPORT**

**Docket No. / Project Title:** C/DS-16-23 (Kenan Al-Husseini)  
**Staff:** Charles Russell  
**Applicant:** Kenan Al-Husseini  
**Property Size:** 12,997 square feet  
**Current Zoning:** RS4 (Residential: Single-Family 4)  
**Location:** 2202 Cherry Street at the northeast corner of Elm Street and 22<sup>nd</sup> Street, in the City of Columbus

**Background Summary:**

In 2015 the applicant received a use variance (C/UV-15-05) to have a contractors office in the RS4 (Residential: Single-Family 4) Zoning District. After this approval, the applicant began renovating the commercial structure on the property, and a lean-to was added on the east side of the building. The applicant is requesting a variance from the required setback from 22<sup>nd</sup> Street for this lean-to. The required setback is 10 feet, the applicant is proposing 3.6 foot setback. The applicant began the lean-to construction without a building permit and believed he could match the setback of the existing building along 22<sup>nd</sup> Street. However, the existing building's setback is legal-nonconforming ("grandfathered") and any building expansion must comply with the current zoning ordinance.

**Preliminary Staff Recommendation:**

Denial – Criteria #3 has not been met.

**Zoning Ordinance Considerations:**

**District Intent:** The intent of the RS4 (Residential: Single-Family 4) zoning district is as follows: Intended to provide areas for high density single-family residences in areas with compatible infrastructure and services. It should also provide residents with convenient access to Collector and Arterial roads, parks and open space, employment, and convenience goods.

**Development Standards:** Section 3.11 (C): The front setback from a Local Street shall be 10 feet.

<b>Current Property Information:</b>	
<b>Land Use:</b>	Contractor's Office
<b>Site Features:</b>	Two single-family homes sit to the east. The house at 2202 Cherry Street is located on the same lot as the contractor's office. Currently, lot lines are being readjusted to establish new lots for both homes and the contractor's office.

<b>Flood Hazards:</b>	No mapped flood hazard.
<b>Vehicle Access:</b>	Elm Street (Local, Urban, Residential) 22 <sup>nd</sup> Street (Local, Urban, Residential)

<b>Surrounding Zoning and Land Use:</b>		
	<b>Zoning:</b>	<b>Land Use:</b>
<b>North:</b>	RS4 (Residential: Single-Family 4)	Single-family residential Wayne's Auto Electric (car service) AUI Marble Arch (retail of small marble goods)
<b>South:</b>	RE (Residential: Established) P (Public/Semi-Public Facilities)	Single-family residential Free Methodist Church
<b>East:</b>	RS4 (Residential: Single-Family 4) I2 (Industrial: General) CC (Commercial: Community Center)	Single-family residential Vacant industrial building and parking lot Vacant commercial buildings
<b>West:</b>	RS4 (Residential: Single-Family 4) P (Public/Semi-Public Facilities) RE (Residential: Established)	Single-family residential Free Methodist Church

<b>Interdepartmental Review:</b>	
<b>City Engineering:</b>	No comments at this time.
<b>Code Enforcement:</b>	Building Code requires a minimum setback of 3 feet to the supporting wall of the structure (posts in this case) and 2 feet minimum to the overhang from the (east) property line. If these minimum setbacks are met, we would not have any issue with this variance request. No issues or concerns with the setback from 22 <sup>nd</sup> Street.
<b>Fire Department:</b>	No comments at this time.

**Planning Consideration(s):**

The following general site considerations, planning concepts, and other facts should be considered in the review of this application:

1. In 2015 this property received a use variance (C/UV-15-05) to operate a contractor's office in an RS4 (Residential: Single-Family 4) zoning district. The office was to be located in a commercial structure that shared the lot with a home at 2202 Cherry Street. The plans for this office included renovating the commercial structure, rearranging lot lines so it was on its own lot, and complying with a

commitment that no outdoor storage of building materials and construction related equipment be established.

2. During the renovation a lean-to, which was not included in the original use variance request, was added to the east side of the building. The expansion encroaches into both the required side and front setbacks. The applicant has indicated his intent to establish the new proposed lot line farther east to accommodate the required side setback.
3. Because the lean-to extends directly out from the existing commercial structure, which is legal non-conforming, it encroaches 6.4 feet into the required 10 foot setback from 22<sup>nd</sup> Street. The lean-to is 1,360 square feet and will have fencing on the east and south sides. The applicant has indicated it will not be used for storage and will have picnic tables and chairs for employees.
4. The requested setback from 22<sup>nd</sup> Street would not be out of character for the area, as almost all properties along 22nd Street from Central Avenue to Newton Street encroach into the required setback. The area around the subject property is primarily single-family residential with a few small-scale commercial businesses.
5. The Thoroughfare Plan designates 50 feet of right-of-way as appropriate for 22<sup>nd</sup> Street. The right-of-way for 22<sup>nd</sup> Street is currently 50 feet, meaning granting the variance request would not hinder future road improvements.

### **Provisional Findings of Fact/Decision Criteria:**

The Board of Zoning Appeals may approve or deny variances from the development standards of the City of Columbus Zoning Ordinance. The Board may impose reasonable conditions as part of an approval. A variance from the development standards may only be approved 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.**

*Provisional Findings:* The lean-to does not encroach into the sight visibility triangle, and it does not restrict pedestrian, bicycle, or vehicle traffic along 22<sup>nd</sup> Street. Approval of this setback will not be detrimental to the health and safety of the public. *This criterion has been met.*

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.**

*Provisional Findings:* The lean-to meets the required side setback, and the front setback would be consistent with the setback of other properties along 22<sup>nd</sup> Street. It will not hinder or adversely affect the uses of other nearby properties. The granting of this request would not hinder future road improvements along 22<sup>nd</sup> Street, as the right-of-way currently meets the 50 foot Thoroughfare Plan recommendation. *This criterion has been met.*

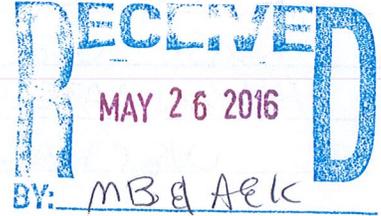
3. **The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.**

*Provisional Findings:* There are no unique features on this property that would result in a practical difficulty in meeting the required setback. *This criterion **has not** been met.*

### **Board of Zoning Appeals Options:**

In reviewing a request for development standards variance the Board may (1) approve the petition as proposed, (2) approve the petition with conditions, (3) continue the petition to a future meeting of the Board, or (4) deny the petition (with or without prejudice). Failure to achieve a quorum or lack of a positive vote on a motion results in an automatic continuance to the next regularly scheduled meeting.

**Columbus – Bartholomew County Planning Department  
Development Standards Variance Application**



**Planning Department Use Only:**

Jurisdiction:  Columbus  Bartholomew County

Zoning: \_\_\_\_\_

Docket No.: \_\_\_\_\_

Hearing Procedure:  Board of Zoning Appeals  Hearing Officer

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**Development Standards Variance Application:**

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**Note:** It is recommended that all variance applications are reviewed in a meeting with a Planning Department staff member prior to being filed. Please contact the Planning Department at 812.376.2550 to schedule that review meeting.

**Applicant Information** (the person or entity that will own and/or execute what is proposed):

Name: KENAN AL-HUSSEINI

Address: 10364 S US HWY 31 ELIZABETHTOWN IN 47222  
(number) (street) (city) (state) (zip)

Phone No.: (812) 341-4144 Fax No.: \_\_\_\_\_ E-mail Address: KENAN79@GMAIL.COM

**Property Owner Information** (the "owner" does not include tenants or contract buyers):

Name: SAME AS ABOVE

Address: \_\_\_\_\_  
(number) (street) (city) (state) (zip)

Phone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_ E-mail Address: \_\_\_\_\_

**Notification Information** (list the person to whom all correspondence regarding this application should be directed):

Name: SAME AS ABOVE

Address: \_\_\_\_\_  
(number) (street) (city) (state) (zip)

Phone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_ E-mail Address: \_\_\_\_\_

**How would you prefer to receive official documentation regarding this request (please check one)? If no or multiple selections are made e-mail will be used.**  E-mail  Fax  Mail

**Property Information:**

Address: 2202 CHERRY ST COLUMBUS IN 47201  
(number) (street) (city) (state) (zip)

or General Location (if no address has been assigned provide a street corner, subdivision lot number, or attach a legal description):  
\_\_\_\_\_

**Variance Requested:**

I am requesting a variance from Section \_\_\_\_\_ of the Zoning Ordinance to allow the following:

LEAN TO ENCROACHING INTO THE SET BACK REQUIRED FROM 22<sup>ND</sup> STREET.

**Variance Request Justification:**

The Indiana Code and the Columbus & Bartholomew County Zoning Ordinance establish specific criteria that each must be met in order for a development standards variance to be approved. Describe how the variance request meets each of the following criteria.

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

OVER \$70,000 HAS BEEN SPENT ON RENOVATING THIS CRUMBLING BUILDING. EXTERIOR EXPECTED TO BE COMPLETED 1<sup>ST</sup> WEEK OF JULY. THE LEAN TO THAT WAS ADDED TO THE EXISTING BUILDING IS AT THE SAME EXACT SETBACK LOCATION OF THE EXISTING BUILDING.

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.

THE RENOVATIONS OF THIS UGLY & DANGEROUS EYE SORE OF A BUILDING, IN CONJUNCTION WITH THE REMODELING OF BOTH ADJACENT PROPERTIES 2202 / 2212 CHELSEY ST. WILL ONLY HAVE POSITIVE IMPACT ON THE ENTIRE NEIGHBORHOOD & PROPERTY VALUES AS WELL AS CURB APPEAL.

3. The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property. This situation shall not be self-imposed; nor be based on a perceived reduction of, or restriction on, economic gain.

THE LEAN TO WAS ADDED TO THE EXISTING BUILDING. FROM AN DESIGN AND CURB APPEAL PERSPECTIVE, MOVING THE LEAN TO 20 FT BACK WOULD BE DETRIMENTAL TO THE DESIGN & CURB APPEAL OF THE BUILDING. THE LEAN TO DOES NOT HAVE ANY ADVERSE EFFECTS ON ADJACENT PROPERTY.

**Application Fee Refund Information:**

The adopted Planning Department Schedule of Application Fees provides for the refunding of application fees for this request if it is approved by the Board of Zoning Appeals. The refund will be provided by mail in the form of a check. It may take several weeks after the Board of Zoning Appeals approval to process the refund and issue the check. Please indicate to whom the refund should be provided:

Name: KENAN AL-HUSSEWI  
Address: 10364 S OS HWY 31 ELIZABETHTON IN 4722  
(number) (street) (city) (state) (zip)

**Applicant's Signature:**

The information included in and with this application is completely true and correct to the best of my knowledge and belief.

[Signature] (Applicant's Signature) 5/26/16 (Date)

**Property Owner's Signature (the "owner" does not include tenants or contract buyers):**

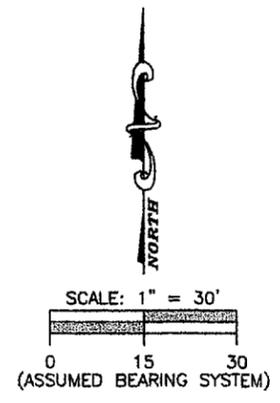
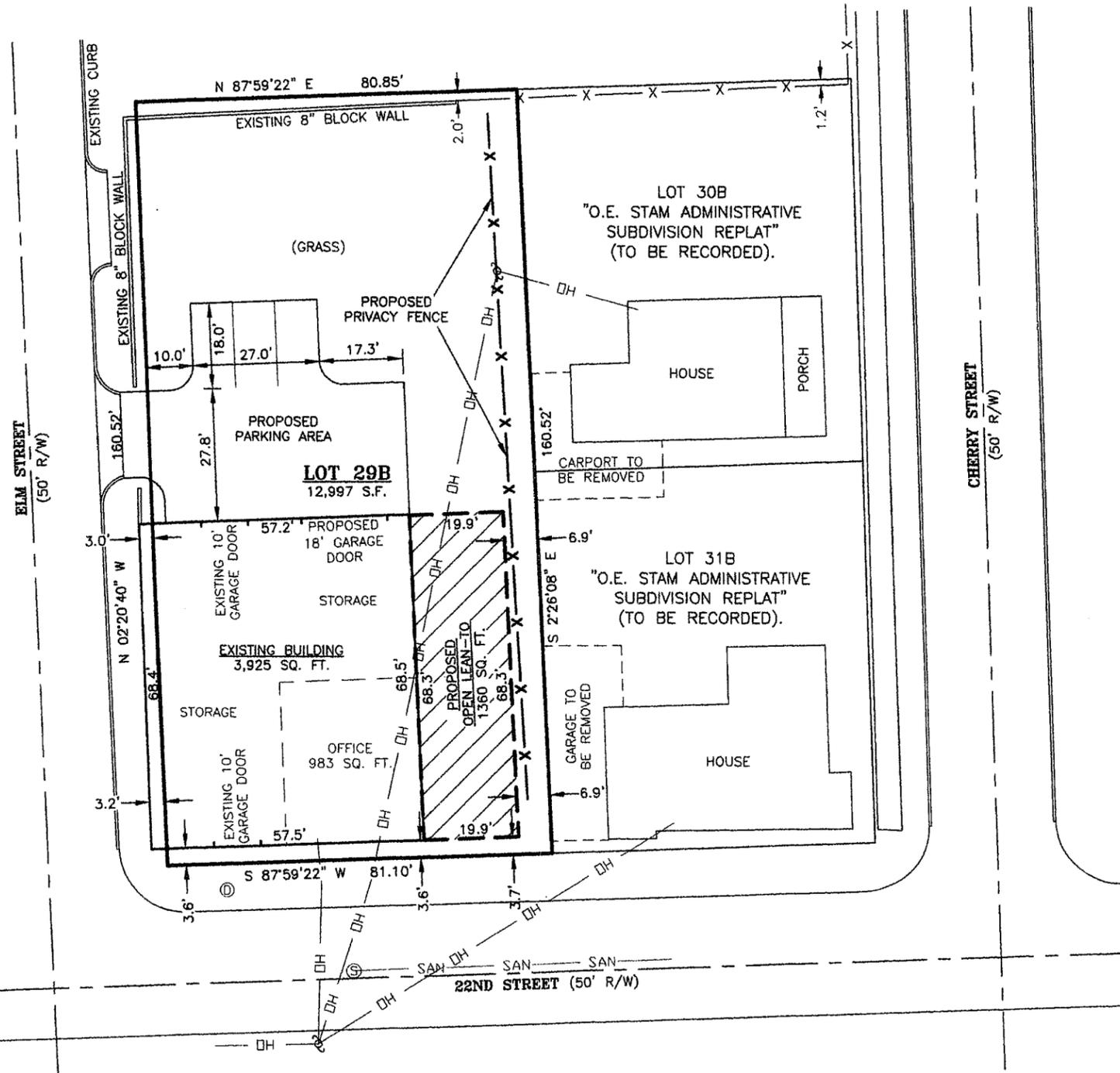
I authorize the filing of this application and will allow the Planning Department staff to enter this property for the purpose of analyzing this request. Further, I will allow a public notice sign to be placed and remain on the property until the processing of the request is complete.

[Signature] (Owner's Signature) 5/26/16 (Date)

KENAN AL-HUSSEWI  
(Owner's Printed Name)

If the person signing as the "owner" is not specifically listed as such in the records of Bartholomew County please indicate their relationship to that officially listed person, corporation or other entity.

# HOMES BY KEENO -SITE PLAN-



- LEGEND**
- ⊙ SANITARY MANHOLE
  - ⊗ UTILITY POLE
  - X- FENCE
  - DH- OVERHEAD UTILITY LINE
  - SAN- SANITARY MAIN
  - ⊕ STORM SEWER INLET

**CURRENT PROPERTY DESCRIPTION**  
PART OF LOTS 29A, 30A, AND 31A IN "O.E. STAM ADMINISTRATIVE SUBDIVISION" AS RECORDED IN PLAT BOOK "Q", PAGE 338B IN THE OFFICE OF THE RECORDER OF BARTHOLOMEW COUNTY, INDIANA.

**PROPOSED PROPERTY DESCRIPTION**  
LOT 29B IN "O.E. STAM ADMINISTRATIVE SUBDIVISION REPLAT" (TO BE RECORDED).

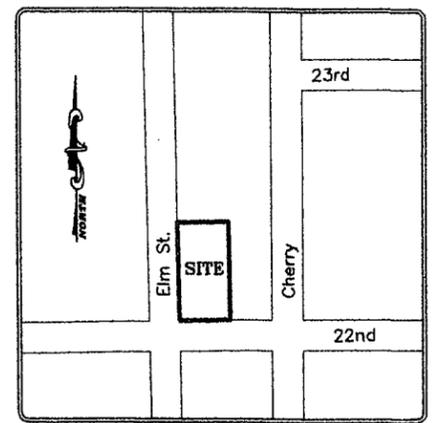
**PROPERTY ADDRESS:**  
2202 AND 2212 CHERRY STREET  
COLUMBUS IN, 47201

**ZONED:**  
RS4 - RESIDENTIAL: SINGLE-FAMILY 4

**PROPOSED USE:**  
LOT 29B = COMMERCIAL (PER CONDITIONAL USE APPROVAL)  
LOTS 30B & 31B = RESIDENTIAL

**PARKING:**  
3 REGULAR PARKING SPACES

**OWNERSHIP**  
HOMES BY KEENO  
AUD. MAP #03-96-18-310-006.900-005  
AUE. MAP #03-96-18-310-006.700-005  
AUD. MAP #03-96-18-310-006.800-005



**BUILDING VS. LOT SIZE TABLE**

EXISTING BUILDING	PROPOSED ADDITION	TOTAL BUILDING	LOT SIZE	COVERAGE(%)
3,925 SQ. FT.	+ 1,360 SQ. FT.	= 5,285 SQ. FT.	/ 12,997 SQ. FT.	= 40.6%



**HOMES BY KEENO  
-SITE PLAN-**  
O.E. STAM ADMINISTRATIVE  
SUBDIVISION REPLAT  
CITY OF COLUMBUS  
BARTHOLOMEW COUNTY, IN

SHEET: 1/1	SCALE: 1" = 30'
DWG REVISION DATES	
DRAWN BY: TMA	
DWG DATE: 6/10/16	
DWG NAME: 15245 ZCC.dwg	

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JOB #15245