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Board of Zoning Appeals

Docket Date: September 6, 2018

Requests for Variances from the Sidewalk Ordinance

- CASE 2018 413 (Council District 6)
- CASE 2018 414 (Council District 5)
- CASE 2018 424 (Council District 19)
- CASE 2018 457 (Council District 2)
- CASE 2018 464 (Council District 28)
- CASE 2018 467 (Council District 19)
- CASE 2018 469 (Council District 17)
- CASE 2018 470 (Council District 17)
- CASE 2018 471 (Council District 7)
- CASE 2018 473 (Council District 5)
- CASE 2018 474 (Council District 5)
- CASE 2018 476 (Council District 2)
- CASE 2018 477 (Council District 27)
- CASE 2018 481 (Council District 20)

The following are recommendations from the Planning Department to the BZA for applicants for variances from the Sidewalk Ordinance which requires developers to install new sidewalks or make in-lieu fund contributions under certain conditions.

If the BZA applicant agrees with the recommendations of the Planning Department, their case will be eligible to be placed on the consent agenda for the meeting. If there is opposition present to the BZA application at the board meeting, the case will not be eligible for the consent agenda and will be heard in the order it was received.

Some of the BZA cases listed here may be withdrawn or deferred by the applicant prior to the meeting.

PLANNING DEPARTMENT SIDEWALK VARIANCE RECOMMENDATION

BZA Case 2018-413 (912 Main Street)

Metro Standard:	4' grass strip, 10' sidewalk, as defined by the Major and Collector Street Plan
Requested Variance:	Not upgrade sidewalks
Community Plan Policy:	T4 CM (Urban Mixed Use Corridor)
MCSP Street Designation:	T4-M-AB4-IM
Transit:	#26/#56 Gallatin BRT Lite; Future High Capacity Transit per nMotion Plan
Bikeway:	None existing; none planned

Planning Staff Recommendation: *Approve with conditions.*

Analysis: The applicant proposes to repurpose an existing storage building as a new bar and requests to not upgrade the existing sidewalks along their property frontage. An 8' sidewalk currently exists on the entire frontage of the property, with no grass strip, which is consistent with the entirety of the block face from South 9th Street to McFerrin Avenue. The existing structure is located approximately 25' from the back of the current sidewalk. The applicant's redevelopment plan shows an outdoor dining area between the existing building and the existing back of sidewalk. The proposed development is located within the East Bank MDHA redevelopment district and was approved in concept by MDHA at its June 5th, 2018 meeting. A second review of proposed materials and landscaping is forthcoming.

Planning evaluated the following factors for the variance request:

- (1) The property fronts Main Street, identified as a future high capacity transit corridor in nMotion. While the existing 8' sidewalk with no grass strip does not meet the Arterial-Boulevard standard set in place by the Major and Collector Street Plan, the Main Street frontage along contiguous properties is constrained as a result of neighboring mixed use buildings being placed adjacent to the back of the sidewalk.
- (2) The applicant is proposing to repurpose an existing storage building with a new structure and patio enclosure. The enclosure is proposed to be setback 8' from the back of the existing sidewalk.

Given the factors above, staff recommends **approval with conditions:**

- (1) The applicant shall contribute in-lieu of construction for the property frontage.
- (2) Prior to the issuance of building permits, dedicate right-of-way along the Main Street property frontage to accommodate future sidewalks per the Major and Collector Street Plan standard.

PLANNING DEPARTMENT SIDEWALK VARIANCE RECOMMENDATION

BZA Case 2018-414 (220 and 222 Duke Street)

Metro Standard:	4' grass strip, 5' sidewalk, as defined by the Local Street Standard
Requested Variance:	Not construct sidewalks; not contribute in-lieu of construction (eligible)
Community Plan Policy:	T4 NM (Urban Neighborhood Maintenance)
MCSP Street Designation:	Local Street
Transit:	¼ mile from #43 – Hickory Hills
Bikeway:	None existing; none planned

Planning Staff Recommendation: *Disapprove*

Analysis: The applicant is constructing two new residential structures on the property, and requests not to construct sidewalks due to storm water concerns and concerns about a gap in paving between the required MCSP sidewalks and the edge of pavement. Planning evaluated the following factors for the variance request:

- (1) No sidewalks currently exist on the property frontage. Staff finds no unique hardship for the property.
- (2) Public Works has indicated that the existing pavement gap is not an impediment to sidewalk construction or connectivity because the applicant will also be required to construct curb and gutter.
- (3) The existing stormwater infrastructure along Duke Street is typical for residential streets. Metro Water Services has indicated that constructing sidewalks along this frontage would involve typical stormwater infrastructure with the sidewalk construction.
- (4) Per the Zoning Ordinance, the applicant is eligible to contribute in lieu of construction. Electing to make the contribution in lieu of construction supplements Metro's annual sidewalk capital program by increasing sidewalk construction funds for areas surrounding this property, within one of Metro's sixteen pedestrian benefit zones. Staff finds no unique hardship for the property.

Given the factors above, staff recommends **disapproval**. **The applicant shall build sidewalks or contribute in-lieu of constructing sidewalks along the property frontage.**

PLANNING DEPARTMENT SIDEWALK VARIANCE RECOMMENDATION

BZA Case 2018-424 (1825 A&B 4th Avenue North)

Metro Standard:	4' grass strip, 5' sidewalk, as defined by the Local Street Standard
Requested Variance:	Not upgrade sidewalks; not contribute in-lieu of construction (not eligible)
Community Plan Policy:	T4 NM (Urban Neighborhood Maintenance)
MCSP Street Designation:	Local Street
Transit:	500' from #9 – MetroCenter
Bikeway:	None existing; none planned

Planning Staff Recommendation: *Approve with conditions.*

Analysis: The applicant is constructing two new structures on the property replacing the existing home, and requests not to upgrade sidewalks due to existing sidewalks, disruption to the existing sidewalk network, as well as topography and an existing retaining wall at the back of sidewalks. Planning evaluated the following factors for the variance request:

- (1) A 5' sidewalk with no grass strip exists along the property frontage. This is consistent with the street and block face.
- (2) Ideally, a local street will include a 4' grass strip and 5' sidewalk to accommodate signs, utility poles, and other obstructions. In this instance, the sidewalk design is well-established, obstructions are all currently contained outside of the sidewalk, and the Local Street standard would place existing infrastructure in the sidewalk path. A contribution in-lieu of construction will supplement Metro's annual sidewalk capital program by increasing sidewalk construction funds for areas surrounding this property.

Given the factors above, staff recommends **approval with conditions:**

1. Maintain existing sidewalk conditions in a state of good repair per Public Works final guidance. Any portion of the existing sidewalk along the property frontage that is not ADA compliant is to be removed and replaced in-kind with MPW Detail ST-210 sidewalk.
2. The applicant shall contribute in lieu of construction for the property frontage.
3. Prior to the issuance of building permits, dedicate right-of-way along the property frontage to accommodate future sidewalks per the Metro Local Street standard.

PLANNING DEPARTMENT SIDEWALK VARIANCE RECOMMENDATION

BZA Case 2018-457 (2004A 9th Avenue North)

Metro Standard:	6' grass strip, 6' sidewalk, as defined by the Major and Collector Street Plan
Requested Variance:	Not upgrade sidewalks; Contribute in-lieu of construction (not eligible)
Community Plan Policy:	T4 NM (Urban Neighborhood Maintenance)
MCSP Street Designation:	T4-R-CA2
Transit:	#42 – St. Cecilia/Cumberland
Bikeway:	None existing; none planned

Planning Staff Recommendation: *Approve with conditions.*

Analysis: The applicant proposes constructing a single family dwelling on the property replacing the existing home, and requests to contribute in-lieu of constructing sidewalks to the Collector-Avenue standard due to the presence of an existing sidewalk along the frontage of the site. Planning evaluated the following factors for the variance request:

- (1) A 9' sidewalk with no grass strip exists along 9th Avenue North for the entire block from Golf Street to Clay Street.
- (2) The existing 9' sidewalk has a retaining wall and steps located at the back of the sidewalk that provides access to the structures. This condition is consistent across several properties along this block face. Upgrading the sidewalks to the Collector-Avenue Standard will create topographic impacts to adjacent parcels to the immediate north and south.
- (3) Ideally, a Collector-Avenue will include a grass strip to accommodate signs, utility poles, and other obstructions. In this instance, the sidewalk design is well-established with adjacent on-street parking, which provides additional buffer for pedestrians in a more urban context. A contribution in-lieu of constructing sidewalks will supplement Metro's annual sidewalk capital program by increasing sidewalk construction funds for areas surrounding this property.

Given the factors above, staff recommends **approval with conditions:**

1. Maintain existing sidewalk conditions in a state of good repair per Public Works final guidance. Any portion of the existing sidewalk along the property frontage that is not ADA compliant is to be removed and replaced in-kind with MPW Detail ST-210 sidewalk.
2. The applicant shall contribute in-lieu of construction for the property frontage.
3. Prior to the issuance of building permits, dedicate right-of-way along the property frontage to accommodate future sidewalks per the Major and Collector Street Plan Standard.

PLANNING DEPARTMENT SIDEWALK VARIANCE RECOMMENDATION

BZA Case 2018-464 (481 Franklin Limestone Road)

Metro Standard:	12' grass strip, 12' multi-use path, as defined by the Major and Collector Street Plan
Requested Variance:	Not construct sidewalks/multi-use path
Community Plan Policy:	T2 RM (Rural Maintenance)
MCSP Street Designation:	T2-R-CA2
Transit:	None existing; none planned
Bikeway:	None existing; bike lane planned

Planning Staff Recommendation: *Approve with conditions*

Analysis: The applicant is relocating a single family structure onto the property. Planning evaluated the following factors for the variance request:

- (1) There are no sidewalks along the property's frontage on Franklin Limestone Road. A right-of-way dedication will ensure that Metro does not have to purchase a portion of the property in the future to construct sidewalks.
- (2) Because of the scale of the proposed improvements involving the relocation of a structure, construction of sidewalks is premature. However, if more significant development occurs in the future, the need for sidewalks should be re-evaluated.

Given the factors above, staff recommends **approval with conditions**:

1. Prior to the issuance of building permits, dedicate right-of-way along the property frontage to accommodate future sidewalks or a multi-use path per the Major and Collector Street Plan Standard.
2. If the site is rezoned or subdivided in the future to a more suburban development pattern envisioned by the Community Plan policy, the redevelopment shall incorporate sidewalks or a multi-use path meeting the current standard.

PLANNING DEPARTMENT SIDEWALK VARIANCE RECOMMENDATION

BZA Case 2018-467 (702 Murfreesboro Pike)

Metro Standard:	4' grass strip, 10' sidewalk as defined by the Major and Collector Street Plan
Requested Variance:	Not construct sidewalks; not contribute in-lieu of construction (not eligible)
Community Plan Policy:	T4 CM (Urban Mixed Use Corridor)
MCSP Street Designation:	T4-M-AB4-IM
Transit:	#15 – Murfreesboro Pike; Future High Capacity Transit per nMotion Plan
Bikeway:	Existing bikeway for experienced cyclists

Planning Staff Recommendation: *Approve with conditions.*

Analysis: The applicant proposes to construct a 9,000 square foot pre-fabricated storage addition to the rear of the museum and requests not to construct sidewalks or contribute in lieu of construction. Planning evaluated the following factors for the variance request:

- (1) A 4' grass strip and 5' sidewalk exists along the property's frontage to the building's driveway access along Murfreesboro Pike. All utility and sign obstructions are located within the grass strip. There is no sidewalk to the east of the driveway access point for the remainder of the property's frontage.
- (2) There is a topographic grade change of approximately 4' from the rear of curb to the back of a future 10' sidewalk. Within that area, a drainage ditch parallels Murfreesboro Pike; utilities including a series of water meters and gas lines are located in this area which will require relocation. This combination of factors makes constructing a sidewalk to the Major and Collector Street Plan challenging in this area. A contribution in-lieu of constructing sidewalks will supplement Metro's annual sidewalk capital program by increasing sidewalk construction funds for areas surrounding this property.

Given the factors above, staff recommends **approval with conditions.**

1. The applicant shall contribute in lieu of construction for the property's southeastern portion of frontage along Murfreesboro Pike where there is no existing sidewalk. This distance shall be measured from the property's driveway access along Murfreesboro Pike to the eastern property boundary.
2. Prior to the issuance of building permits, dedicate right-of-way along the property frontage to accommodate future sidewalks per the Major and Collector Street Plan standard.

PLANNING DEPARTMENT SIDEWALK VARIANCE RECOMMENDATION

BZA Case 2018-469 (1215 A-B 14th Avenue South)

Metro Standard:	4' grass strip, 5' sidewalk, as defined by the Metro Local Street standard
Requested Variance:	Not upgrade sidewalks; not contribute in-lieu of construction (not eligible)
Community Plan Policy:	T4 NM (Urban Neighborhood Maintenance)
MCSP Street Designation:	Local Street
Transit:	296' south of #2 – Belmont and #25 – Midtown
Bikeway:	None existing; none planned

Planning Staff Recommendation: *Approve with conditions.*

Analysis: The applicant is constructing two single family units, and requests to not upgrade the existing sidewalks along the 14th Avenue South block face and to not pay in-lieu of construction. Planning evaluated the following factors for the variance request:

- (1) A 1' grass strip and 5' sidewalk exists along the property frontage. This is consistent along the block face.
- (2) Ideally, a Local Street will include a 4' grass strip and 5' sidewalk to accommodate signs, utility poles, and other obstructions. In this instance, the sidewalk design is well-established, buffered with on-street parking, and obstructions are all currently contained outside of the sidewalk. A contribution in-lieu of construction will supplement Metro's annual sidewalk capital program by increasing sidewalk construction funds for areas surrounding this property.

Given the factors above, staff recommends **approval with conditions:**

1. Maintain existing sidewalk conditions in a state of good repair per Public Works final guidance. Any portion of the existing sidewalk along the property frontage that is not ADA compliant is to be removed and replaced in-kind with MPW Detail ST-210 sidewalk.
2. The applicant shall contribute in lieu of construction for the property frontage.
3. Prior to the issuance of building permits, dedicate right-of-way along the property frontage to accommodate future sidewalks per the Metro Local Street standard.

PLANNING DEPARTMENT SIDEWALK VARIANCE RECOMMENDATION

BZA Case 2018-470 (1217 A-B 14th Avenue South)

Metro Standard:	4' grass strip, 5' sidewalk, as defined by the Metro Local Street standard
Requested Variance:	Not upgrade sidewalks; not contribute in-lieu of construction (not eligible)
Community Plan Policy:	T4 NM (Urban Neighborhood Maintenance)
MCSP Street Designation:	Local Street
Transit:	340' south of #2 – Belmont and #25 – Midtown
Bikeway:	None existing; none planned

Planning Staff Recommendation: *Approve with conditions.*

Analysis: The applicant is constructing two single family units, and requests to not upgrade the existing sidewalks along the 14th Avenue South block face and to not pay in-lieu of construction. Planning evaluated the following factors for the variance request:

- (1) A 1' grass strip and 5' sidewalk exists along the property frontage. This is consistent along the block face.
- (2) Ideally, a Local Street will include a 4' grass strip and 5' sidewalk to accommodate signs, utility poles, and other obstructions. In this instance, the sidewalk design is well-established, buffered with on-street parking, and obstructions are all currently contained outside of the sidewalk. A contribution in-lieu of construction will supplement Metro's annual sidewalk capital program by increasing sidewalk construction funds for areas surrounding this property.

Given the factors above, staff recommends **approval with conditions**

1. Maintain existing sidewalk conditions in a state of good repair per Public Works final guidance. Any portion of the existing sidewalk along the property frontage that is not ADA compliant is to be removed and replaced in-kind with MPW Detail ST-210 sidewalk.
2. The applicant shall contribute in lieu of construction for the property frontage.
3. Prior to the issuance of building permits, dedicate right-of-way along the property frontage to accommodate future sidewalks per the Metro Local Street standard.

PLANNING DEPARTMENT SIDEWALK VARIANCE RECOMMENDATION

BZA Case 2018-471 (1907 A&B Cahal Avenue)

Metro Standard:	Cahal Avenue – 6' grass strip, 6' sidewalk, as defined by the Major and Collector Street Plan
	Burns Street – 4' grass strip, 5' sidewalk, as defined by the Local Street Standard
Requested Variance:	Construct an alternative sidewalk design with a 2' grass strip and 5' sidewalk along Cahal Avenue
Community Plan Policy:	T4 NM (Urban Neighborhood Maintenance)
MCSP Street Designation:	Cahal Avenue – T4-R-CA2
	Burns Street – Local Street
Transit:	900' from #20 – Scott
Bikeway:	Bike lanes existing

Planning Staff Recommendation: *Approve.*

Analysis: The applicant proposes constructing two single family units and requests to construct an alternative sidewalk design on Cahal Avenue due to topography. Planning evaluated the following factors for the variance request:

- (1) A 5' sidewalk with no grass strip exists along Cahal Avenue for the entire block from Pennington Avenue to Burns Street. Cahal Avenue is a Collector-Avenue, so a grass strip as outlined in the Major and Collector Street Plan creates an additional buffer between higher-speed traffic, the adjacent bikeway, and people walking.
- (2) In order to address the applicant's concerns of accommodating a wider grass strip which will require constructing a sidewalk further back on the lot with more significant grade changes between the street and level portions of the lot, a sidewalk design that narrows the grass strip from the Major and Collector Street Plan standard addresses the applicant's concerns and achieves the intent of the grass strip.

Given the factors above, staff recommends **approval. A 2' grass strip and 5' sidewalk shall be constructed along Cahal Avenue, and a 4' grass strip and 5' sidewalk shall be constructed along Burns Street.**

PLANNING DEPARTMENT SIDEWALK VARIANCE RECOMMENDATION

BZA Case 2018-473 (1101 North 7th Street)

Metro Standard:	North 7 th Street – 4’ grass strip, 5’ sidewalk, as defined by the Local Street Standard Evanston Avenue – 4’ grass strip, 5’ sidewalk, as defined by the Local Street Standard
Requested Variance:	Construct alternative sidewalks utilizing 2’ of existing right-of-way
Community Plan Policy:	T4 NM (Urban Neighborhood Maintenance)
MCSP Street Designation:	North 7 th Street – Local Street Evanston Avenue – Local Street
Transit:	¼ mile from #28 - Meridian
Bikeway:	None existing; none planned

Planning Staff Recommendation: *Approve with conditions.*

Analysis: The applicant proposes constructing two single family residences and requests to construct alternative sidewalks utilizing 2’ of existing right-of-way, due to a unique property shape. Planning evaluated the following factors for the variance request:

- (1) A 2’ grass strip and 5’ sidewalk exists along both frontages on North 7th Street and Evanston Avenue. In order to keep the cross section consistent between blocks of Evanston Avenue, moving the curb into the street as proposed by the applicant is not an acceptable alternative.
- (2) Ideally, a Local Street will include a 4’ grass strip and 5’ sidewalk to accommodate signs, utility poles, and other obstructions. In this instance, the sidewalk design is well-established, buffered with on-street parking, and obstructions are all currently contained outside of the sidewalk. There are ADA-compliant issues that the applicant can address that will improve walkability along both block faces.

Given the factors above, staff recommends **approval with conditions:**

1. Maintain existing sidewalk conditions in a state of good repair per Public Works final guidance. Any portion of the existing sidewalk along the property frontage that is not ADA compliant is to be removed and replaced in-kind with MPW standard ST-210 sidewalk.
2. Close driveway access point on Evanston Avenue with new curb and sidewalk panels per MPW standards ST-200 and ST-210.
3. Install MPW standard ST-325 ramp at the intersection of Alley #337 and Evanston Avenue.
4. Upgrade sidewalk panels at the intersection of Evanston and North 7th Street to include truncated dome at intersection with Evanston & North 7th Street per MPW standard ST-320.

PLANNING DEPARTMENT SIDEWALK VARIANCE RECOMMENDATION

BZA Case 2018-474 (3300 Ambrose Avenue)

Metro Standard:	4' grass strip, 5' sidewalk, as defined by the Metro Local Street Standard
Requested Variance:	Not construct sidewalks; not contribute in lieu of construction (eligible)
Community Plan Policy:	D EC (District Employment Center)
MCSP Street Designation:	Local Street
Transit:	None existing; none planned
Bikeway:	None existing; none planned

Planning Staff Recommendation: *Approve.*

Analysis: The applicant is conducting interior renovations within an existing warehouse and distribution facility and requests a variance from constructing sidewalks because of its location within an existing industrial area that is anticipated to be industrial in the foreseeable future and due to the unique shape of the lot which constrains existing operations of the business. Planning evaluated the following factors for the variance request:

- (1) The property is located at the terminus of Ambrose Avenue within an industrial District Employment Center policy area. Given the high intensity industrial uses and unlikelihood of future redevelopment for residential or mixed use development, construction of sidewalks is premature.
- (2) The applicant cannot construct a sidewalk and grass strip along the Ambrose Avenue frontage to the Local Street standard without adversely impacting the existing warehouse functions and associated parking and loading zones. Due to the orientation of the existing loading docks and surface parking lots, right of way dedication is not possible.

Given the factors above, staff recommends **approval**.

PLANNING DEPARTMENT SIDEWALK VARIANCE RECOMMENDATION

BZA Case 2018-476 (3304 Dickerson Pike)

Metro Standard:	4' grass strip, 10' sidewalk, as defined by the Major and Collector Street Plan standard
Requested Variance:	Contribute in-lieu of construction (not eligible)
Community Plan Policy:	T4 CC (Urban Community Center)
MCSP Street Designation:	T4-M-AB5-IM
Transit:	#43 – Hickory Hills; future Arterial BRT per nMotion
Bikeway:	None existing; none planned

Planning Staff Recommendation: *Approve with conditions.*

Analysis: The applicant proposes to renovate an existing restaurant and requests a variance to contribute in-lieu of construction of sidewalks due to impacts with existing parking and signage along the frontage of the site. The proposed sidewalk variance was initially reviewed by staff under Metro Board of Zoning Appeals case number 2017-221 in which the applicant requested relief from constructing sidewalks and from contributing in-lieu.

Planning evaluated the following factors for the variance request:

- (1) A 5' sidewalk without a grass strip exists along the block face of Dickerson Pike approximately 428' to the south. A consistent sidewalk pattern does not exist for this segment of Dickerson Pike.
- (2) The property is irregularly shaped as a result of a business sign located in visual proximity to Interstate 65. A shared parking area utilized by the restaurant and an adjacent motel extends along the Dickerson Pike frontage with parking for approximately 9 vehicles. An access easement connects the two sites. Parking would be impacted with new curb, gutter, grass strip, and sidewalks per the Major and Collector Street Plan standard given the site's grade with Dickerson Pike. There is currently approximately 14' to 17' from the edge of pavement to the parking stalls. The existing grass area and drainage ditch are within the public right of way.

Given the factors above, staff recommends **approval with conditions:**

1. The applicant shall contribute in lieu of construction for the Dickerson Pike frontage.

PLANNING DEPARTMENT SIDEWALK VARIANCE RECOMMENDATION

BZA Case 2018-477 (5753 Nolensville Pike)

Metro Standard:	Nolensville Pike – 6’ grass strip, 8’ sidewalk, as defined by the Major and Collector Street Plan Old Hickory Boulevard – 6’ grass strip, 8’ sidewalk, as defined by the Major and Collector Street Plan
Requested Variance:	Not construct sidewalks; contribute in lieu of construction for northern portion of the parcel along Nolensville Pike (not eligible)
Community Plan Policy:	T3 CC (Suburban Community Center)
MCSP Street Designation:	Nolensville Pike – T3-M-AB5-LM Old Hickory Boulevard – T3-M-AB5-LM
Transit:	#37 – Tusculum/McMurray Express; #52 – Nolensville Pike BRT Lite,
Bikeway:	Nolensville Pike – None existing; Major Protected Bike Lane planned per WalknBike plan Old Hickory Boulevard – None existing; Major Protected Bike Lane planned per WalknBike plan

Planning Staff Recommendation: *Approve with conditions.*

Analysis: The applicant proposes constructing two commercial outparcel buildings, and initially requested not to construct sidewalks or contribute in-lieu of constructing sidewalks. Planning staff has worked with the applicant to contribute in lieu of construction for the parcel’s northern segment along Nolensville Pike. Additionally, the applicant will dedicate right-of-way from the back of the existing sidewalk on the Nolensville Pike frontage to accommodate future sidewalks per the Major and Collector Street Plan standard. Planning evaluated the following factors for the variance request:

- (1) A 5’ sidewalk with no grass strip currently exists along both frontages on Nolensville Pike and Old Hickory Boulevard.
- (2) Steep slopes and overhead utility infrastructure make sidewalk construction per the Major and Collector Street Plan challenging.
- (3) The dedication of right-of-way will enable Metro to more easily construct sidewalks in the future per the Major and Collector Street Plan standard.

Given the factors above, staff recommends **approval with conditions:**

1. Maintain existing sidewalk conditions in a state of good repair per Public Works final guidance. Any portion of the existing sidewalk along the property frontage that is not ADA compliant is to be removed and replaced in-kind with MPW standard ST-210 sidewalk.
2. Contribute in lieu of construction for the northern portion of the parcel along Nolensville Pike.
3. Prior to the issuance of building permits, dedicate right-of-way along the property frontage to accommodate future sidewalks per the Major and Collector Street Plan.

PLANNING DEPARTMENT SIDEWALK VARIANCE RECOMMENDATION

BZA Case 2018-481 (6108C California Avenue)

Metro Standard:	4' grass strip, 5' sidewalk, as defined by the Metro Local Street standard
Requested Variance:	Not upgrade sidewalks; not contribute in-lieu of construction (not eligible)
Community Plan Policy:	T4 NM (Urban Neighborhood Maintenance)
MCSP Street Designation:	Local Street
Transit:	Approximately 0.58 miles north of #19 – Herman
Bikeway:	None existing; none planned

Planning Staff Recommendation: *Approve with conditions.*

Analysis: The applicant is constructing two single family units, and requests a variance from upgrading sidewalks along California Avenue and to not contribute in-lieu of construction. Planning evaluated the following factors for the variance request:

- (1) A 5' sidewalk with no grass strip exists along the entire block face of this portion of California Avenue.
- (2) Ideally, a Local Street will include a grass strip to accommodate signs, utility poles, and other obstructions. In this instance, the sidewalk design is well-established with adjacent on-street parking, which provides additional buffer for pedestrians in a more urban context. A contribution in-lieu of constructing sidewalks will supplement Metro's annual sidewalk capital program by increasing sidewalk construction funds for areas surrounding this property.

Given the factors above, staff recommends **approval with conditions:**

1. Maintain existing sidewalk conditions in a state of good repair per Public Works final guidance. Any portion of the existing sidewalk along the property frontage that is not ADA compliant is to be removed and replaced in-kind with MPW Detail ST-210 sidewalk.
2. The applicant shall contribute in-lieu of construction for the property frontage.
3. Prior to the issuance of building permits, dedicate right-of-way along the property frontage to accommodate future sidewalks per the Local Street Standard.

APPENDIX

Sidewalk Guidelines

General Requirements

1. Construction of new sidewalks is required along the entire lot frontage unless, a portion of the frontage abuts a proposed sidewalk segment that Public Works has funded and scheduled for construction.
2. Dimensions shall comply with the Major and Collector Street Plan and Public Works design standards.
3. Obstructions are prohibited within the pedestrian travel way.
4. Driveways, walkways, and other improvements shall be designed to accommodate future sidewalk construction where a planned sidewalk is identified in the Strategic Plan for Sidewalks and Bikeways.
5. Dedication of Rights-of-Way is required as needed:
 - a. with the construction of sidewalks,
 - b. with a contribution in-lieu of construction,
 - c. with permits for one or two family additions, or any renovation with a cost equal to or greater than 25% of the assessed value.

Multi-Family or Non-Residential Properties

Sidewalks are required when lots are:

1. Redeveloped.
2. New Development is on a vacant lot.
3. Renovation Cost is equal to or greater than 50% of the assessed value of all structures on the lot, or the value of multiple renovations during any five-year period equal or greater than 75% of the assessed value of all structures on the lot.
4. Expansion Cost is equal or greater than 25% of the assessed value of all structures on the lot, or the value of multiple expansions during a five- year period is equal to or greater than 50% of the assessed value of all structures on the lot.
5. Expansion Square Foot is equal or greater than 25% of the total square foot of all structures on the lot, or the total square foot of multiple expansions during a five- year period is equal to or greater than 50% of the total square foot of all structures on the lot.

And any of the following are met:

1. The property is within the Urban Services District.
2. Within a Center designated in the General Plan.
3. Within a quarter mile of a Center designated in the General Plan, unless the property is on the opposite side of a river or access controlled highway from a center.
4. On a street in the Major and Collector Street Plan.

New Single Family or Two-family Construction

Sidewalks are required when lots are:

1. Within the Urban Zoning Overlay.
2. Within a Center designated in the General Plan.
3. Within a quarter mile of a Center designated in the General Plan, unless the property is on the opposite side of a river or access controlled highway from a center.
4. On a street in the Major and Collector Street Plan.

In-Lieu Fee is Not Applicable

1. When there is an existing sidewalk in need of repair or replacement.
2. Existing sidewalk present on the same block face.
3. Multi-family or Non-Residential Properties within the Urban Zoning Overlay.
4. Multi-Family or Non-Residential Properties along a street in the Major and Collector Street Plan.
5. If a portion of the proposed sidewalk segment abuts a proposed sidewalk segment that Public Works has funded and scheduled for construction.

**For additional information, see Third Substitute Ordinance No. BL2016-493
(http://www.nashville.gov/mc/ordinances/term_2015_2019/bl2016_493.htm)**