

**PLANNING AND DEVELOPMENT DEPARTMENT STAFF REPORT**

Public Hearing Date: August 15, 2024

Item #: PZ2024-1298

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**2803 SHALLOWFORD ROAD NE – VARIANCE AND WAIVER APPLICATION**

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**Project Name:** Wakeman Renovation  
**Applicant/Owner:** Hans Wakeman Chiropractic & Healing Center c/o Hans Wakeman  
**Zoning District:** NC-1 (Neighborhood Commercial 1)  
**Address:** 2803 Shallowford Road NE  
**Parcel ID:** 18 246 01 006 and 18 245 08 001

**EXECUTIVE SUMMARY WITH STAFF RECOMMENDATION:**

**Proposed Project:** Renovation of an existing commercial building for the addition of a live/work unit

**Requests:** Three (3) variances and five (5) waivers

**Summary Analysis:**

- The subject property was constructed in the 1960s as a single-family residence and has been converted into a commercial office building. The applicant has been using the building as office space for their chiropractic business.
- The applicant proposes to convert the building into a live/work unit by renovating and converting the basement into a primary residence. The chiropractic business would remain on the first floor.
- Due to the extent of the interior renovation, the applicant is required to make exterior improvements subject to the Adaptive Reuse Regulations including streetscape installation, exterior building architecture and parking lot improvements, and compliance with landscape regulations.
- The applicant is requesting several variances and waivers to allow the property to remain as is.

**Recommendation:**

Staff recommends **APPROVAL WITH CONDITIONS** of the following variances and waivers requests:

1. Variance from Section 240-13(b)(4)(a), to not have a live-work unit that is a mixed-use dwelling and is fire separated from adjacent units.
2. Variance from Section 240-13(b)(4)(b), to reduce the minimum number of live-work units in a building from two to one.
3. Variance from Section 240-13(b)(4)(c), for live-work units to be on the ground floor oriented to the street.
2. Waiver from Section 230-27(a)(6), to not provide a minimum of 50% fenestration along the length of the building facade fronting the street.
3. Waiver from Section 230-27(a)(10), to not provide a minimum building height of 12-feet along a feeder street.
4. Waiver from Section 230-27(a)(11), to not provide a roof surfaced with a heat-reflective material.

5. Waiver from Section 320-12(a)(1), to not meet landscape standards within the permanent buffer.

Staff recommends **DENIAL** of the following variances and waivers requests:

1. Waiver from Section 230-26(a), to not install a 7-foot-wide landscape strip and 5-foot-wide sidewalk along Shallowford Road.

**Site Aerial:**



**Current Zoning:**

The property is located in NC-1 (Neighborhood Commercial 1)

This zoning district is intended primarily for a mixture of residential and nonresidential development and related accessory uses at a low density and neighborhood scale. This district provides a location for residences and convenient goods and services directly adjacent to single-family neighborhoods that will satisfy the common and frequent needs of the residents of nearby residential neighborhoods. Design standards and design parameters encourage a pedestrian-friendly traditional urban form, oriented to pedestrians, which limits the conflicts between vehicles and pedestrians.

**Current Use:**

Chiropractic office

**Surrounding Land Uses:**

North — NR-3 and NR-1: Multifamily duplex and single family residences  
South — VR: Village Residential (Bedford Park Apartments)

East – VR: Village Residential (Bedford Park Apartments)  
West – CC: Office and Surface Parking Lot (St. Pius X)

**Site Description and History of Property:**

The subject property is a 1.27-acre lot located along Shallowford Road, south of Dresden Drive, east of Dresden Elementary and St. Pius X. The site is comprised of two parcels, the main parcel, tax parcel 18 246 01 006, is 1.27 acres. The smaller parcel, tax parcel 18 245 08 001, is 0.08 acres and is located on the frontage of the site. According to DeKalb County property information, the property was originally a residence constructed in 1961 and has since been used as an office building. The main structure is a one-story 2,402 square foot building. The site is wooded with mature trees and understory shrubbery in addition to areas with invasive kudzu. There is an existing sidewalk located along Shallowford Road that is 3.5-feet wide. The parking for the site is located at the rear of the building and contains 14 parking spaces. The property was issued a Notice of Violation in January 2024 for beginning renovations in the basement without a permit.

**Project Description:**

The applicant proposes to complete interior renovations of an existing commercial one-story building to add a residential component in the basement for use as a live-work. The interior renovations triggers compliance with the adaptive reuse regulations, which requires the applicant to complete exterior improvements. The applicant proposes to follow the relaxed provisions/alternative compliance measures afforded to Adaptive Reuse Projects:

- Installation of a 5-foot decorative iron fence in the front yard.
- Placement of a new trash receptacle in the designated open space.
- Restriping of the existing parking lot.
- Addition of new planters flanking the entrance of the parking lot.
- Installation of an arbor to the front walkway.

**Applicant's Variance Requests:**

The applicant requests variances from Title 2 of the UDO:

1. Variance from Section 240-13(b)(4)(a), to not have a live-work unit that is an owner-occupied mixed-use dwelling that is fire separated from adjacent units.
2. Variance from Section 240-13(b)(4)(b), to reduce the minimum number of live-work units in a building from two.
3. Variance from Section 240-13(b)(4)(c), for live-work units to be on the ground floor oriented to the street.

Per the review and approval criteria found in Sec. 280-32(a), the Mayor and City Council may authorize variances from the provisions of the UDO only after making the following findings:

- a. **There are extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape or topography;**

The property does not have extraordinary or exceptional conditions pertaining to its size, shape, or topography.

**b. The application of this zoning ordinance to the particular piece of property would create an unnecessary hardship;**

The application of the zoning ordinance would create an unnecessary hardship as compliance with the live-work requirements would require the existing residence to be redeveloped to accommodate multiple units.

**c. Such conditions are peculiar to the particular piece of property involved;**

The conditions are peculiar to the particular piece of property involved. The code is geared towards live/work units that are located in mixed-use buildings. The subject property is a single-family residence that has been converted into a commercial property. Compliance with these regulations is nearly impossible without a complete redevelopment of the site.

**d. Such conditions are not the result of any actions of the property owner; or**

The conditions of the lot are not the result of the applicant, however the need for variances to accommodate the use of live-work use are the result of the actions of the property owners.

**e. Relief, if granted, would not cause substantial detriment to the public good nor impair the purposes or intent of this zoning ordinance.**

Allowing the applicant to convert a commercial property to include the use of live-work would not be a substantial detriment. There would be no change to the exterior of the building, which would maintain the character and intent of the NC-1 zoning district for low density uses.

**Waivers:**

Per sec. 300-8, only in situations where, because of severe topographical or other conditions peculiar to the site, strict adherence to the provisions of Title 2 and 3 of the UDO would cause an unnecessary hardship that is not caused by the owner, the Mayor and City Council may, authorize a waiver from the terms of Title 2 and 3 only to the extent that is absolutely necessary and not to an extent which would violate the intent of Title 2 and 3.

The applicant requests the following concurrent Waivers from Title 3 of the UDO:

1. Waiver from Section 230-26(a), to not install a 7-foot-wide landscape strip and 5-foot-wide sidewalk along Shallowford Road.

*The relaxed provisions of the Adaptive Reuse Regulations allow existing sidewalks to remain if they are a minimum of 5-feet wide. The existing sidewalk along Shallowford Road is 3.5 feet wide which triggers full compliance with the streetscape standards. This includes a 7-foot-wide landscape strip and 5-foot-wide sidewalk along the frontage of Shallowford Road. The applicant requests a waiver to not meet the streetscape design standards as it would be cost prohibitive. Instead, the applicant proposes to reseed the sidewalk area, provide open space, add planters, an arbor near the business entryway, and decorative fencing in the front yard to meet the intent of the UDO to improve the pedestrian experience. Although these improvements could improve the general aesthetics of the area, they are insufficient in meeting the intent of the streetscape standards which is to promote the health, safety, order, prosperity, aesthetics, and the general welfare of the present and future residents of the City and to further traffic safety and a multi-modal transportation network.*

2. Waiver from Section 230-27(a)(6), to not provide a minimum of 50% fenestration along the length of the building facade fronting the street; 3. Waiver from Section 230-27(a)(10), to not provide a minimum building height of 12-feet along a feeder street; and 4. Waiver from Section 230-27(a)(11), to not provide roof surfaced with a heat-reflective material.

*Compliance with the building architecture requirements would create an unnecessary hardship as the existing building is a single-family residence that was constructed in the 1960s that is now being used as a commercial building. Denial of this waiver would require the applicant to completely redevelop the site.*

5. Waiver from Section 320-12(a)(1), to not provide a permanent planting buffer between multifamily and commercial uses.

*A 20-foot zoning buffer is required between the subject property and the adjacent multifamily, Bedford Park Apartments, to the east. Per the UDO, this area must contain existing natural vegetation and topography that is sufficient to achieve the desired level of screening that will provide an opaque acoustical and visual screen. When not possible, the UDO requires that additional plantings be installed in this area. The applicant is requesting a waiver to allow the site to remain as is. Currently the buffer is approximately 2- feet wide at the narrowest point. The rest of the buffer contains the parking lot, fencing, trees, and plant material that provide sufficient coverage within the twenty-foot setback. Application of the UDO would create a hardship as all existing surface parking would need to be removed to maintain the 20-foot zoning buffers to the south and east of the property line. This would require additional variances as surface parking in the front yard between a principal building and street would not be permitted.*

**Staff Recommendation:**

Based on the analysis of this application, using the standards and criteria found in Chapter 280 and 300 of the UDO, Staff recommends **APPROVAL WITH CONDITIONS** of the following variance and waiver requests, in application PZ2024-1298:

1. Variance from Section 240-13(b)(4)(a), to not have a live-work unit that is an owner-occupied mixed-use dwelling that is fire separated from adjacent units.
2. Variance from Section 240-13(b)(4)(b), to reduce the minimum number of live-work units in a building from two to one.
3. Variance from Section 240-13(b)(4)(c), for live-work units to be on the ground floor oriented to the street.
2. Waiver from Section 230-27(a)(6), to not provide a minimum of 50% fenestration along the length of the building façade fronting the street.
3. Waiver from Section 230-27(a)(10), to not provide a minimum building height of 12-feet along a feeder street.
4. Waiver from Section 230-27(a)(11), to not provide a roof surfaced with a heat-reflective material.
5. Waiver from Section 320-12(a)(1), to not provide a permanent planting buffer between multifamily and commercial uses.

Using the standards and criteria found in Chapter 280 and 300 of the UDO, Staff recommends **DENIAL** of the following waiver request:

1. Waiver from Section 230-26(a), to not install a 7-foot-wide landscape strip and 5-foot-wide sidewalk along Shallowford Road.



Should City Council approve the variance requests, staff recommends the following conditions of approval:

1. The development shall be constructed in substantial conformity with the Site Plan and Elevations received by the Planning and Development Department dated received on August 6, 2024, with revisions required by conditions of approval as reviewed and approved by the Planning & Development Director.
2. The applicant shall maintain fire separation between the commercial and residential units.
3. The applicant shall make the following improvements to the existing sidewalk. Final streetscape design and improvements shall be reviewed and approved by the Planning and Development Department.
  - a. Appropriate improvements shall be made (e.g.; saw cutting and replacing sections with cracks);
  - b. Installation of street and pedestrian lighting and furniture; and
  - c. Install additional landscape materials and/or large planters that meet or exceed landscape strip requirements.

**Attachments:**

Attachment 1 – Application

Attachment 2 – Site Plan + Elevations

Attachment 3 – Tree Canopy

Attachment 4 – Interior Renovation

Attachment 5 – Maps

**Site Visit:**



Frontage along Shallowford Road NE



Front building façade



Existing buffer between Bedford Park Apartments





Location of basement for proposed live-work





Existing parking and landscape screening to the rear and side of the property