

Development Review Committee

Staff Report

September 2, 2015



Case No:	15WAIVER1022
Project Name:	None (Residence)
Location:	2903 McMahan Boulevard
Owners:	Frank Fleck, Jr.
Applicant:	Frank Fleck, Jr.
Representative:	Frank Fleck, Jr.
Project Area/Size:	13,156 square feet
Existing Zoning District:	R-4, Residential
Existing Form District:	N, Neighborhood
Jurisdiction:	Cambridge
Council District:	18 – Marilyn Parker
Case Manager:	Jon E. Crumbie, Planner II

REQUEST

- Sidewalk waiver

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant requests a waiver to not provide a sidewalk along McMahan Boulevard.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Residential Single Family	R-4	N
Proposed	Residential Single Family	R-4	N
Surrounding Properties			
North	Residential Single Family	R-4	N
South	Residential Single Family	R-4	N
East	Residential Single Family	R-4	N
West	Residential Single Family	R-4	N

PREVIOUS CASES ON SITE

There are no previous cases on the site.

INTERESTED PARTY COMMENTS

Staff received no interested party comments.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR A WAIVER of Section 5.8.1.B. to not provide a sidewalk along McMahan Boulevard:

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners since there are no sidewalks on the east side of McMahan Boulevard.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. The waiver would not violate specific guidelines of Cornerstone 2020 since the development is within an area that does not have sidewalks along McMahan Boulevard.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the proposed development meets or exceeds all other applicable regulations of the Land Development Code.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR
(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of land or create an unnecessary hardship since the proposed development meets or exceeds all other applicable regulations of the Land Development Code.

TECHNICAL REVIEW

Transportation Planning does not support the sidewalk waiver.

STAFF CONCLUSIONS

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Development Review Committee must determine if the proposal meets the standard for a sidewalk waiver as established in the Land Development Code.

REQUIRED ACTION

- **APPROVE** or **DENY** the sidewalk waiver.

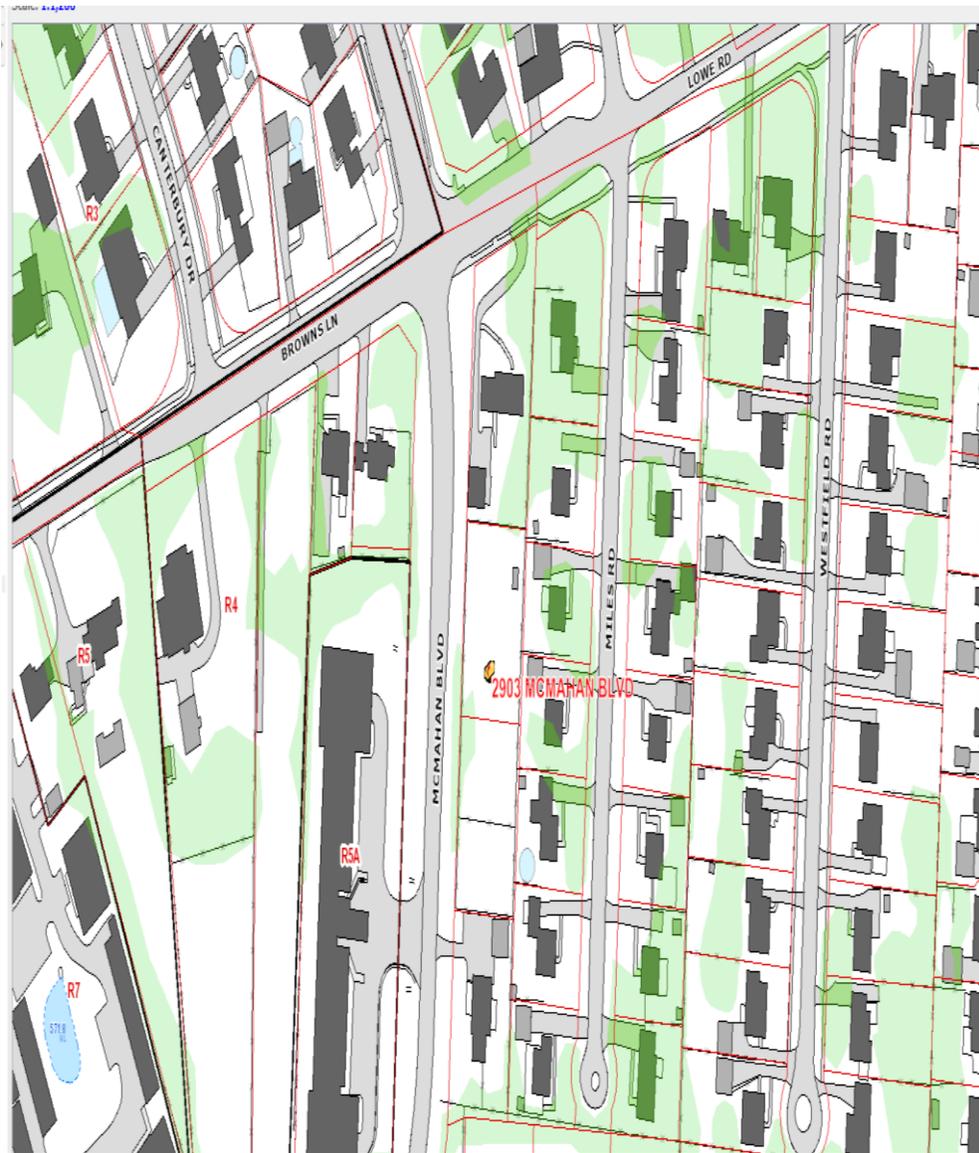
NOTIFICATION

Date	Purpose of Notice	Recipients
09/02/2015	Hearing before DRC	1 st tier adjoining property owners Registered neighborhood groups

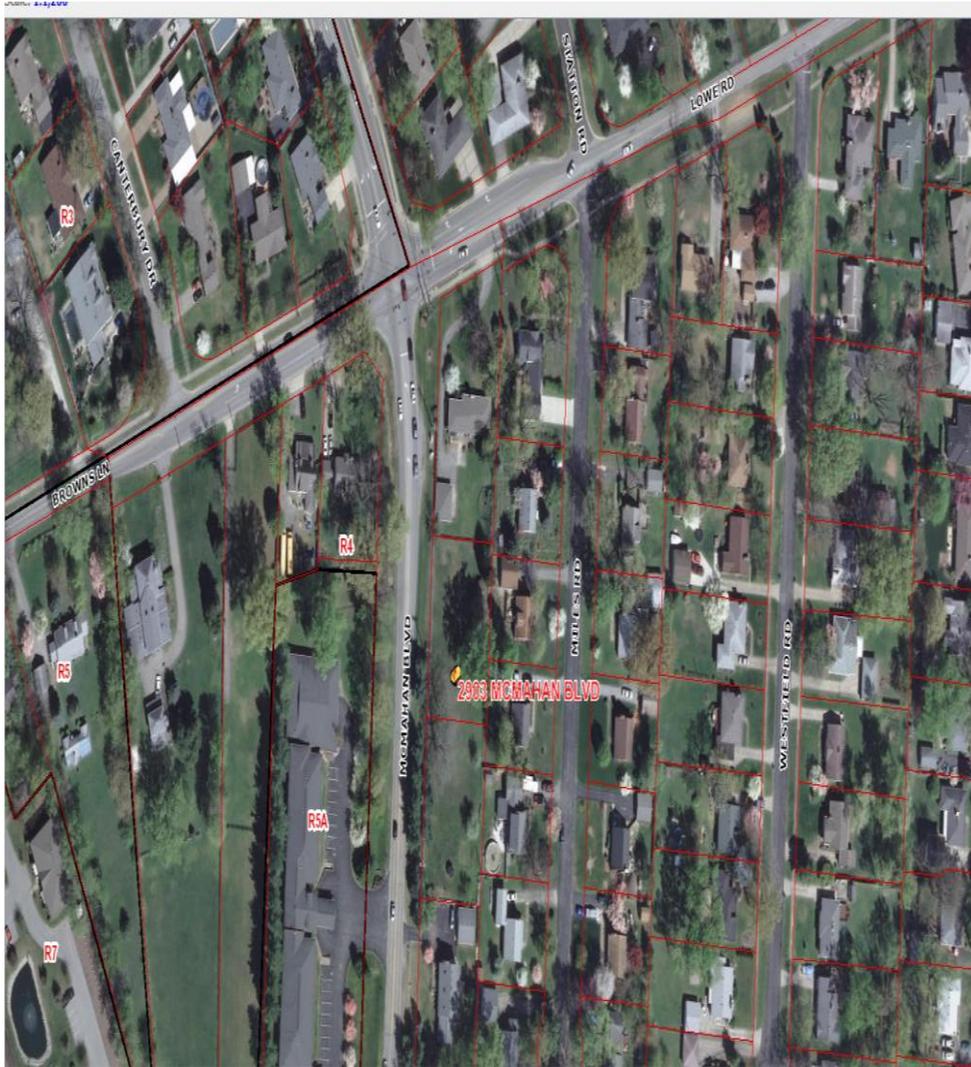
ATTACHMENTS

1. Zoning Map
2. Aerial

1. **Zoning Map**



2. Aerial



Sidewalk Waiver Justification

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers the following criteria. Please answer all of the following questions. Use additional sheets if needed. **A response of yes, no, or N/A is not acceptable.**

1. How does the proposed waiver conform to the Comprehensive Plan and the intent of the Land Development Code?

1. The only Comprehensive Plan Guideline that applies to this request is Bicycle, Pedestrian and Transit Guideline 9. The requested waiver conforms to Guideline 9 and all applicable Policies adopted thereunder, including Policy 9.1, because requiring construction of a sidewalk would be of no benefit to pedestrians, nor would it serve the general public. Thus, in accordance with Policy 9.1, requiring a sidewalk at this location would not be appropriate.

2. Why is compliance with the regulations not appropriate, and will granting of the waiver result in a development more in keeping with the Comprehensive Plan and the overall intent of the Land Development Code?

2. The intent of the Land Development Code Sec. 6.2.6 regarding sidewalks is that development generating a need for pedestrian access should provide that access unless there is a compelling reason not to. The Code does not require sidewalks in areas where the development generates no need for sidewalks or where construction of sidewalks would not benefit the general public. In this instance construction of a sidewalk that is an island will not serve to satisfy the intent of Sec. 6.2.6 nor will it benefit the general public. The granting of the waiver will result in development more in keeping with the overall intent of the Land Development Code.

3. What impacts will granting of the waiver have on adjacent property owners?

NO PROPERTY OWNERS ON THE SOUTH SIDE OF McMAHAN BLVD FROM TAYLORSVILLE RD TO LOWE RD HAVE A SIDE WALK.
THE NORTH SIDE OF McMAHAN BLVD FROM TAYLORSVILLE RD TO LOWE RD. HAS A SIDEWALK BUILT ABOUT 1/2 WAY FROM TAYLORSVILLE RD TO LOWE RD.

4. Why would strict application of the provision of the regulations deprive you of reasonable use of the land or create an unnecessary hardship for you?

THE SIDE WALK WOULD SERVE NO PURPOSE TO THE PUBLIC BEING BUILT ONLY IN FRONT OF MY HOME AND HAVING NO SIDE WALK ON THE REMAINING 800 FT OF ROADWAY ON McMAHAN BLVD.

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