

**Supplemental Information- Justification for BOZA Docket No. \_\_\_\_\_**  
**46 Warren Road**

Zoning of Site is R5 Form District Neighborhood  
Existing and Proposed Use is Residential

**1 Variance Requested**

**REQUESTED VARIANCE**

Variance Side Yard Set Back LDC Section Table 5.3.1 Minimum is 5 feet

Request a variance from 5 feet to 3 feet 1 <sup>3</sup>/<sub>16</sub> inches (3.1 feet) of the side yard setback to accommodate access issues. No new construction is proposed on either of the two houses.

The current driveway at 46 Warren Road encroaches onto 48 Warren Road's property.

**Background**

This request for a variance is for approval of a Minor Plat. Minor Plat 19-75 creates a revised side yard line between two residential lots to accommodate room for a usable driveway on 46 Warren Road's property. The two current owners of these parcels are in Jefferson Circuit Court No. 19-CI-003203 with an Agreement on how to resolve a long-term access issues with these two lots. The two current owners bought these homes in 2018 and 2019 respectively-not being totally aware of this history or access questions. They entered into an agreement to resolve these problems. However, that Court Agreement necessitates a Minor Plat to move the side property line. See Exhibit 1.

This area was originally platted in PB 3. Page 7. These lots remained vacant for many years. In 1985, a Minor Plat was prepared on these two lots-lot 25 (48 Warren Road) and Lot 26 (46 Warren Road. ) See Exhibit 2. According to PVA records, a house was built in 1986 with a side entry driveway off of Winifrede Lane which accessed the rear of that house. In 1988, the house was built at 46 Warren Road.

At various points over the years, the owners of 46 Warren Road accessed their rear area yard and rear entry garage over 48 Warren Roads' rear driveway. At some point in time, perhaps originally, a driveway was constructed for 46 Warren Road from Warren Road. LOJIC aerial mapping shows the driveway existed in 1997. At that point, this driveway would have encroached onto 48 Warren Road property.

The houses were both sold a few times over the 30 plus years, with the house at 48 Warren Road selling 3 times between 2017 and 2019. The current owner bought it in August of 2019 and apparently bought into this dispute. The owner of 46 Warren Road purchased the home in November of 2018. Apparently, previous owners became hostile to each other. The owner of 48 Warren Road constructed a barrier which prevent 46 Warren Road from using the side driveway. See Exhibit 3 Whenever that occurred, the

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The variance will not allow an unreasonable circumvention of the zoning regulations. The purpose of setbacks is to establish consistent building placement. In this situation, the placement of the house is already established. Driveways along the side of the house are the normal practice. Crossover easements across a rear yard are not the norm.

**Question 2a**

The variance request arises from special circumstances which do not generally apply to land in the general vicinity which is that this proposed variance is resolving a long-term access problem between these two residences.

**Question 2b**

The strict application of the provision of the regulation as to Neighborhood setbacks would require the applicant to continue to drive on his neighbor's property to access his rear garage. The two landowners have agreed to a resolution in court and this Minor Plat and variance are allowing that agreement to go forward. There is not new construction proposed on either dwelling.

This is a request for Board's equitable powers to be given for a 1.9-foot variance to allow these two landowners to resolve the issues pursuant to a pending legal case

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