



Board of Zoning Appeals BZA Division II (February 13, 2024) Meeting Agenda

Meeting Details

Notice is hereby given that the Metropolitan Board of Zoning Appeals will hold public hearings on:

Date: Tuesday, February 13, 2024 **Time:** 1:00 PM

Location: Public Assembly Room, 2nd Floor, City-County Building, 200 E. Washington Street

Business:

Adoption of Meeting Minutes

Special Requests

PETITIONS REQUESTING TO BE CONTINUED:

1. 2023-DV2-038 | 8245 Allisonville Road (approximate address)

Washington Township, Council District #3, Zoned C-4
Raising Cane's Restaurants, LLC, by Joseph D. Calderon

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an eating establishment, with a drive through, including stacking and service units, within the front yard of East 82nd Street, with a 9.2 front yard setback (service units and stacking spaces not permitted along facades adjacent to public rights-of-way with a width greater than 30-feet or related front yards, minimum 10-foot setback required) and without the required screening and exclusive bypass aisle.

**** Petitioner requests continuance to the March 12, 2024 hearing, without additional notice**

2. 2024-DV2-002 | 4645 Tempe Court (approximate address)

Decatur Township, Council District #21, Zoned D-5
Michael & Mary Morris, by Cindy Thrasher

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a 360-square-foot shed with a one-foot south side yard setback (10-foot corner side yard setback required).

****Staff requests continuance to March 12, 2024, in order to amend the legal notice**

Petitions for Public Hearing

PETITIONS TO BE EXPEDITED:

3. 2023-DV2-036 | 7508 Central Avenue, Town of Meridian Hills

Washington Township, Council District #2, Zoned D-1
John & Marcia Taylor, by Brian J. Tuohy

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a single-family dwelling with a 107.66-foot front yard setback from Central Avenue (114.25-foot front yard setback required).

4. 2024-DV2-001 | 8705 Southeastern Avenue (approximate address)

Franklin Township, Council District #25, Zoned C-4
Flag Properties LLC, by David A. Retherford

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a sidewalk café with a zero-foot front yard setback from Southeastern Avenue, encroaching 17.5 feet into its right-of-way, and being located zero-feet from a driveway (10-foot front yard setback, eight-feet of separation from a driveway required, encroachment into right-of-way not permitted).

5. 2024-DV2-003 | 2415 & 2427 North Rural Street (approximate address)

Center Township, Council District #8, Zoned D-5
Martindale Brightwood Community Development Corporation, by Susie Wilson

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a two-family dwelling on each lot, both with 30-foot lot widths and lot areas of 4,065 square feet (minimum lot width of 60 feet and area of 7,200 square feet required), each with a parking pad with a three-foot south side yard setback (five-foot side yard setbacks required).

6. 2024-DV2-004 | 4020 North Pennsylvania Street (approximate address)

Washington Township, Council District #7, Zoned D-2 (MSPC)
Wesley Thacker and Ellen Mrzlack, by Josh Valentine

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a detached garage with a one-foot north side yard setback (seven-foot side yard setback required).

7. 2024-DV2-005 | 435 West Hampton Drive (approximate address)

Washington Township, Council District #7, Zoned D-5
Haley Blanchet, Craig Blanchet and Kimberly Blanchet, by Joseph D. Calderon

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a detached garage with four-foot east side yard setback (seven-foot side yard setback required).

8. 2024-UV2-001 | 6519 Carrollton Avenue (approximate address)

Washington Township, Council District #7, Zoned D-4 (TOD) (FF)
GP CM Carrollton Avenue Developers LLC, by Misha Rabinowitch

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for an office use, per the filed site plan and plan of operations (not permitted); and variance of development standards to provide for placement of a primary freestanding sign (two signs permitted for residential communities).

PETITIONS FOR PUBLIC HEARING (Transferred Petitions):

9. 2023-DV2-030 | 3833 East 56th Street (approximate address)

Washington Township, Council District #3, Zoned D-3
Race Dorsey and Lauren Hall

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a six-foot fence within the front yard of 56th Street.

10. 2023-UV1-026 | 6524 Dover Road (approximate address)

Washington Township, Council District #3, Zoned D-S
Larry Rockafellow, by Melissa Iannucci

Variance of Use and Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the temporary location of an accessory building without a primary building (not permitted) and the construction of a single-family dwelling on a .60-acre, 120-foot wide lot (minimum 150-foot lot width and area of one acre required), resulting in a 33.5-foot aggregate side yard setback (35-foot aggregate required).

PETITIONS FOR PUBLIC HEARING (Continued Petitions):

11. 2023-SE2-002 (Amended) | 3210 Chief Lane (approximate address)

Decatur Township, Council District #22, Zoned I-3
Reagan Outdoor Advertising, by Jon Campbell

Special Exception of the Consolidated Zoning and Subdivision Control Ordinance to provide for the relocation of a legally established Outdoor Advertising Sign due to a highway widening and improvement of I-69 by a state agency, along a freeway within I-465 (not permitted).

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the relocation of an existing 40-foot tall off-premise advertising sign, of which the relocated off-premise sign will have a height of no greater than 65-feet tall (maximum height of 40 feet permitted), a setback of five feet from Rand Road (20-foot setback required), being located within 400 feet of the centerline of an Interstate Ramp (500-foot separation from interstate ramp entries required) and being located within no less than 148 feet from protected districts (300-foot separation from protected districts required).

12. 2023-DV2-032 | 911 Sanders Street (approximate address)

Center Township, Council District #21, Zoned D-5 (TOD)
E&D Hopkins LLC, by Mark and Kim Crouch

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of either:

A single-family dwelling:

- a) On a medium lot typology with an area of 2,817 square feet (minimum lot area of 7,200 square feet required);
- b) A six-foot front yard setback from Sanders Street (20-feet required);
- c) A three-foot front yard setback from Hartford Street;
- d) A five-foot front yard setback from I-65;
- e) A five-foot rear yard setback (20-foot rear yard setback required);
- f) An open space of 40 percent (60 percent required); and
- g) A front-loaded garage comprising 100 percent of a façade along Hartford Street (prohibited).

Or a two-unit multi-unit home:

- a) On a small lot with an area of 2,817 square feet (minimum lot area of 5,000 square feet required);
- b) A six-foot front yard setback from Sanders Street (20-feet required);
- c) A three-foot front yard setback from Hartford Street;
- d) A five-foot front yard setback from I-65;
- e) A five-foot rear yard setback (20-foot rear yard setback required); and
- f) A front-loaded garage comprising 100 percent of a façade along Hartford Street (prohibited).

13. 2023-DV2-034 | 1949 Alvord Street (approximate address)

Center Township, Council District #17, Zoned D-8
Kathryn Ramseyer, by Melissa Iannucci

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a single-family dwelling with a front building line of 26 feet (maximum 19.9-foot front building line permitted) and a detached garage with four-foot side yard setbacks (five-foot side yard setbacks required).

**** Petitioner requests withdrawal to be acknowledged**

14. 2023-DV2-035 (2nd Amended) | 5602 North Keystone Avenue (approximate address)

Washington Township, Council District #7, Zoned C-4
T5 Keystone LLC, by Timothy E. Ochs

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a quick service oil change facility with a drive-through with only one stacking space before the final component (two stacking spaces required) that faces a public right-of-way greater than 30-foot wide, within insufficient stacking maneuverability after the service bay exits (not permitted).

15. 2023-UV2-014 | 35 East Morris Street (approximate address)

Center Township, Council District #16, Zoned D-5
Living Log Aquatic Services LLC, by Matthew Kerkhof

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of an eating establishment with outdoor seating, storage and unscreened operations (not permitted, any outdoor operations must be screened), a 100-foot wide parking area within the front yard of Morris Street (parking within front yard limited to 30-foot in width) and a barbecue pit with a five-foot front yard setback from Charles Street, located in front of the primary building (minimum 20-foot front yard setback required, accessory structures not permitted within the front yard).

PETITIONS FOR PUBLIC HEARING (New Petitions):

16. 2024-UV2-002 | 5102, 5111, 5117, 5122, 5127, 5139, 5143 5210 and 5282 East 65th Street

Washington Township, Council District #3, Zoned I-2

Schmoll Development Company L.P. and Greg Schmoll, by S. Gregory Zubek

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the following as primary uses: sports performance training uses; physical fitness and athletics instruction and training; and dance and gymnastics instruction (not permitted).

**** Staff is requesting a continuance of this petition to the March 12, 2024 hearing of Division II**

Additional Business:

**The addresses of the proposals listed above are approximate and should be confirmed with the Division of Planning. Copies of the proposals are available for examination prior to the hearing by emailing planneroncall@indy.gov. Written objections to a proposal are encouraged to be filed via email at dmdpubliccomments@indy.gov, before the hearing and such objections will be considered. At the hearing, all interested persons will be given an opportunity to be heard in reference to the matters contained in said proposals. The hearing may be continued from time to time as may be found necessary. For accommodations needed by persons with disabilities planning to attend this public hearing, please call the Office of Disability Affairs at (317) 327-5654, at least 48 hours prior to the meeting. - Department of Metropolitan Development - Current Planning Division.

STAFF REPORT

Department of Metropolitan Development
Division of Planning
Current Planning Section

Case Number: 2023-DV2-038
Address: 8245 Allisonville Road (approximate address)
Location: Washington Township, Council District #3
Zoning: C-4
Petitioner: Raising Cane’s Restaurants, LLC, by Joseph D. Calderon
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an eating establishment, with a drive through, including stacking and service units, within the front yard of East 82nd Street, with a 9.2 front yard setback (service units and stacking spaces not permitted along facades adjacent to public rights-of-way with a width greater than 30-foot or related front yards, minimum 10-foot setback required) and without the required screening and exclusive bypass aisle.

This petition was automatically continued, from the January 9, 2024, hearing, to the February 13, 2024, hearing, at the request of City County Councilor Daniel Boots.

The petitioner has indicated they will be **requesting a continuance for cause from the February 13, 2024, hearing, to the March 12, 2024, hearing**, without additional notice. Staff has no objection to this request.

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BOARD OF ZONING APPEALS DIVISION II

February 13, 2024

Case Number: 2024-DV2-002

Property Address: 4645 Tempe Court (approximate address)

Location: Decatur Township, Council District #21

Petitioner: Michael and Mary Morris, by Cindy Thrasher

Current Zoning: D-5

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a 360-square-foot shed with a one-foot south side yard setback (10-foot corner side yard setback required).

Current Land Use: Residential

Staff Recommendations: Staff has no recommendation for this request

Staff Reviewer: Noah Stern, Associate Planner

PETITION HISTORY

- Staff has determined that the language of the request must be amended, requiring this petition to be continued with new notice to the March 12, 2024 BZA II hearing.

STAFF RECOMMENDATION

- Staff has no recommendation for this request.

PETITION OVERVIEW

- This petition is to be continued to the March 12, 2024 BZA II hearing.



BOARD OF ZONING APPEALS DIVISION II

February 13, 2024

Case Number: 2023-DV2-036

Property Address: 7508 Central Avenue (approximate address)
Town of Meridian Hills

Location: Washington Township, Council District #2

Petitioner: John and Marcia Taylor, by Brian J. Tuohy

Current Zoning: D-1

Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a single-family dwelling with a 107.66-foot front yard setback from Central Avenue (114.25-foot front yard setback required).

Current Land Use: Residential

Staff Recommendations: Staff recommends approval of this petition

Staff Reviewer: Noah Stern, Associate Planner

PETITION HISTORY

ADDENDUM FOR FEBRUARY 13, 2024 BZA II HEARING

- This petition was automatically continued by a registered neighborhood organization from the January 4, 2024 BZA II hearing to the February 13, 2024 BZA II hearing.

STAFF RECOMMENDATION

Staff recommends approval of this petition.

PETITION OVERVIEW

- This request would provide for the construction of a single-family dwelling with a 107.66-foot front yard setback from Central Avenue (114.25-foot front yard setback required).
- The subject site is located within the Town of Meridian Hills and is zoned R-2 under the Town of Meridian Hills zoning designations. In R-2 zoning, on blocks in which at least 50% of the lots are improved with a dwelling unit, as this block of Central Avenue where the subject site is located has, the front setback standard is the average setback of the existing dwelling units on the block. That average front setback was calculated to be approximately 114.25 feet. The petitioner is seeking a variance of development standards just shy of 7 feet for the front setback. The house that previously existed on site was torn down for the proposed new primary residence to be built.



Department of Metropolitan Development
 Division of Planning
 Current Planning

- Several large, mature trees exist towards the back of the subject site (depicted in site photos and site plan). Placing the proposed residence at least 114.25 feet from the front property line would result in the structure lying within a few feet of many of these trees, representing a practical difficulty on the petitioner. Additionally, the Infill Housing Guidelines recommends building within the front setback range of the surrounding houses when the setbacks are different, to which this proposal adheres. Given this, Staff finds this to be a reasonable request and is not opposed to the front setback variance.

GENERAL INFORMATION

Existing Zoning	D-1	
Existing Land Use	Residential	
Comprehensive Plan	Rural or Estate Neighborhood	
Surrounding Context	Zoning	Surrounding Context
North:	D-1	North: Single-family residential
South:	D-1	South: Single-family residential
East:	D-S	East: Single-family residential
West:	D-1	West: Single-family residential
Thoroughfare Plan		
Central Avenue	Local Street Proposed ROW: 50 feet Existing ROW: 60 feet	
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	11/15/23	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	11/15/23	
Findings of Fact (Amended)	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book
- Infill Housing Guidelines



Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends the Rural or Estate Neighborhood living typology on this site.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

- With regards to front setbacks, the Infill Housing Guidelines document recommends:
 - When setbacks are different, build within the “set back range”
- The proposal is in accordance with the recommendations

Indy Moves

(Thoroughfare Plan, Pedestrian Plan, Bicycle Master Plan, Greenways Master Plan)

- Not Applicable to the Site.



ZONING HISTORY

ZONING HISTORY – SITE

N/A

ZONING HISTORY – VICINITY

2019DV3023; 7474 Central Avenue (south of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a dwelling addition with two-foot overhangs with a six-foot side setback and an eight-foot aggregate side setback (minimum 10-foot side setback and 25.5-foot aggregate side setback required), **approved**.

2017DV1058; 365 75th Street (south of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a five-foot tall wrought iron fence, with taller columns, having a zero-foot front setback (maximum 3.5-foot tall fence permitted within the front yard), **denied**.

2016DV1045; 475 75th Street (south of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a single-family dwelling, with a 40-foot setback from 75th Street and 67-foot setback from Central Avenue (average setback required) with a portion of a 48-inch tall wrought iron fence, with gates, within the clear sight triangles of the lot, **approved**.

2014HOV048; 7505 Central Avenue (east of site), variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a single-family dwelling, with a 73.5-foot front setback from Central Avenue, **approved**.

2013ZON036; 609 and 619 E 75th Street (east of site), rezoning of 4.17 acres, from the D-1 District to the SU-2 classification to provide for educational uses, **approved**.

2012ZON053; 7404 and 7456 N College Avenue (east of site), rezoning of 10.435 acres, from the D-p and D-1 Districts, to the SU-2 classification to provide for educational use, **approved**.

2009DV3009; 7474 Central Avenue (south of site), variance of development standards of the Dwelling Districts Zoning Ordinance to legally establish a 266-square foot deck with a two-foot south side setback and to provide for a 224-square foot screen porch addition with a two-foot south side yard setback, **approved**.

2008DV1069; 464 75th Street (south of site), variance of development standards of the Dwelling Districts Zoning Ordinance to legally establish a 5.33-foot tall wrought iron fence with up to 8.5-foot tall posts, and eight-foot tall, wrought iron gates within the required front yard along 75th Street, and a portion of a four-foot tall wire mesh fence along the east property line within the required front yard, and a 6.25-foot tall wood privacy fence along the north property line, **approved**.



Department of Metropolitan Development
Division of Planning
Current Planning

2002DV3034; 7510 Morningside Drive (east of site), variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a 228.2 square foot addition located 14.8 feet from the rear property line, **approved**.

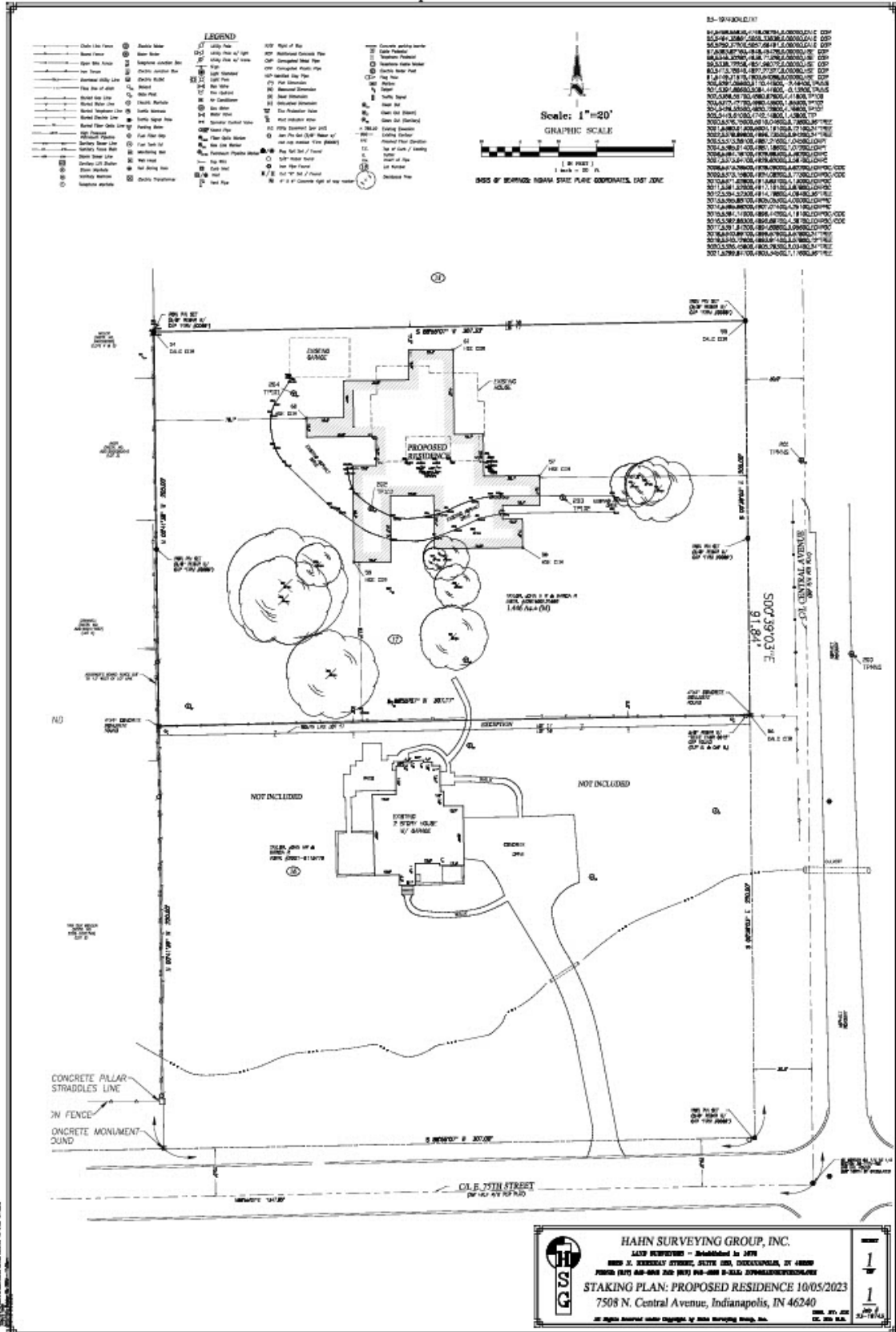
2001DV2002; 7555 Central Avenue (east of site), variance of development standards to provide for a 161 square foot addition to an attached garage creating a 10-foot side yard setback, and a 25.1 aggregate side yard setback, **approved**.

85-V3-86; 7575 Central Avenue (north of site), variance of development standards to provide for an in-ground swimming pool to be located seven feet from the rear property line, **approved**.

EXHIBITS



Proposed Site Plan











BOARD OF ZONING APPEALS DIVISION III **February 13, 2024**

Case Number: 2024DV2001
Property Address: 8705 Southeastern Avenue (approximate address)
Location: Franklin Township, Council District #25
Petitioner: Flag Properties LLC, by David A. Retherford
Current Zoning: C-4

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a sidewalk café with a zero-foot front yard setback from Southeastern Avenue, encroaching 17.5 feet into its right-of-way, and being located zero-feet from a driveway (10-foot front yard setback, eight-feet of separation from a driveway required, encroachment into right-of-way not permitted).

Current Land Use: Commercial

Staff Recommendations: Staff recommends **approval** of this petition.

Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff recommends **approval** of this petition.

PETITION OVERVIEW

- This building on this site was initially constructed as a residential property but has since been converted to commercial uses. It is currently a Thai restaurant which received a structural permit for the interior conversion in 2020. Unpermitted front and rear additions were made to the property which were cited under the violation case VIO23-002432.
- This petition would seek to legalize the placement of the front covered patio to be a sidewalk café servicing the existing restaurant as an accessory use. It would also allow for the covered sidewalk café to encroach into right-of-way (assuming issuance of the required encroachment license) and would legalize its placement within 8 feet of a driveway.



Department of Metropolitan Development
Division of Planning
Current Planning

- The sidewalk café use is similar to the related “outdoor seating or patio (nonresidential)” use outlined within the ordinance, with the primary difference being that by definition sidewalk cafés are accessory dining areas *within ROW* while the definition of outdoor seating does not specify that the location is relevant other than to stipulate that it is a distinct use category from sidewalk cafés. Even though this dining area is slightly elevated from grade and is not directly accessible from ROW sidewalks, it would still be defined as a sidewalk café per ordinance given its encroachment into the right-of-way.
- This property is zoned C-4, which allows for restaurant uses by-right and allows for sidewalk cafés as accessory uses. It is identified as the Village Mixed-Use working typology within the Marion County Land Use Plan Pattern Book and falls within the Town Center overlay. The Village Mixed-Use typology envisions neighborhood gathering places with a wide range of small businesses, housing types and public facilities. The Town Center overlay specifically designates new and historic neighborhood areas and emphasizes pedestrian connectivity and slightly higher densities.
- Guidelines associated with both the Village-Mixed Use typology and the Town Center overlay emphasize walkability and pedestrian-oriented development. Additionally, the Wanamaker Community Master Plan (pending approval) mentions the desirability of ‘community-oriented restaurants’ and indicated this specific property had a “positive visual appearance”.
- Front setback rules exist to create uniform and aesthetically pleasing streetways that allow for appropriate foot and vehicle traffic. Additionally, encroachment of private structures in public rights-of-way can result in visual obstructions or pedestrian walkways that are difficult to navigate. While sidewalk cafés are generally permitted within ROW to allow for easy pedestrian access, the addition of the covered and elevated structure was the impetus for the zoning violation.
- This request would seek to legalize placement of the covered sidewalk café with a 0-foot setback and with a 17.5-foot encroachment into public right-of-way. Although under ideal circumstances sidewalk cafés would have more direct access for pedestrians, staff still feels that this development is aligned with the walkability goals outlined within relevant comprehensive plans. Additionally, it is unlikely that future development patterns would result in an expansion of the roadway into the space currently occupied by the covered patio. Staff would recommend approval of the variance for deficient front setback and encroachment into the right-of-way.
- The use-specific standards for placement of sidewalk cafés within 743-306.HH of the Indianapolis Zoning Ordinance also disallow placement within 8’ of hazards, including driveways. These standards are in place to reduce both the immediate danger to patrons of being struck by vehicles as well as the potential long-term effects of inhalation of car exhaust while eating and drinking.
- This request would seek to legalize the placement of the sidewalk café with a 0-foot separation from the existing driveway to the southeast. The lot is narrow enough that placement of either the sidewalk café or driveway in an alternate location would not be feasible, and the inclusion of the outdoor eating area is aligned with the goals of relevant comprehensive plans. Staff would recommend approval of the variance to place the sidewalk café within 8 feet of a driveway.



GENERAL INFORMATION

Existing Zoning	C-4	
Existing Land Use	Commercial	
Comprehensive Plan	Village Mixed-Use	
Surrounding Context	Zoning	Surrounding Context
	North:	North: Village Mixed-Use
	South:	South: Village Mixed-Use
	East:	East: Village Mixed-Use
	West:	West: Village Mixed-Use
Thoroughfare Plan		
Southeastern Avenue	Primary Collector	Existing ROW: 100' Prop ROW: 66'
Context Area	Compact or Metro	
Floodway / Floodway Fringe	No	
Overlay	Yes	
Wellfield Protection Area	No	
Site Plan	11/08/2023	
Site Plan (Amended)	N/A	
Elevations	11/08/2023	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	11/08/2023	
Findings of Fact (Amended)	01/18/2024	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book
- Wanamaker Certified Redevelopment Plan (pending final approval)

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends the Village Mixed-Use working typology for this site. This typology provides for neighborhood gathering places with a wide range of small business and housing types that are intended to strengthen existing, historically small town centers as well as promote new neighborhood centers.
- This site falls within the Town Center overlay, which is designed to promote development with a high degree of pedestrian connectivity that has a slightly higher density than the surrounding area.



Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- The Wanamaker Certified Redevelopment Plan (pending final approval as of January 2024) largely conforms to the land uses and typologies laid out within the pattern book. It encourages placement of community-oriented restaurants within the Village Mixed-Use working typology.

Infill Housing Guidelines

- Not Applicable to the Site.

Indy Moves

(Thoroughfare Plan, Pedestrian Plan, Bicycle Master Plan, Greenways Master Plan)

- Not Applicable to the Site.



ZONING HISTORY

ZONING HISTORY – SITE

2019DV3004, Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to legally establish and provide for the replacement of existing wall, pole, monument and pylon signs of similar style, height and size within the required 15-foot setback prior to July 1, 2019 and within the right-of-way of Southeastern Avenue, without obtaining permits, when located no closer than 10 feet from the back of the curb; to provide for replacement wall signs when located closer than 10 feet to the back of the curb without permits; and to provide for new signs and replacement signs inconsistent with the above only after obtaining a permit and when located no closer than 10 feet from the back of the curb (five-foot minimum front setback in Commercial districts, 10-foot front setback in Special districts, 15-foot front setback required prior to July 1, 2019, signs not permitted within the right-of-way and improvement location permits required for signs), **approved**.

ZONING HISTORY – VICINITY

2023DV1019; 8719 Southeastern Avenue (southeast of site), Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the renovation of an existing commercial structure resulting in an 18% front façade transparency (40% transparency required) and the addition of a porch with a zero-foot front setback and encroaching up to two feet into the right-of-way of Southeastern Avenue (10-foot front yard setback required, encroachment within the right-of-way not permitted), **approved**.

2015UV3034; 8711 Southeastern Avenue (southeast of site), Variance of use of the Commercial Zoning Ordinance to legally establish and provide for primary and accessory single-family residential uses (not permitted), **approved**.

2006ZON144; 4437 S Franklin Road (west of site), Rezoning of the site to the C-S zoning district, **approved**.

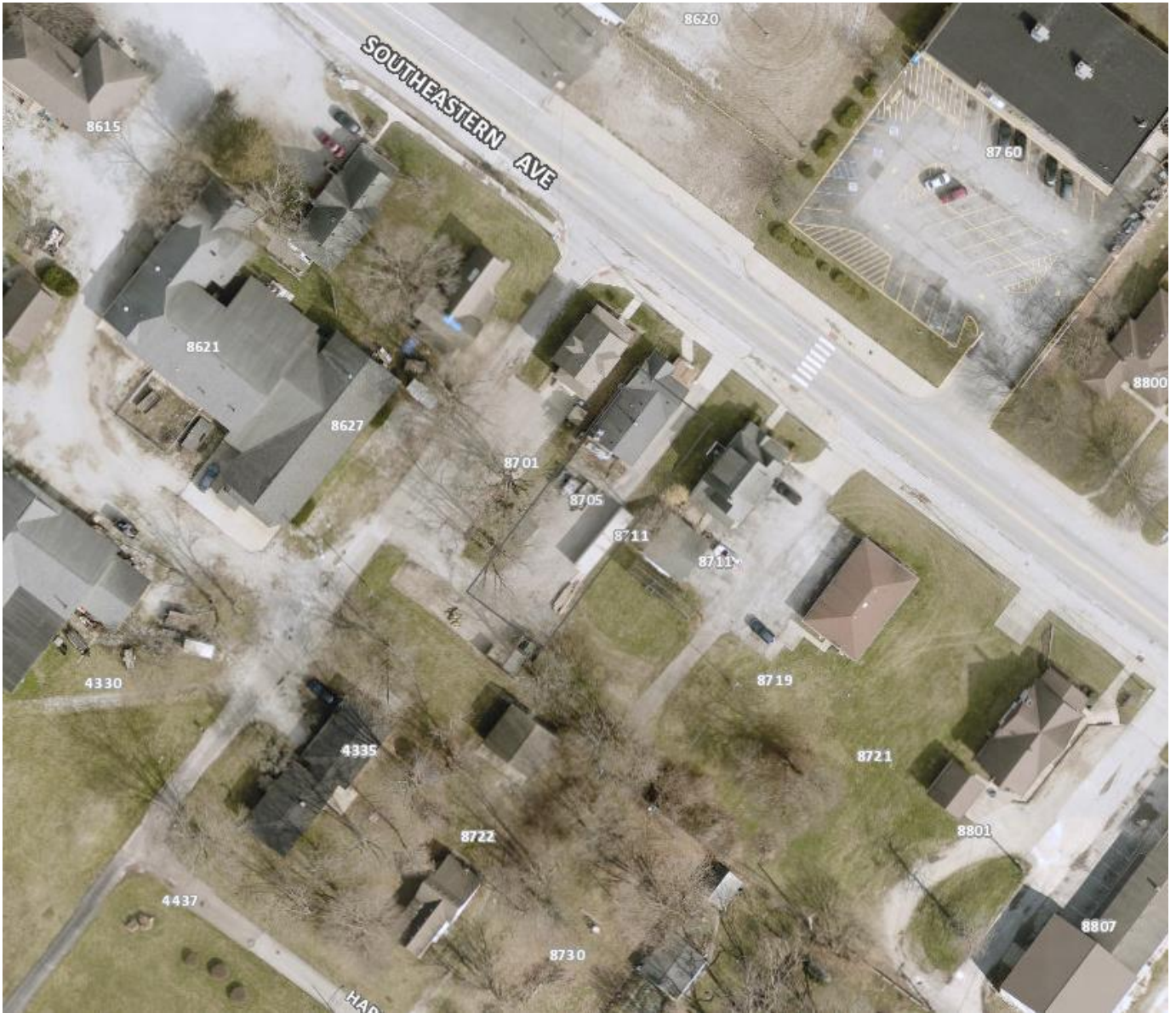
2002UV3004; 8800 Southeastern Avenue (northeast of site), Variance of use to legally establish a single-family dwelling and to provide for an 804 square-foot addition to said dwelling, **approved**.

89-V2-124; 8809 Southeastern Avenue (southeast of site), Variance of development standards of the Commercial Zoning Ordinance to permit an addition to an existing carpet store with 10 parking spaces provided (19 required), **approved**.

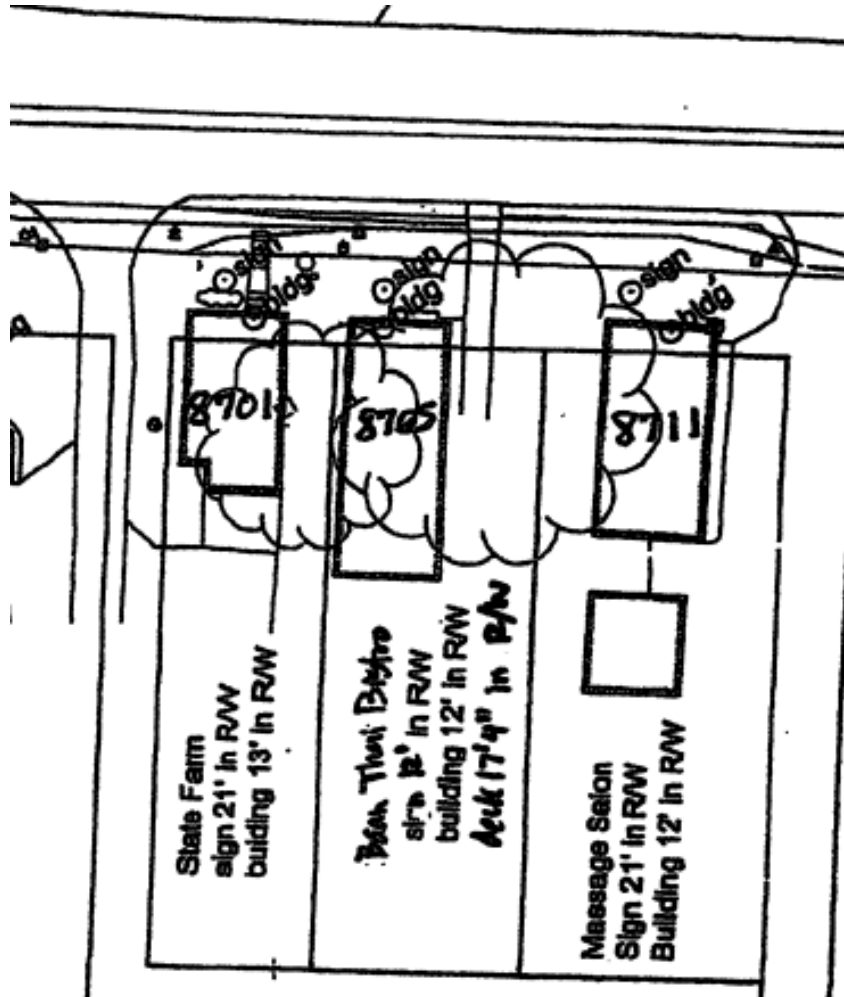
85-UV2-141; 8701 Southeastern Avenue (northwest of site), Variance of use of the Commercial Zoning Ordinance to provide for the use of an existing building as a pre-school nursery, **approved**.

EXHIBITS

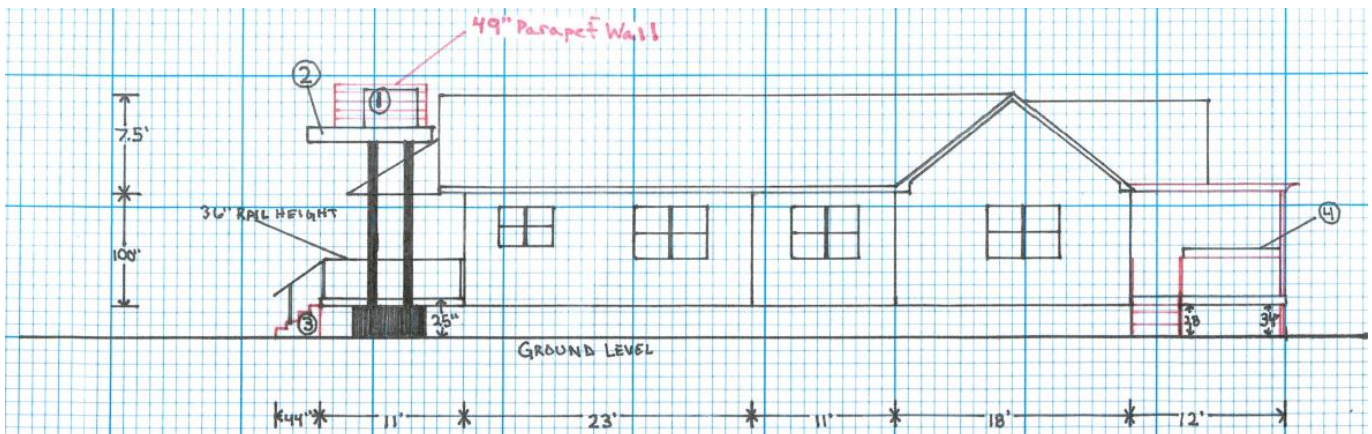
2024DV2001 ; Aerial Map



2024DV2001 ; Site Plan



2024DV2001 ; Side Elevation





Department of Metropolitan Development
Division of Planning
Current Planning

2024DV2001 ; Findings of Fact

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because: Legally establishing the existing structure and covered front deck which serves as the outdoor seating area for the new restaurant does not create any such risk of injury since the structure and the concrete porch under the covered deck have existed in its current location since prior to 1969, and the Petitioner will need to obtain an encroachment license for the portion of same which exists in the Right of Way. In addition, there is no access from the outdoor seating area to the abutting driveway except emergency access.
2. The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because: The properties to the East, West and North are similarly zoned C-4, and the former residences along the row of structures on the South side of Southeastern have all been remodeled in the last 20 years for commercial purposes. In addition, the encouragement of the conversion of the several former residences along Southeastern in Wanamaker for similar types of retail and restaurant type uses is consistent with the goals of the recently completed Wanamaker Certified redevelopment plan. The structures on each side are owned by the same property owner as the subject property, and they also encroach into the BSL and public ROW in similar fashion.
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because: While the existing residential structure and front porch under the deck would likely qualify as LENCU, without the requested variances the recent conversion of the property to a high end non-chain restaurant would not be possible without demolishing the existing structure, thereby losing the cherished residential character of the structure and its proximity to the pedestrian improvements along Southeastern Avenue. In addition, the pre-existing drive is critical to the traffic pattern on the site, and the lot on which the restaurant is only 40 feet, which does not leave room for any separation between the side of the seating area and the one way drive.

2024DV2001 ; Pictures



Photo 1: Existing Restaurant Viewed from Across Thompson (Northeast)



Photo 2: Covered Sidewalk Café Within ROW Viewed from Southeast

2024DV2001 ; Pictures (continued)



Photo 3: Side Alley on Southeast of Building Near Sidewalk Café



Photo 4: View of Sidewalk Café and Thompson Road from Side Alley

2024DV2001 ; Pictures (continued)



Photo 5: Adjacent Property to the Southeast



Photo 6: Adjacent Property to the Northwest



BOARD OF ZONING APPEALS DIVISION II **February 13, 2024**

Case Number: 2024-DV2-003

Property Address: 2415 & 2427 North Rural Street (approximate address)

Location: Center Township, Council District #8

Petitioner: Martindale Brightwood Community Development Corporation, by Susie Wilson

Current Zoning: D-5

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a two-family dwelling on each lot, both with 30-foot lot widths and lot areas of 4,065 square feet (minimum lot width of 60 feet and area of 7,200 square feet required), each with a parking pad with a three-foot south side yard setback (five-foot side yard setbacks required).

Current Land Use: Partially Constructed Two-Family Dwellings

Staff Recommendations: Approval

Staff Reviewer: Eddie Honea, Principal Planner II

PETITION HISTORY

This petition is scheduled for initial hearing on February 13, 2024, before Division II of the Board of Zoning Appeals.

STAFF RECOMMENDATION

Staff **recommends approval** of the request.

PETITION OVERVIEW

- The request, as proposed, would allow for the construction of a Two-Family Dwelling on each 30-foot wide lot, containing a total lot area of 4,065 square feet. The Ordinance requires minimum lot widths of 60 feet and an area of 7,200 square feet for this typology. All other development standards are met.
- This block of Rural Street is comprised primarily of single-family dwellings, with undeveloped lots and multi-family dwellings interspersed.
- Permits were issued in error by the Department of Business and Neighborhood Services, resulting in the site being improved with partially erected Two-Family Dwellings.



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- While the request does not meet the minimum lot standards for a Two-Family Dwelling, Staff would note that it would substantially comply with the requirements of a two-unit-multi-unit-home, including setbacks, lot area, and open space, which would otherwise be permitted within the D-5 District. This use would require a 35-foot lot width, however, so a variance filing would still be required. Staff would note that the primary difference between these two land uses is the ability of each unit of a Two-Family Dwelling being able to be individually owned.
- The Land Use Pattern Book recommends Traditional Neighborhood development. Specifically, Two-Family Dwellings are encouraged to be located on corner lots, or along a block, so long as they do not comprise greater than 25% of the primary buildings. While there are multi-family structures in the area, the request would represent the only two two-family dwellings along this portion of the 2400 block of North Rural Street. Therefore, the request would comply with the Land Use Pattern Book.
- The Infill Housing Guidelines is a component of the overall Marion County Comprehensive Plan that advises residential infill development, with particular regard to site configuration and aesthetic considerations. These guidelines specifically emphasis vicinity context regarding setbacks, building orientation, building spacing, massing, open space, and landscaping. After review of the filed site-plan, Staff has determined that the request complies with these guidelines and does not propose any deviation.
- Staff would note that this portion of Martindale Brightwood is bound by institutional uses to the west, including religious uses, a juvenile detention center and a court facility. Enterprise Park, an industrial integrated center, is also located directly to the southwest, and I-70 is located directly south. Staff believes this proximity to such uses establishes the immediate area as a transitional buffer, and that increased density would be appropriate.
- In addition, Staff believes this increased density advances the Livability Principles of the Ordinance, specifically to promote equitable, affordable housing through the introduction of four new dwelling units; and enhancing economic competitiveness by providing increased housing stock near employment centers.

GENERAL INFORMATION

Existing Zoning	D-5	
Existing Land Use	Partially Constructed Two-Family Dwellings	
Comprehensive Plan	Traditional Neighborhood	
Surrounding Context	Zoning	Surrounding Context
North:	D-5	North: Undeveloped Lots & Single-Family Dwellings
South:	D-5	South: Undeveloped Lots & Single-Family Dwellings
East:	D-5	East: Single-Family Dwellings



West:	D-5	West:	Single-Family Dwellings
Thoroughfare Plan			
Rural Street	Local Street		
Context Area	Compact		
Floodway / Floodway Fringe	No		
Overlay	No		
Wellfield Protection Area	No		
Site Plan	December 28, 2023		
Site Plan (Amended)	N/A		
Elevations	N/A		
Elevations (Amended)	N/A		
Landscape Plan	N/A		
Findings of Fact	December 28, 2023		
Findings of Fact (Amended)	N/A		

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Land Use Pattern Book; Infill Housing Guidelines

Pattern Book / Land Use Plan

- Enter Recommendation by Pattern Book or “Not Applicable to the Site. Please see Neighborhood / Area Specific Plan (etc.) below.”

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site

Neighborhood / Area Specific Plan

- Not Applicable to the Site

Infill Housing Guidelines

- Two-Family Dwellings are encouraged to be located on corner lots, or along blocks where no more than 25% of the primary residential structures comprise of Two-Family Dwellings



Department of Metropolitan Development
Division of Planning
Current Planning

Indy Moves

(Thoroughfare Plan, Pedestrian Plan, Bicycle Master Plan, Greenways Master Plan)

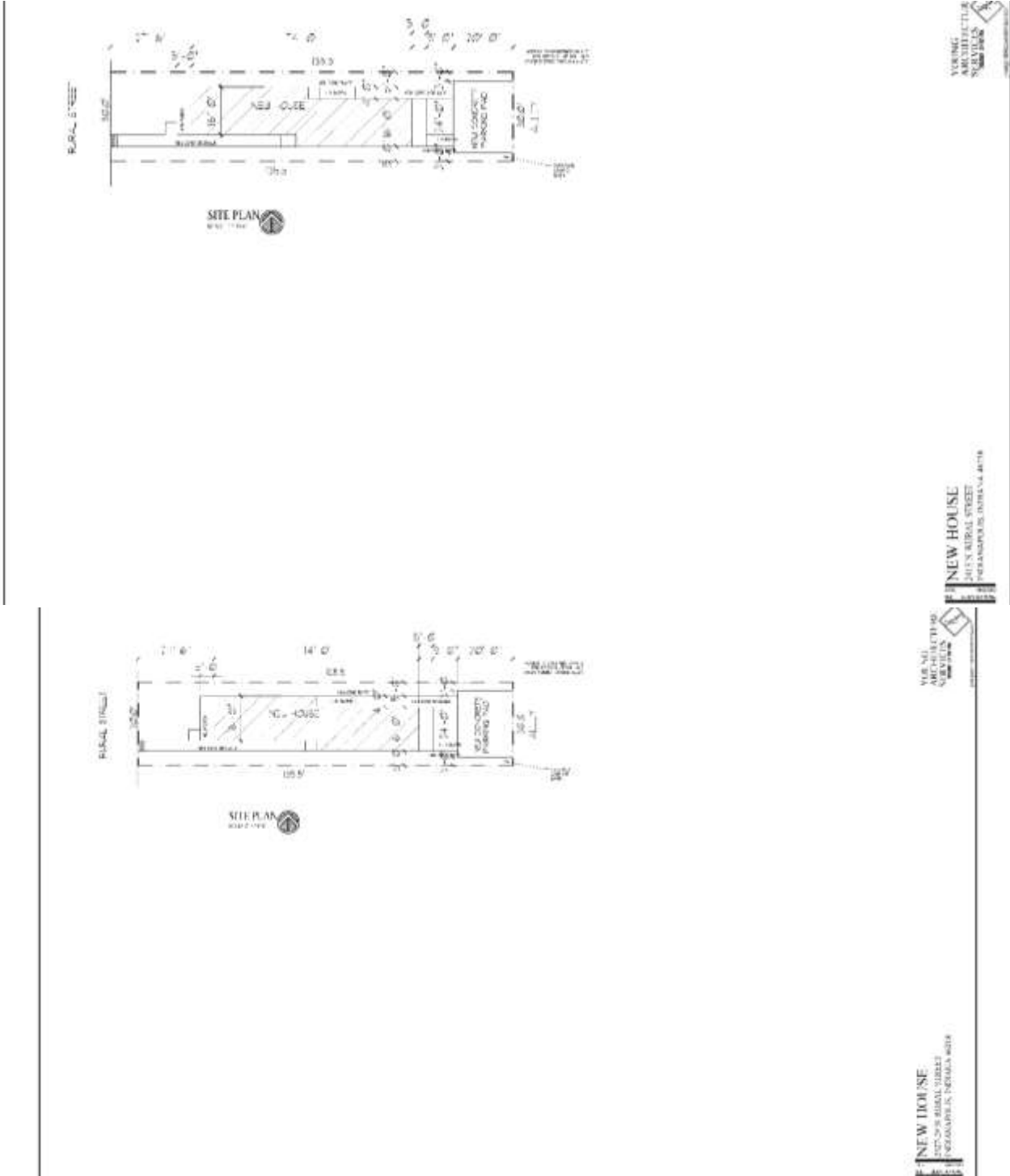
- Not Applicable to the Site



ZONING HISTORY

None.

EXHIBITS



SITE PLAN
 2415 S RURAL STREET

SITE PLAN
 2425 S RURAL STREET

NEW HOUSE
 2415 S RURAL STREET
 PERMANENT IMPROVEMENTS

NEW HOUSE
 2425 S RURAL STREET
 PERMANENT IMPROVEMENTS



Department of Metropolitan Development
Division of Planning
Current Planning

Petition Number _____

METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division _____
OF MARION COUNTY, INDIANA

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

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

Proposed plans for development on this site would not be injurious to any property adjacent. The request for 2 family dwellings would benefit and provide a new overall facade to the existing area.

2. The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:

This petition is within the single family dwelling development plan for the area. Petitioning for this approval will give access to provide affordable housing for residents within the community.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

This project was approved and issued permits to begin construction and has such begun construction of these dwellings. Plan review for additional projects, the matter was brought to attention of the development requirements for the parcel and as such, the petition is necessary to obtain proper approval to continue with completion of these parcels.

DECISION

IT IS THEREFORE the decision of this body that this VARIANCE petition is APPROVED.

Adopted this _____ day of _____, 20 ____



BOARD OF ZONING APPEALS DIVISION III **February 13, 2024**

Case Number: 2024DV2004

Property Address: 4020 N Pennsylvania Street (approximate address)

Location: Washington Township, Council District #7

Petitioner: Wesley Thacker and Ellen Mrzlack, by Josh Valentine

Current Zoning: D-2 (MSPC)

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a detached garage with a one-foot north side yard setback (seven-foot side yard setback required).

Current Land Use: Residential

Staff Recommendations: Staff recommends **approval** of this request.

Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff recommends approval of this request.

PETITION OVERVIEW

- This lot currently contains a single-family residence, swimming pool in the rear yard, and a detached garage that is planned to be demolished and replaced by a new structure. The proposed 2-car garage would be approximately 23 feet in height and have unfinished storage space above.
- This variance request would seek to legalize placement of the new detached garage with a 1-foot setback instead of the 7 feet required by ordinance. Although the new garage would be placed in a similar location as the older one erected under a previous zoning ordinance, the proposed structure would have a larger footprint making it ineligible for the reconstruction of nonconformities exception found in 740-602 of the Indianapolis Zoning Ordinance.
- The site is zoned D-2 to allow for suburban development with ample yards, trees, and passive open spaces. It is also located with the Secondary Zone of the Meridian Street Preservation Commission’s jurisdiction, which requires neighborhood approval prior to filing of a variance case.



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Division of Planning
Current Planning**

- The Meridian Kessler Neighborhood Plan indicates that residential areas and institutions should maintain setbacks consistent with neighboring properties. Additionally, the Infill Housing Guidelines recommend consistent spacing with neighbors and that secondary structures be subordinate to primary residences.
- Other residences along Pennsylvania Street appear to have rear detached garages placed closer to side setback lines than would be allowable by current ordinance (two of which were legalized by variances in 2008 and 2002). This garage does not appear to violate the recommendations of the above plans. Additionally, the adjacent property owner to the north and the MSPC have both provided their written approval of the proposed structure.
- Side setback rules exist to allow for adequate separation between neighboring properties. Given that the proposed garage meets the existing development pattern of the neighborhood, is on a lot with existing deficient width, and would be set back slightly further than the existing garage that is in disrepair, staff would support approval of this variance request.

GENERAL INFORMATION

Existing Zoning	D-2 (MSPC)	
Existing Land Use	Residential	
Comprehensive Plan	Traditional Neighborhood	
Surrounding Context	Zoning	Surrounding Context
North:	D-2	North: Traditional Neighborhood
South:	D-2	South: Traditional Neighborhood
East:	D-2 / C-S	East: Estate Residential
West:	D-2	West: Traditional Neighborhood
Thoroughfare Plan		
Pennsylvania Street	Local Street	Existing ROW: 73' Prop ROW: 48'
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	01/07/2024	
Site Plan (Amended)	N/A	
Elevations	01/17/2024	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	01/07/2024	
Findings of Fact (Amended)	N/A	



COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Meridian Kessler Neighborhood Plan
- Infill Housing Guidelines

Pattern Book / Land Use Plan

- Not Applicable to the Site. Please see Meridian Kessler Neighborhood Plan below.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- This property falls within the Traditional Neighborhood living typology and is located within the secondary MSPC zoning district (approval received prior to filing of this variance).
- The Meridian Kessler Neighborhood Plan indicates that new construction with residential areas should have setbacks that fall within typical ranges compared to neighboring properties.

Infill Housing Guidelines

- The Infill Housing Guidelines stipulate that accessory structures like detached garages should be located behind primary residences and should not overshadow them in terms of scale, height, size, or massing.

Indy Moves

(Thoroughfare Plan, Pedestrian Plan, Bicycle Master Plan, Greenways Master Plan)

- Not Applicable to the Site.



ZONING HISTORY

ZONING HISTORY – SITE: N/A

ZONING HISTORY – VICINITY

2023DV2014; 28 E 40th Street (south of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a detached garage with a three-foot rear yard and east side yard setback (five-foot rear and side yard setback required), **approved**.

2021CVR815; 4011 N Pennsylvania Street (east of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for 21 parking spaces (60 parking spaces required), **approved**.

2021CZN815A; 4011 N Pennsylvania Street (east of site), Rezoning of 1.5 acres from the SU-1 district to the C-S classification to provide for the existing religious use and opera center and other arts and culture-related uses, **approved**.

2021CZN815B; 4011 N Pennsylvania Street (east of site), Rezoning of 0.98 acre from the SU-1 district to the D-2 classification to provide for residential development, **approved**.

2017DV1027; 4008 N Pennsylvania Street (south of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the expansion of a detached garage and a covered porch, creating 64.8% open space (75% required), **approved**.

2008DV2040; 4180 N Pennsylvania Street (north of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a twenty-foot tall, 840-square foot detached garage with a three-foot north side setback (minimum seven-foot side setback required), **approved**.

2007UV3027; 4011 N Pennsylvania Street (east of site), variance of use of the Special Districts Zoning Ordinance to provide for an opera center (not permitted), **approved**.

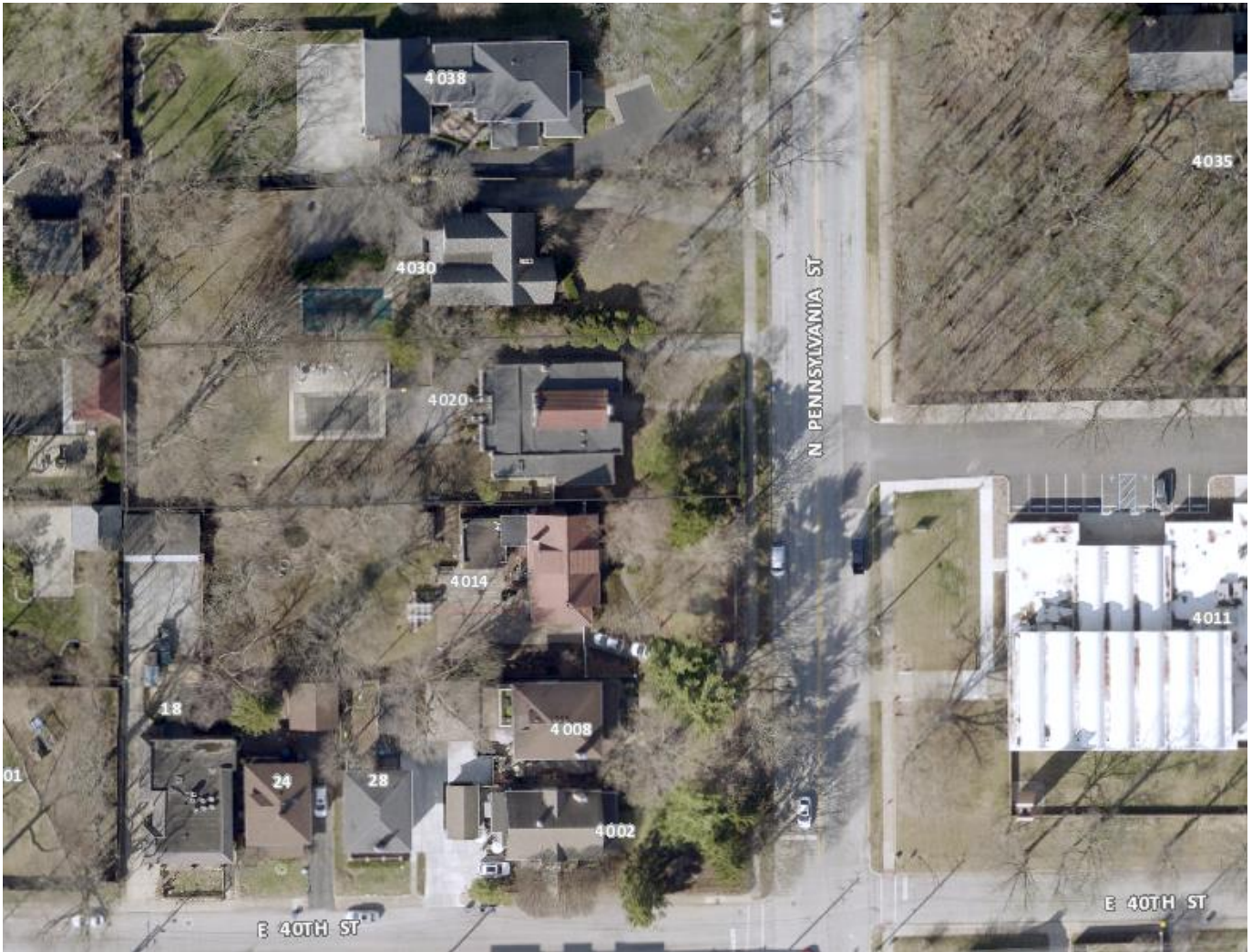
2006UV3032; 3965 N Meridian Street (south of site), Variance of use of the Commercial Zoning Ordinance to legally establish an office use and provide for limited C-2 and C-3 uses in the ground floor of the existing building, **approved**.

2002HOV001; 4144 N Pennsylvania Street (north of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for 227.64 square foot garage and room addition with a 2.8-foot side setback, **approved**.

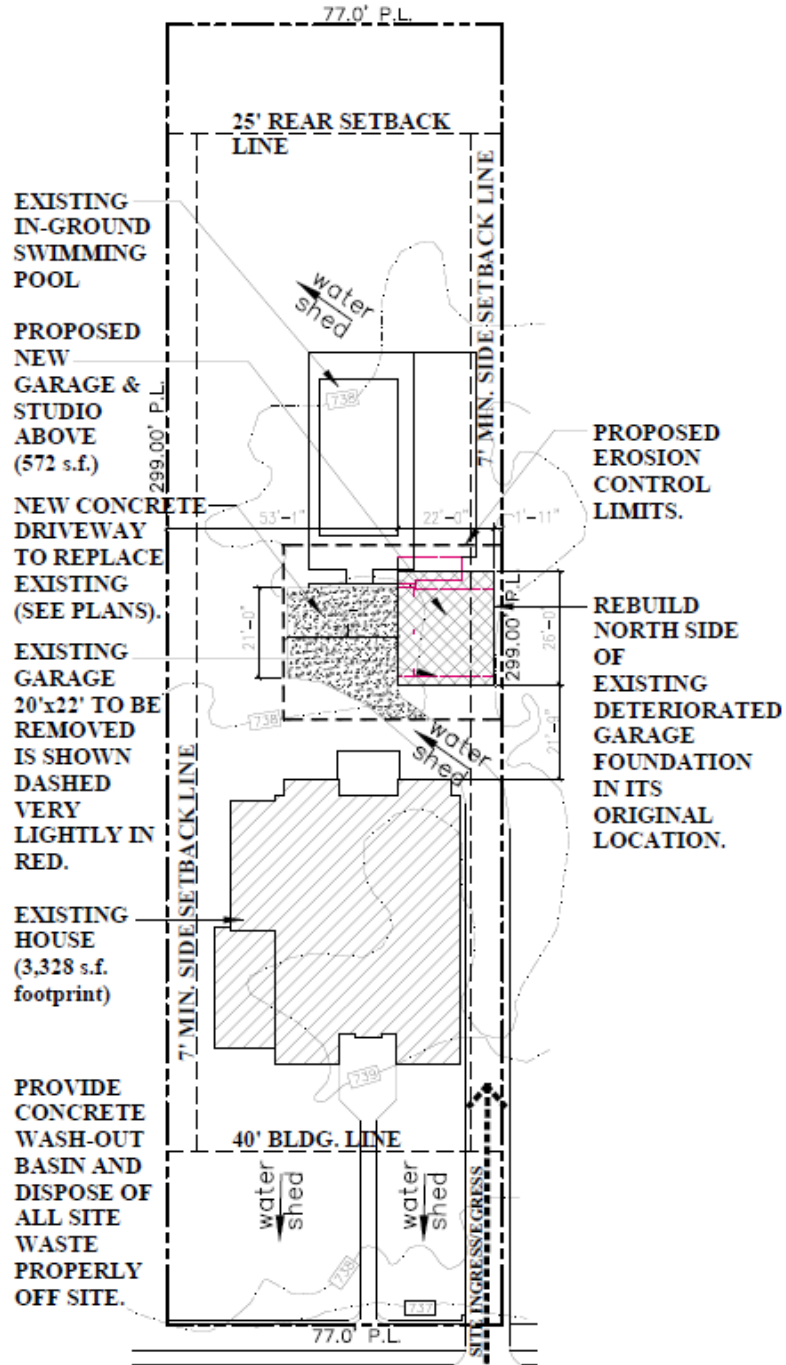
83-UV1-6; 4127 N Meridian Street (northwest of site), temporary variance for the exhibiting of the Decorator's Show House for three months, **approved**.

EXHIBITS


2024DV2004 ; Aerial Map



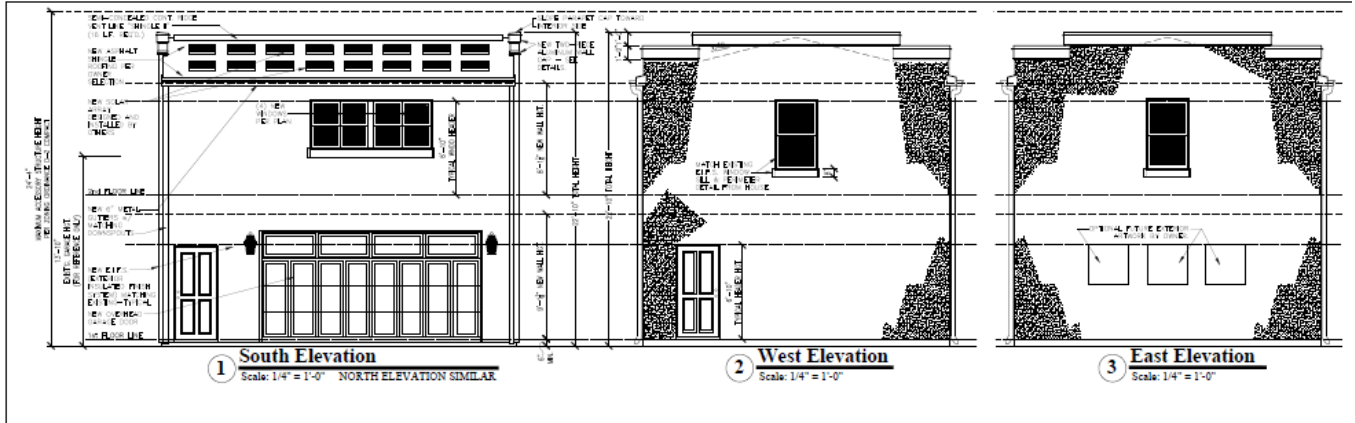
2024DV2004 ; Site Plan



4020 N. Pennsylvania St.
Site Plan

2 Scale: 1" = 30'-0" 

2024DV2004 ; Elevations



2024DV2004 ; Findings of Fact

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

The proposed 572-square-foot accessory structure will replace a structurally compromised existing 440-square-foot accessory structure along an existing 1'-11" building setback line. The proposed accessory structure would be in character with the existing primary structure as well as existing accessory structures in the surrounding neighborhood. The parcel is located within the MSPC secondary review boundaries. MSPC has reviewed the proposed development and issued a prior approval of variance order in support of the proposed project. #V-MSPC 23-18.

2. The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:

The proposed accessory structure would maintain the existing non-conforming north sideyard setback of 1'-11". The adjacent property owner along the proposed reduced setback side of the property has reviewed the plans and issued a letter in support of the project. The proposed accessory structure will be constructed using quality building materials and techniques.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

Due to limitations on the parcel by the orientation of the existing primary residence and driveway, the proposed accessory structure must be located in roughly the same footprint area as the existing accessory structure for project feasibility.

2024DV2004 ; Pictures



Photo 1: Existing Residence Viewed from Across Pennsylvania (East)



Photo 2: Existing Garage Viewed from ROW to East (Partially Obstructed View)

2024DV2004 ; Pictures (continued)



Photo 3: Southern Elevation of Existing Garage (taken October 2023)



Photo 4: Western Elevation of Existing Garage (taken October 2023)



BOARD OF ZONING APPEALS DIVISION II

February 13, 2024

Case Number: 2024-DV2-005

Property Address: 435 West Hampton Drive

Location: Washington Township, Council District #7

Petitioner: Haley Blanchet, Craig Blanchet and Kimberly Blanchet, by Joseph D. Calderon

Current Zoning: D-5

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a detached garage with four-foot east side yard setback (seven-foot side yard setback required).

Current Land Use: Residential

Staff Recommendations: Staff recommends approval of this petition

Staff Reviewer: Noah Stern, Associate Planner

PETITION HISTORY

- This is the first public hearing for this petition.

STAFF RECOMMENDATION

- Staff recommends approval of this petition.

PETITION OVERVIEW

- This petition would provide for the construction of a detached garage with four-foot east side yard setback (seven-foot side yard setback required).
- The primary structure was built in 1933, per the property card on file, and contains an east side yard setback of approximately four feet. The proposed accessory structure will sit in line with the primary residence and will not encroach upon the adjacent property line any closer than the existing development.
- Additionally, with the proposed structure being of similar character to nearby properties in the surrounding area, as numerous primary and accessory structures contain reduced/minimal setbacks, the proposal is in accordance with the recommendations found in the Infill Housing Guidelines document, which says that new construction should reflect and reinforce the character of spacing



Department of Metropolitan Development
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found on the block. Therefore, Staff finds the request to be reasonable in nature, and is not opposed to the side setback variance.

GENERAL INFORMATION

Existing Zoning	D-5	
Existing Land Use	Residential	
Comprehensive Plan	Traditional Neighborhood	
Surrounding Context	Zoning	Surrounding Context
North:	D-5	North: Single-family residential
South:	D-5	South: Single-family residential
East:	D-5	East: Single-family residential
West:	D-5	West: Single-family residential
Thoroughfare Plan		
West Hampton Drive	Local Street Proposed ROW: 48 feet Existing ROW: 60 feet	
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	1/3/24	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	1/3/24	
Findings of Fact (Amended)	N/A	

COMPREHENSIVE PLAN ANALYSIS
 Comprehensive Plan

- Marion County Land Use Plan Pattern Book
- Infill Housing Guidelines

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends the Traditional Neighborhood living typology for this site.



Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

- With regards to accessory structures such as detached garages, the Infill Housing Guidelines document recommends:
 - Locate accessory structures behind primary buildings
 - Don't overshadow primary buildings
 - Coordinate primary and accessory structures
- With regards to side setbacks and building spacing, the Infill Housing Guidelines document recommends:
 - Reinforce spacing on existing block- new construction should reflect and reinforce the character of spacing found on the block
 - Leave room for maintenance
- The proposal is in accordance with these recommendations

Indy Moves

(Thoroughfare Plan, Pedestrian Plan, Bicycle Master Plan, Greenways Master Plan)

- Not Applicable to the Site.



ZONING HISTORY

ZONING HISTORY – SITE

N/A

ZONING HISTORY – VICINITY

2023DV1054; 530 W 44th Street (west of site), Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a 754-square foot carriage house (maximum square footage of 720 square feet permitted) with a five-foot corner side yard setback from Sunset Avenue (10-foot required) and a 2.5-foot rear yard setback (five-foot setback required), **approved**.

2011CZN824; 525 Blue Ridge Road (west of site), Rezoning of 0.645 acre from the D-5 District to the UQ-1 classification to provide for the University President's House (Carter House; 525) and the Efroymsen Center for Creative Writing (530), which would have lectures by visiting writers and authors and other university uses, as well as provide for housing for the writers and authors, **withdrawn**.

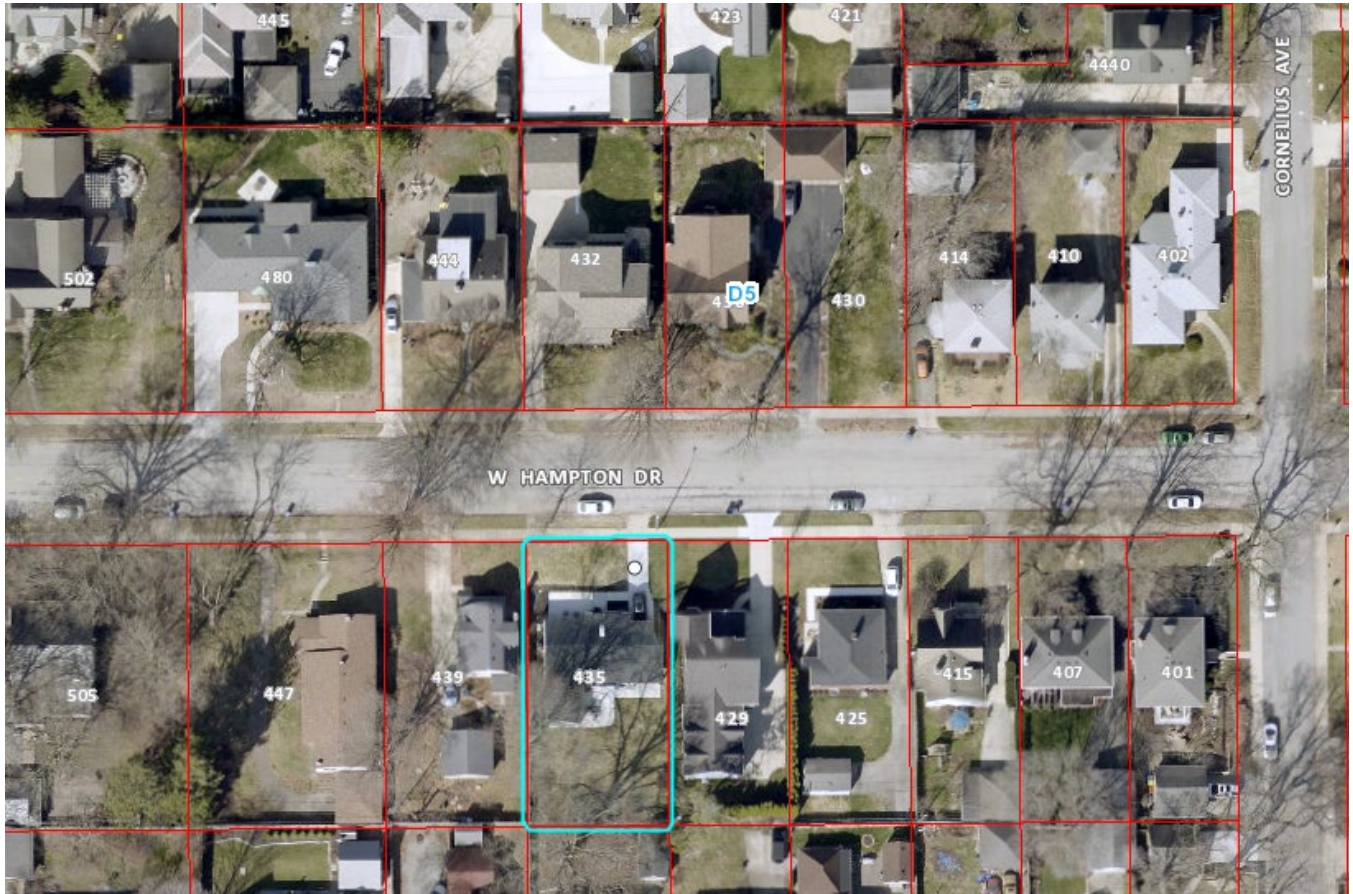
2011CVR824; 525 Blue Ridge Road (west of site), Variance of use and development standards of the Special Districts Zoning Ordinance to provide for the University President's House (Carter House; 525) and the Efroymsen Center for Creative Writing (530), which would have lectures by visiting writers and authors and other university uses, as well as provide for housing for the writers, authors and up to three graduate students, and to provide for an attached garage, with a 0.75-foot front setback from Sunset Avenue (25-foot front setback required), **approved**.

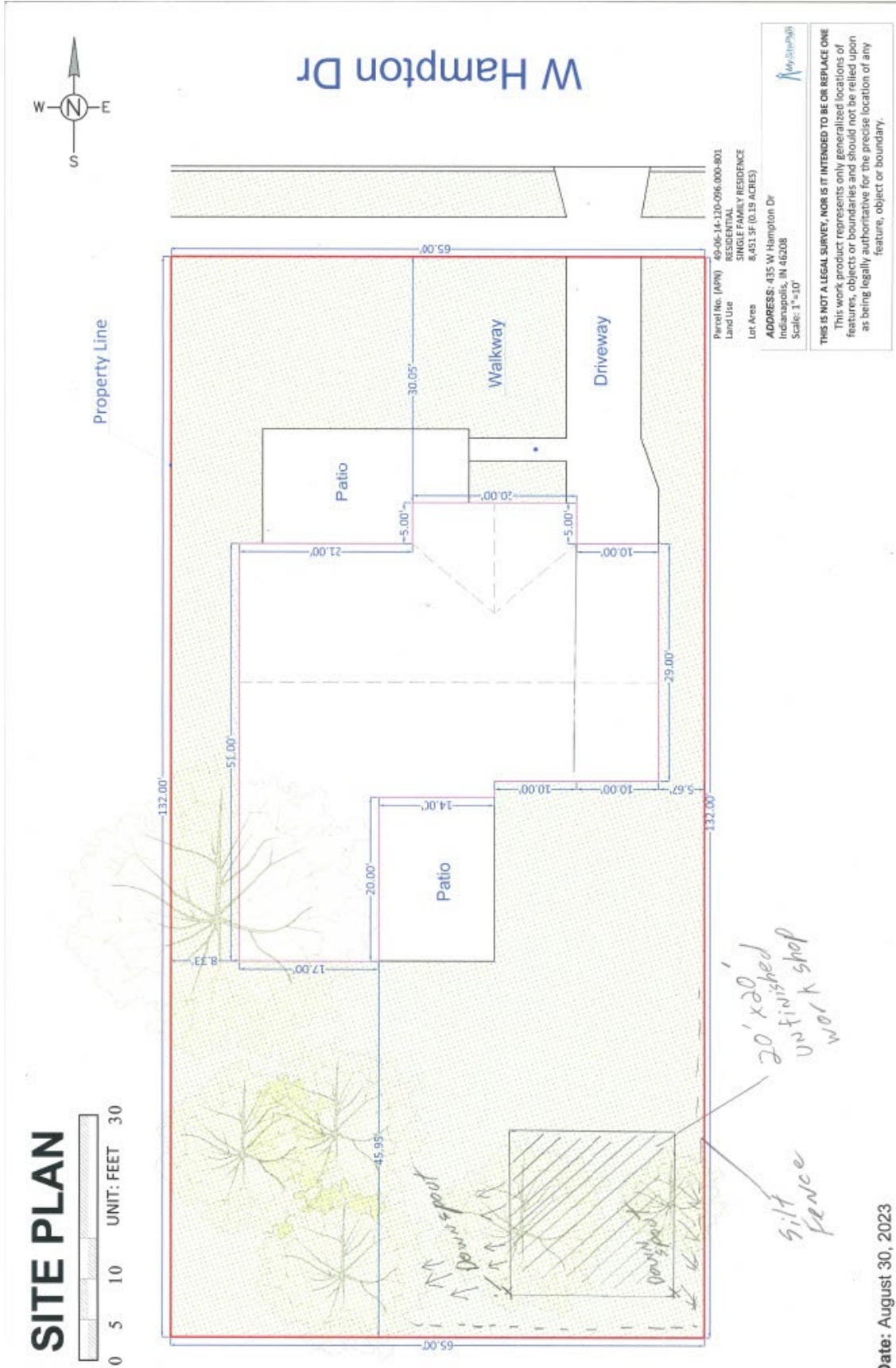
2006UV2040; 525 W Hampton Drive (west of site), variance of use of the DDZO to provide for a university police station within an existing dwelling, **approved**.

93-Z-103; 525 Blue Ridge Road (west of site), Butler University requests rezoning of 0.21 acres from D-5 District to UQ-1 classification to provide for university-related office uses, **withdrawn**.

93-V1-126; 339 W 44th Street (east of site), variance of development standards of the Dwelling Districts Ordinance to permit the construction of an addition to the residence with a 2 foot side yard setback (4 feet minimum required) and to legally establish a detached garage which is 110% of the main floor area of the primary structure (75% maximum permitted), **approved**.

EXHIBITS





Date: August 30, 2023







**Department of Metropolitan Development
Division of Planning
Current Planning**



BOARD OF ZONING APPEALS DIVISION II **February 13, 2024**

Case Number: 2024UV2001

Property Address: 6519 Carrollton Avenue (approximate address)

Location: Washington Township, Council District #7

Petitioner: GP CM Carrollton Avenue Developers LLC, Misha Rabinowitch

Current Zoning: D-4 (TOD) (FF)

Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for an office use, per the filed site plan and plan of operations (not permitted); and variance of development standards to provide for placement of a primary freestanding sign (two signs permitted for residential communities).

Current Land Use: Commercial

Staff Recommendations: Staff recommends **approval** of this petition with a commitment to file for a rezoning petition by the end of 2024 with the full intent to rezone the property to a C-1 zoning designation.

Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff recommends **approval** of this petition with a commitment to file for a rezoning petition by the end of 2024 with the full intent to rezone the property to a C-1 zoning designation.

PETITION OVERVIEW

- This primary structure and accessory rear structures were originally constructed for residential purposes. The site is surrounded by formerly residential properties that have since been converted to allow for low intensity commercial uses. General office uses were legalized by petition at this site (for both the residence and accessory buildings) under 78-UV2-13 but were limited by occupancy of the current owner and a plan of operation that is now outdated.
- This site also contains a sign for which a permit was applied for in 2020 but never issued. This variance would seek to both legalize placement of a primary freestanding sign for the current office occupants (typically disallowed within D-4 unless associated with a residential community)



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as well as to update the approval of office use for the structures on site to match the site plan and plan of operation proposed by the petitioner.

- The site is currently zoned D-4, which allows for low or medium intensity single-family and two-family residential development. However, several parcels within the immediate vicinity of this property have been rezoned to the C-1 Office-Buffer District designation, while others have obtained variances of uses to allow for low intensity commercial use such as offices while retaining the D-4 zoning designation.
- The Envision Broad Ripple Neighborhood Plan passed in 2012 assigns this property the Village Mixed-Use designation and locates it within Critical Area 2 (Broad Ripple Village). The plan also designates it as an environmentally sensitive area since it is located within a floodplain. This land use category and critical area seeks to promote a village-type atmosphere through residential and commercial uses and design choices appropriate for neighborhood gathering places.
- Since the property is within 1000 feet of the path of the Red Line, it is within the jurisdiction of the Red Line Transit-Oriented Development Strategic Plan. The Red Line Plan assigns it the Walkable Neighborhood typology which allows for a mix of uses near transit stations. The proposed office use would not conflict with the dictates of the TOD strategic plan.
- The entirety of this property also falls within the 100-year floodplain. Unless explicitly prohibited by ordinance, all uses allowed by the primary zoning would also be allowable within the FF secondary zoning layer. Office uses are not mentioned as a restricted use within the Flood Control Secondary Zoning Districts Ordinance.
- Given that the comprehensive plan recommends the Village Mixed-Use typology and that both this property and surrounding area appear to be oriented toward commercial uses for the foreseeable future, staff strongly feels that legalizing this use through a rezone petition would be more appropriate than a use variance. The petitioner was working on a reduced timetable to legalize the use but was amenable to a proposed compromise that a commitment be added for this property to begin the rezoning process to the C-1 designation before the end of the year.
- Commercial uses and placement of primary freestanding signage is disallowed within residential zoning to allow for maintenance of residential character throughout dwelling districts and limit more intense uses to areas appropriately zoned to support commercial traffic and signage. However, the surrounding context of this location is clearly oriented for commercial uses like those previously legalized at this and other sites. Staff would recommend approval of this petition subject to the commitment mentioned above, with the caveat that future cases of this nature should be processed as rezoning petitions and that this should not serve as a precedent for future approvals.



GENERAL INFORMATION

Existing Zoning	D-4 (TOD) (FF)	
Existing Land Use	Commercial	
Comprehensive Plan	Village Mixed Use	
Surrounding Context	Zoning	Surrounding Context
North:	D-4	North: Village Mixed Use
South:	D-4	South: Village Mixed Use
East:	D-4	East: Village Mixed Use
West:	D-4	West: Village Mixed Use
Thoroughfare Plan		
Carrollton Avenue	Local Street	Existing ROW: 44' Prop ROW: 48'
Context Area	Compact	
Floodway / Floodway Fringe	Yes	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	01/02/2024	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	01/19/2024	
Findings of Fact (Amended)	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Envision Broad Ripple Village Plan
- Red Line Transit-Oriented Development Strategic Plan

Pattern Book / Land Use Plan

- Not Applicable to the Site. Please see Neighborhood / Area Specific Plan below.

Red Line / Blue Line / Purple Line TOD Strategic Plan



**Department of Metropolitan Development
Division of Planning
Current Planning**

- The subject is within 1000 feet of the existing Red Line and is designated with the Walkable Neighborhood typology by the comprehensive plan. This typology allows for a mix of uses near transit stations with stabilized residential uses beyond.

Neighborhood / Area Specific Plan

- The Envision Broad Ripple Neighborhood Plan assigns this property to the Village Mixed-Use typology, which allows for a mixed-use core of small, neighborhood office/retail nodes, public and semi-public uses, open space, and light industrial development.
- The site is also designated as being with Critical Area 2 (Broad Ripple Village; Village Mixed-Use development recommended) and is an environmentally sensitive area (floodplain).

Infill Housing Guidelines

- Not Applicable to the Site.

Indy Moves

(Thoroughfare Plan, Pedestrian Plan, Bicycle Master Plan, Greenways Master Plan)

- Not Applicable to the Site.



ZONING HISTORY

ZONING HISTORY – SITE

78-UV2-13, Variance of use and Development Standards to permit remodelling of 2 residences for general office use, small residence in rear to be rented for office use in future, if not needed by owner, as per plans filed, off-street parking available, **approved**.

ZONING HISTORY – VICINITY

2022ZON104; 6520 Ferguson Street (northeast of site), Rezoning of 0.18 acre from the D-4 (FF) (TOD) district to the C-1 (FF) (TOD) district to provide for office uses, **approved**.

2017DV1039; 838 E 65th Street (southeast of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a five-foot tall freestanding sign and 42-inch tall aluminum picket fence within the right-of-way of 65th Street (15-foot setback required and structures not permitted within the right-of-way), **approved**.

2015DV1031; 6503 Carrollton Avenue (south of site), Variance of development standards of the Commercial Zoning Ordinance to provide for a 700-square foot building addition, with three on-site parking spaces, with maneuvering within the right-of-way of the north-south alley (ten off-street parking spaces required, maneuvering not permitted in the right-of-way), **approved**.

2015MO2005; 6515 Carrollton Avenue (south of site), Modification of Commitments and Site Plan related to 2013-UV2-021 to terminate Commitment Five, requiring the trash enclosure and dumpster to be located in the southeast corner of the rear parking lot, with removal access from the alley, and to modify the site plan file-dated October 3, 2013, **approved**.

2013UV2021; 6515 Carrollton Avenue (south of site), Variance of use of the Dwelling Districts Zoning Ordinance and variance of development standards of the Sign Regulations to provide for a 470-square foot addition (not permitted) to the east end of an existing building, approved for use as a bakery and coffee house, with retail sales and outdoor seating (2012-UV2-022), to provide for an additional parking space (not permitted), and to provide for a free-standing sign (not permitted), with a three-foot front setback (15-foot front setback or the front established building line, whichever is less), **approved**.

2013UV2011; 6516 Ferguson Street (east of site), Variance of use and development standards of the Dwelling Districts Zoning Ordinance and Sign Regulations to provide for: massage therapy in the eastern portion of the proposed building (not permitted, previously approved for a gift and antique shop, interior decorator and psychologist office (74-UV1-74A, 74-UV1-131, 80-UV2-51)); to convert the detached garage to an attached garage, with a five-foot rear setback (20-foot rear setback required) for use as a commercial café serving food and non-alcoholic beverages (not permitted); to add two outdoor freezer and refrigeration units (not permitted), with a zero-foot north side setback (minimum five-foot side setback required); to provide for outdoor seating south of and west of the converted garage, with a zero-foot setback from the west property line (not permitted, 20-foot rear yard required); to provide for window signs, and to provide for a four-foot tall, 18-square foot freestanding sign with a four-foot front setback



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(second revised); and with a parking area with a zero-foot south side setback (minimum five-foot side setback and 13-foot aggregate setback required), **approved.**

2012UV2022; 6515 Carrollton Avenue (south of site), Variance of use of the Dwelling Districts Zoning Ordinance to provide for a bakery and coffee house, with retail sales (not permitted), **approved.**

2005UV1009; 6523 Carrollton Avenue (east of site), provide for office uses (not permitted) within an existing 1,073.38-sq.ft. single-family dwelling, with a proposed 518.2-sq.ft. addition, with a 566-sq.ft. detached garage in D-4, **approved.**

2003UV3022; 6524 Carrollton Avenue (northwest of site), Variance of Use and development standards of the Commercial Zoning Ordinance to provide for a beauty salon (not permitted), with seven off-street parking spaces (nine off-street parking spaces permitted), **approved.**

2000UV1027; 6515 Carrollton Avenue (south of site), variance of use of the Dwelling Districts Zoning Ordinance to provide for a remodeling business (not permitted), within an existing single-family dwelling, **approved.**

2000UV1025; 6523 Carrollton Avenue (north of site), Variance of use of the Dwelling Districts Zoning Ordinance to provide for retail uses in an existing single-family dwelling (not permitted), **approved.**

99-UV3-72; 6512 Ferguson Street (southeast of site), to provide for a 4 seat hair salon with off-street parking, **approved.**

94-UV2-78; 6524 Carrollton Avenue (northwest of site), variance of use and development standards of the Commercial Zoning Ordinance to provide for a boutique business in an existing two-story 2,112 square foot building with storage located in the basement (not permitted), parking 4.5 feet from Coil Street (minimum 20 foot setback required), parking 3 feet from the west property line and 0.5 feet from the south property line (minimum 10 foot setback required for each), **approved.**

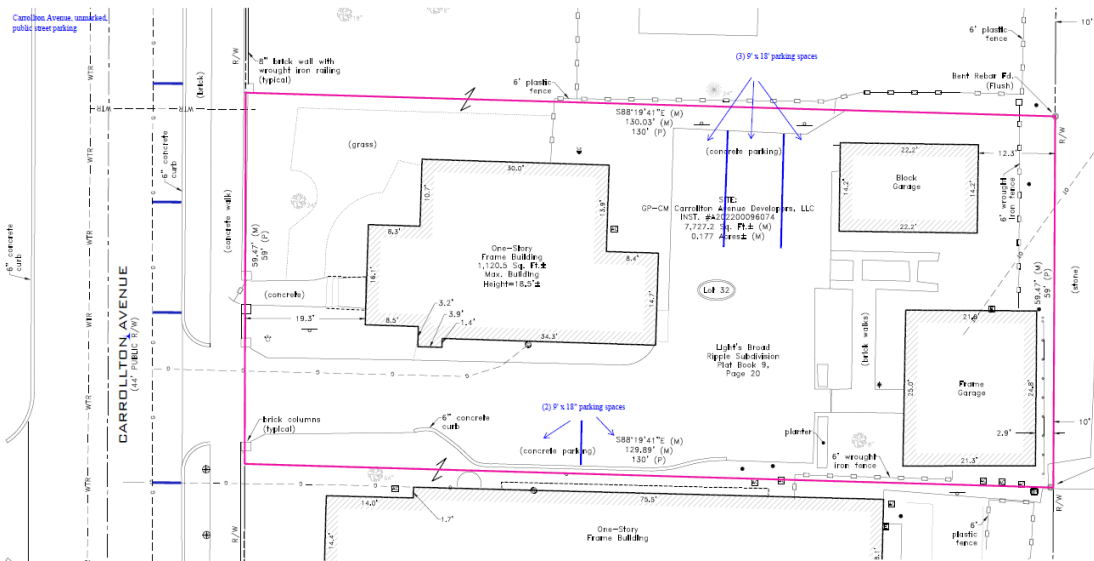
89-Z-177; 6524 Carrollton Avenue (northwest of site), approval of 0.177 acres to the C-1 District classification, **approved.**

EXHIBITS

2024UV2001 ; Aerial Map



2024UV2001; Site Plan





2024UV2001; Findings of Fact (Use)

1. THE GRANT WILL NOT BE INJURIOUS TO THE PUBLIC HEALTH, SAFETY, MORALS, AND GENERAL WELFARE OF THE COMMUNITY BECAUSE

The subject property has been used for office purpose for many years and is surrounded by similar office uses.

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 BECAUSE

The subject property has been used for office purpose for many years and is surrounded by similar office uses.

3. THE NEED FOR THE VARIANCE ARISES FROM SOME CONDITION PECULIAR TO THE PROPERTY INVOLVED BECAUSE

The surrounding context although developed as single family residential, has evolved into small bungalow style office uses.

4. THE STRICT APPLICATION OF THE TERMS OF THE ZONING ORDINANCE CONSTITUTES AN UNUSUAL AND UNNECESSARY HARDSHIP IF APPLIED TO THE PROPERTY FOR WHICH THE VARIANCE IS SOUGHT BECAUSE

The property is already used as an office and is surrounded by other office uses.

5. THE GRANT DOES NOT INTERFERE SUBSTANTIALLY WITH THE COMPREHENSIVE PLAN BECAUSE

The Comprehensive Plan recommends Village Mixed Use which permits office use.



2024UV2001; Findings of Fact (Development Standards)

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

The property has been used for office purpose with a freestanding sign for many years and is surrounded by office uses and similar signage.

2. The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:

The property has been used for office purpose with a freestanding sign for many years and is surrounded by office uses and similar signage.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

The adjacent properties are operated as office use with similar freestanding signage so to not permit the requested freestanding sign would create a practical difficulty in use of the property.

2024UV2001; Plan of Operation

SmallBox Consulting Inc.

Plan of Operation

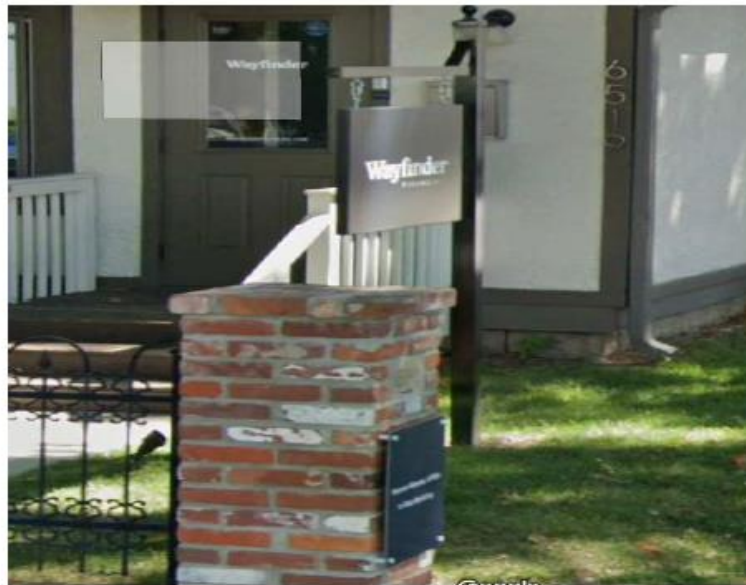
Background: [SmallBox](#) is an Indianapolis based creative agency focused on strategy, web and brand experiences for mission-driven organizations. SmallBox plans to relocate its office from its current location at 6219 Guilford Ave. to 6519 Carrollton Ave.

Employees: SmallBox has 8 total employees, some of whom work remotely or a hybrid between remote and in-office work. It is anticipated that on a regular basis there will be approximately 5 employees in the office during normal business hours.

Office Hours: The office is typically open during normal business hours from 9 a.m. to 5 p.m.

Parking: The site provides for at least 3 on-site parking spaces and 3 on-street parking spaces adjacent to the building.

Signage: SmallBox anticipates a small freestanding yard sign similar in character to what is currently on-site and shown below.



Garage: The 525 square foot garage in the rear of the property is also used for office use. It is currently occupied by [Nowak Consulting](#).

2024UV2001; Pictures



Photo 1: Existing Property From Carrollton (West)



Photo 2: Existing Accessory Structures on Subject Site

2024UV2001; Pictures (continued)



Photo 3: Adjacent Property to the South



Photo 4: Adjacent Property to the Northwest



BOARD OF ZONING APPEALS DIVISION II **February 13, 2024**

Case Number: 2023-DV2-030

Property Address: 3833 E 56th Street (approximate address)

Location: Washington Township, Council District #3

Petitioner: Race Dorsey, and Lauren Hall

Current Zoning: D-3

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a six-foot fence within the front yard of 56th Street.

Current Land Use: Residential

Staff Recommendations: Staff recommends denial of the request

Staff Reviewer: Noah Stern, Associate Planner

PETITION HISTORY

ADDENDUM FOR THE FEBRUARY 13, 2024 BZA II HEARING

- This petition was heard at the November 21, 2023 hearing but was continued to the December 12, 2023 hearing due to an indecisive vote by the Board.
- The petition was subsequently granted a 2-month continuance to the February 13, 2024 hearing at the request of the petitioner.

STAFF RECOMMENDATION

Staff recommends denial of the request.

PETITION OVERVIEW

- This petition would provide for the location of a 6-foot fence within the front yard of 56th Street (3.5 feet in the front yard permitted). The fence in question is a 6-foot privacy fence made of wood panels painted white. The fence lies approximately 40 feet from the right-of-way line along 56th Street. The fence was cited for a violation on August 29th, 2023 for exceeding 42 inches in height in the front yard.
- Fence height standards are in place to allow for a reasonable amount of privacy/security and moderate barriers in between properties while maintaining visibility and open space by limiting unreasonable and overly intense fences. Fences located in the front yards of residentially zoned properties are limited to 3.5 feet in height to allow for visibility from the right-of-way and from adjacent



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properties. Restricting this visibility has the potential to present safety hazards by creating large blind spots on the site. Likewise, the Infill Housing Guidelines document recommends that privacy fences should not be placed in the front yards and that fences should not obstruct views of the front of the house. The fence pertaining this petition is a privacy fence and significantly restricts the visibility of both the front yard and the primary structure from all points of view.

- The Infill Housing Guidelines also recommends building fences that are in character with the surrounding context/neighborhood. This fence substantially deviates from the aesthetic and built character of adjacent properties, as no other nearby properties contain a 6-foot fence in the front yard. Moreover, fences 6 feet in height tend to represent a departure from residential character and instead begin to resemble commercial or industrial properties. Finally, Staff sees no practical difficulty for the owner to be unable to comply with the required height standard and does not wish to set any precedent for fences that are well beyond that standard. For these reasons, Staff is opposed to and recommends denial of the request for a 6-foot fence in the front yard of the subject site.

GENERAL INFORMATION

Existing Zoning	D-3										
Existing Land Use	Residential										
Comprehensive Plan	Residential use at 0-1.75 units per acre										
Surrounding Context	<table border="0"> <tr> <td>Zoning</td> <td>Surrounding Context</td> </tr> <tr> <td>North: D-6</td> <td>North: Multi-Family Residential</td> </tr> <tr> <td>South: D-6</td> <td>South: Multi-Family Residential</td> </tr> <tr> <td>East: D-3</td> <td>East: Single-Family Residential</td> </tr> <tr> <td>West: D-3</td> <td>West: Single-Family Residential</td> </tr> </table>	Zoning	Surrounding Context	North: D-6	North: Multi-Family Residential	South: D-6	South: Multi-Family Residential	East: D-3	East: Single-Family Residential	West: D-3	West: Single-Family Residential
Zoning	Surrounding Context										
North: D-6	North: Multi-Family Residential										
South: D-6	South: Multi-Family Residential										
East: D-3	East: Single-Family Residential										
West: D-3	West: Single-Family Residential										
Thoroughfare Plan											
East 56 th Street	Primary Collector Existing ROW: 55 feet Proposed ROW: 80 feet										
Context Area	Metro										
Floodway / Floodway Fringe	No										
Overlay	No										
Wellfield Protection Area	No										
Site Plan	9/26/23										
Site Plan (Amended)	N/A										
Elevations	N/A										
Elevations (Amended)	N/A										
Landscape Plan	N/A										
Findings of Fact	9/26/23										
Findings of Fact (Amended)	N/A										

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Infill Housing Guidelines

Pattern Book / Land Use Plan

- Not Applicable to the Site. Please see Neighborhood / Area Specific Plan (etc.) below.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site

Neighborhood / Area Specific Plan

- Millersville at Fall Creek Valley Village and Corridor Plan (2015) recommends residential use at a density of 0-1.75 housing units per acre.

Infill Housing Guidelines

- The Infill Housing Guidelines (IHG) document is used to promote good practice with regards to form, massing, aesthetics, landscaping, etc. of new infill housing projects for all scales and types.
- With regards to fencing, the Infill Housing Guidelines document recommends:
 - Design ornamental elements, such as fences, to fit the context of the block and neighborhood
 - Do not obstruct views of the front of the house
 - See-through fences are the safest
 - Do not install privacy fence in the front yard
- The fence that pertains to this petition is a 6-foot privacy fence that obstructs the view of the front of the house from 56th Street. Likewise, it does not fit the context of the surrounding block, as none of the nearby properties have a privacy fence in the front yard along 56th Street. The request is not in accordance with the recommendations of the Infill Housing Guidelines document.

Indy Moves

(Thoroughfare Plan, Pedestrian Plan, Bicycle Master Plan, Greenways Master Plan)

- Not Applicable to the Site



ZONING HISTORY

ZONING HISTORY - SITE

N/A

ZONING HISTORY – VICINITY

81-Z-63; 4045 E 56th Street (east of site), requests the rezoning of 0.81 acres, being in the D-3 District to the SU-9 classification to provide for a Fire Department use, **approved**.

88-Z-126; 5601 Allisonville Road (north of site), requests the rezoning of 20.8 acres from the D-6 district, to the D6II classification to provide for the development of multi-family housing, **withdrawn**.

92-Z-127A; (west of site), requests the rezoning of 40.657 acres from the D-A to the D-4 zoning classification to allow for the development of single-family residences, **approved**.

98-Z-19; 4010 E 56th Street (east of site), requests the rezoning of 0.83 acres from the D-P district to the D-P classification to provide for two, two-family dwellings, **approved**.

2005ZON090; 4025, 4047 & 4049 E 56th Street (east of site), rezone of 5.5 acres, being in the D-3 District, to the C-S classification to provide for the construction of a self-storage facility, **approved**.

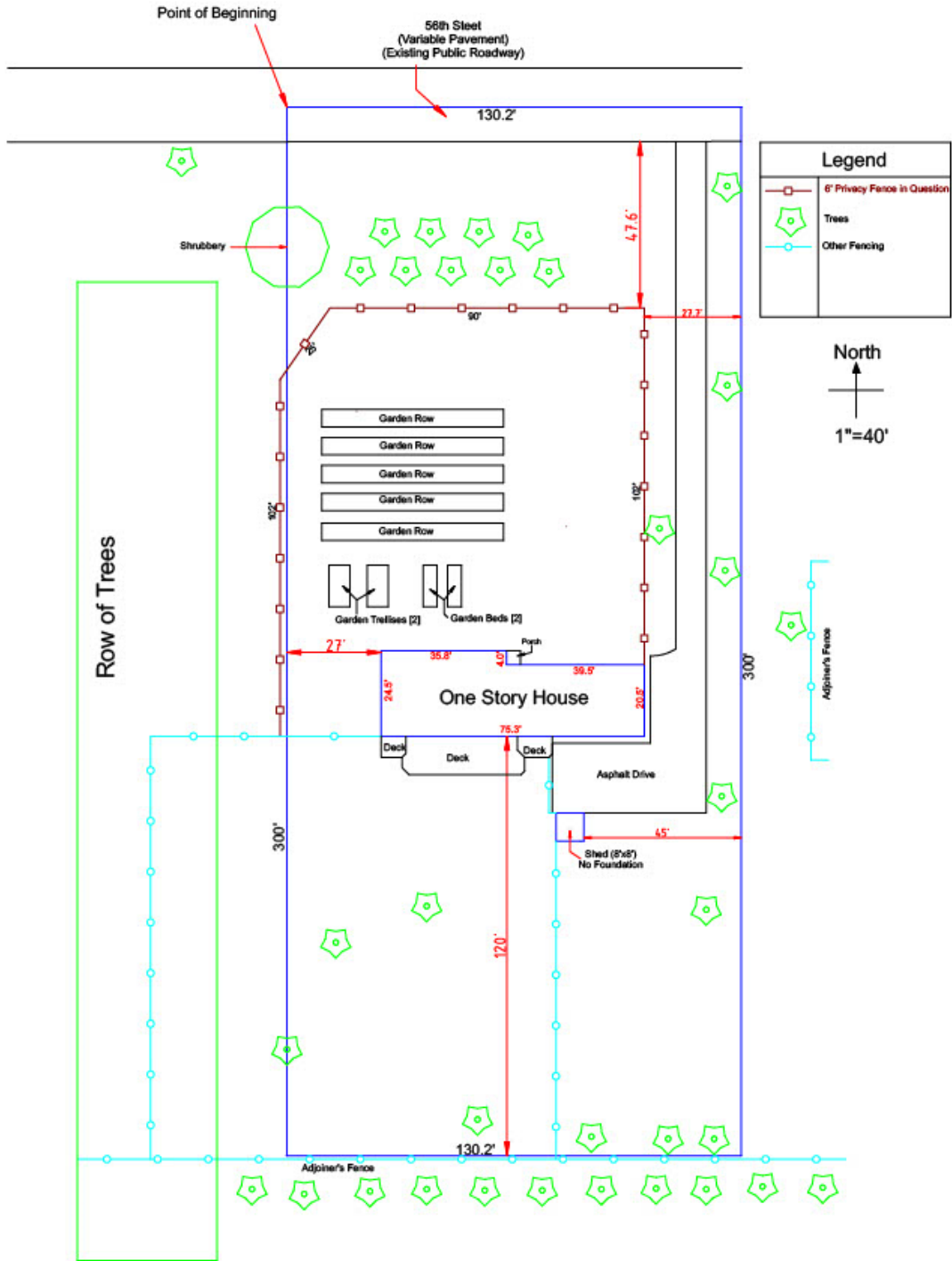
2010ZON052; 3940 E 56th Street (north of site), Rezoning of 7.236 acres, from the D-P District, to the C-2 classification to provide for office and multifamily uses, **approved**.

2016CVR817; 5525 Allisonville Road (west of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a lot without direct access to a public street and without frontage on a public street (not permitted), **approved**.

EXHIBITS



3833 E 56th Street, Site Plan for Privacy Fence





Department of Metropolitan Development
Division of Planning
Current Planning

Petition Number _____

METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division II
OF MARION COUNTY, INDIANA

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

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

The variance for fence height is for a fence that is situated 47.6 feet from the public roadway which exceeds the setback requirement of 30 feet as specified in Table 744-201-1[1] [4]. The fence does not obstruct visibility or create safety hazards for drivers or pedestrians along the roadway. Additionally, the fence is designed to enhance privacy, safety, and security on the property, which is in alignment with the general welfare of the community by providing a secure and peaceful residential environment. The fence is also designed to improve property aesthetics and reduce noise pollution. These benefits contribute to a safer, more harmonious, and visually appealing community.

2. The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:

The fence complies with, and exceeds, the setback requirements to ensure it does not obstruct views from adjacent lots into the public roadway or vice versa. Additionally, the variance request seeks to improve privacy, safety, and security of the petitioners' property without imposing negative consequences on the usability or the property values of the adjacent area. The fence will be properly maintained and will contribute to the enhancement of the overall neighborhood.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

The petitioners' property encompasses a total of .896 acres with .47 acres constituting the front yard. The strict enforcement of the zoning ordinance would limit the petitioners' ability to utilize a portion of the property's front yard. Given the unique characteristics of the property (including its size, long rectangular shape, proximity to primary collector and arterial roadways, and the presence of two apartment complexes that overlook the property), the grant for a variance of fence height serves as a necessary enhancement to ensure the privacy, safety, security, and use of the property's front yard. The grant of this variance would resolve these practical difficulties related to the utilization of the property without compromising the overall zoning regulations.

DECISION

IT IS THEREFORE the decision of this body that this VARIANCE petition is APPROVED.

Adopted this _____ day of _____, 20 ____











STAFF REPORT

**Department of Metropolitan Development
Division of Planning
Current Planning Section**

Case Number: 2023-UV1-026
Address: 6524 Dover Road (approximate address)
Location: Washington Township, Council District #3
Zoning: D-S
Petitioner: Larry Rockafellow, by Melissa Iannucci
Request: Variance of Use and Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the temporary location of an accessory building without a primary building (not permitted) and the construction of a single-family dwelling on a .60-acre, 120-foot-wide lot (minimum 150-foot lot width and area of one acre required), resulting in a 33.5-foot aggregate side yard setback (35-foot aggregate required).

February 13, 2024

Due to the lack of a quorum at the January 9, 2024 hearing, this case was automatically continued to February 13, 2024. No new information was provided to the file.

January 9, 2024

This petition was automatically continued and transferred from the December 5, 2023 hearing to the January 9, 2024 hearing.

DECEMBER 5, 2023

RECOMMENDATIONS

Staff **recommends approval** of the request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

D-S Metro Residential accessory garage (no primary structure)

SURROUNDING ZONING AND LAND USE

North D-S Single-Family residential
South D-S Single-Family residential
East D-S Single-Family residential
West D-S Single-Family residential

STAFF REPORT 2023-UV1-026 (Continued)

COMPREHENSIVE PLAN The Comprehensive Plan recommends Suburban Neighborhood development.

- ◇ The subject site is a 0.60-acre, 120-foot-wide lot, developed with a residential accessory structure (no primary structure). The site is part of a single-family residential development in the Allisonville neighborhood.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ This request would provide for the temporary location of an accessory building without a primary building, and the construction of a single-family dwelling on a 0.60-acre, 120-foot-wide lot, resulting in a 33.5-foot aggregate side yard setback.
- ◇ The accessory structure is an existing garage that was permitted in 1987; at that time, the subject parcel was combined with the parcel to the south. A prior variance permitted the accessory structure to be on its own lot without a primary structure, on a 0.689-acre lot with a 120-foot width per 2007-UV1-025. Staff had recommended denial of the request. The Board of Zoning Appeals granted the variance subject to commitments proposed by the petitioner, Instrument No.2008-0004273. Commitment #1 of the prior variance state that the variance would expire in 2012, and the petitioner would sell the parcel to an adjacent property.
- ◇ Staff typically would not support a variance of use to permit an accessory structure without a primary structure; however, this is an existing condition created by a prior variance approval. Staff would not be opposed where the existing site conditions of the site create a practical difficulty. Staff would also note that this portion of the request is temporary and dependent on the grant of variance to allow construction of a primary dwelling.
- ◇ This request would legally establish a non-compliant lot with 0.60 acres where one acre minimum is required, and 120-feet wide where a 150-foot-width is required. The ordinance allows development for single-family dwellings on lots with less than the minimum area and width if the lot was recorded prior to December 20, 1989 per Section 744-202.C. The subject parcel was created in 2004 and is therefore ineligible for this exception; however, the property exists in non-compliance and would be undevelopable for a primary dwelling without the grant of a variance. The strict application of the ordinance would result in practical difficulty for the use of this property. Staff would support a variance for reduced lot size and width where there is a practical difficulty related to an otherwise permitted primary use.
- ◇ Staff would note that there are examples of lots in the vicinity with less than one acre; multiple lots that front on Dover Road one block to the south are approximately 0.6 acre or smaller.
- ◇ The proposed dwelling would create an aggregate of 33.5 feet where 35 feet is required. Staff would note that each structure, existing and proposed, would meet the required side setbacks and aggregate individually, as shown on the site plan. This request would only reduce the aggregate setback by 1.5 feet. Staff would not oppose a slight reduction to the aggregate setback where the setbacks are otherwise compliant.

(Continued)

STAFF REPORT 2023-UV1-026 (Continued)

GENERAL INFORMATION

THOROUGHFARE PLAN

Dover Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 50-foot existing and foot proposed right-of-way.

SITE PLAN

File-dated October 16, 2023

FINDINGS OF FACT (DEVELOPMENT STANDARDS)

File dated October 16, 2023

FINDINGS OF FACT (USE)

File-dated November 13, 2023

ZONING HISTORY – SITE

2007-UV1-025, variance to legally establish a 1,536-square foot detached accessory building and accessory uses on a lot without a primary use, on a 0.6-acre lot, with a 120-foot lot width, **approved**.

ZONING HISTORY -- VICINITY

2017-DV2-001, 6450 Allisonville Road, variance to provide for an 8.33-foot-tall freestanding sign within approximately 50 feet of a dwelling district, **approved**.

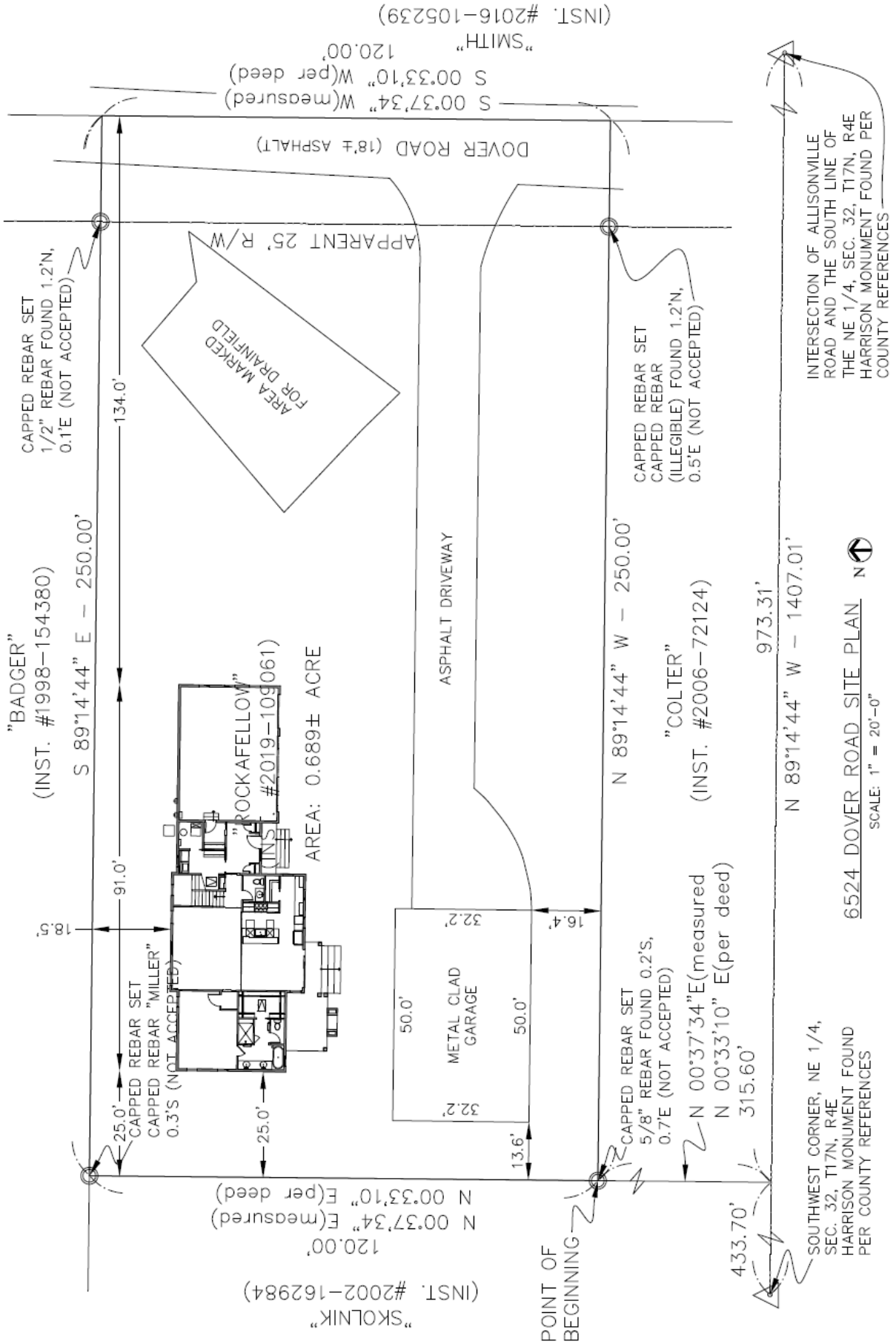
2012-DV3-011, 6735 Dover Road, variance to provide for a 1,680-square foot, 17.5-foot-tall pole barn, with a 448-square foot porch, creating an accessory building area of 2,240 square feet or 106.46% of the main floor area of the primary dwelling and an accessory use area of 3,466 square feet or 164.7% of the total floor area of the primary dwelling, **approved**.

2001-SE1-007, 4321 East 65th Street, special exception to provide for religious uses, including associate pastor’s residence, church meetings, and Sunday school in the D-2 district, **approved**.

AR



2023-UV1-026; Site Plan



**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division _____
OF MARION COUNTY, INDIANA**

PETITION FOR VARIANCE OF USE

FINDINGS OF FACT

1. THE GRANT WILL NOT BE INJURIOUS TO THE PUBLIC HEALTH, SAFETY, MORALS, AND GENERAL WELFARE OF THE COMMUNITY BECAUSE

while this is a non-conforming lot, it is not particularly unusual to this zoning district. On Dover Road, just south of 65th street, there are several lots around this size and at least two that are even smaller (6420 and 6424 Dover Road).
Before the lot was split from the property to the south, an accessory structure was built on the property and thus has always existed on this lot.
Building a single family home on it will create further continuity in the neighborhood.

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 BECAUSE

the proposed single family home that would occupy the lot will be of a much higher price per square foot value than its' neighbors (due to its' smaller size) and thus add to the overall value of the neighborhood. The design fits within the confines of allowable covered space of this smaller lot.

3. THE NEED FOR THE VARIANCE ARISES FROM SOME CONDITION PECULIAR TO THE PROPERTY INVOLVED BECAUSE

the City allowed for an illegal property to be created in 2007 to a prior property owner. The current owner has attempted to sell the lot to both the property owner to the north and the property owner to the south for what he paid for the lot without success.

4. THE STRICT APPLICATION OF THE TERMS OF THE ZONING ORDINANCE CONSTITUTES AN UNUSUAL AND UNNECESSARY HARDSHIP IF APPLIED TO THE PROPERTY FOR WHICH THE VARIANCE IS SOUGHT BECAUSE

The current owner has since been told the lot is not in compliance and thus he must either sell the property or build a single family home on it. He is attempting to sell the lot to an owner who will build a single family home.

5. THE GRANT DOES NOT INTERFERE SUBSTANTIALLY WITH THE COMPREHENSIVE PLAN BECAUSE

numerous non-conforming lots exist in the surrounding properties and the proposed single family home fits the intent of the D-S zoning.

METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division _____
OF MARION COUNTY, INDIANA

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

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

the proposed lot was established in 2007 and has existed without problem since then.

2. The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:

the proposed single family home that would occupy the lot will be of a much higher price per square foot value than its' neighbors and thus add to the overall value of the neighborhood.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

the subject property was created by separating it from a larger parcel into two parcels with two different owners. There is no other land available to create the minimum one acre plot or meet the minimum lot frontage. Without a variance, this lot will remain with only an accessory building built on it.

2023-UV1-026; Photographs



Subject frontage, looking north on Dover Road



Site viewed from Dover Road, looking west. Existing garage shown left. Adjacent (north) property shown right.



Site frontage, looking south on Dover Road



Adjacent property south of site



East of site



Southeast of site

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-SE2-002 (Amended)
Address: 3210 Chief Lane (approximate address)
Location: Decatur Township, Council District #22
Zoning: I-3
Petitioner: Reagan Outdoor Advertising, by Jon Campbell
Request: Special Exception of the Consolidated Zoning and Subdivision Control Ordinance to provide for the relocation of a legally established Outdoor Advertising Sign due to a highway widening and improvement of I-69 by a state agency, along a freeway within I-465 (not permitted).

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the relocation of an existing 40-foot tall off-premise advertising sign, of which the relocated off-premise sign will have a height of no greater than 65-feet tall (maximum height of 40 feet permitted), a setback of five feet from Rand Road (20-foot setback required), being located within 400 feet of the centerline of an Interstate Ramp (500-foot separation from interstate ramp entries required) and being located within no less than 148 feet from protected districts (300-foot separation from protected districts required).

This petition was automatically continued from the December 12, 2023, hearing, to the January 9, 2024, hearing, at the request of a registered neighborhood organization.

This petition was automatically continued from the January 9, 2024, hearing, to the February 13, 2024, hearing, at the request of the petitioner.

RECOMMENDATIONS

Staff **recommends approval** of the Special Exception request.

Staff makes **no recommendation** for the Variance of Development Standards requests.

Amended Petition: This petition was amended to remove the request for the Variance of development standards to provide for an outdoor advertising sign to be within 50 from another outdoor advertising sign, where a 1,000-feet of radial spacing is required between signs. However, it was determined after the petition was docketed, that the adjacent sign is an on-premise sign, and the separation variance was not needed. Additional notice would not be needed, as the request would now deviate less from the Ordinance than the original notice.

(Continued)

STAFF REPORT 2023-SE2-002 (Continued)**SUMMARY OF ISSUES****LAND USE****EXISTING ZONING AND LAND USE**

Metro	I-3	Trade Association office building
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SURROUNDING ZONING AND LAND USE

North	I-3	Manufacturing facility
South	I-3	Interstate I-70 / Undeveloped
East	D-A	Interstate I-70 / Undeveloped
West	I-3	Single-family dwelling / Manufacturing facility

COMPREHENSIVE PLAN The Comprehensive Plan recommends office / industrial mixed-uses for the site.

SPECIAL EXCEPTION

- ◇ An outdoor advertising off-premise sign is defined in the Ordinance as “A sign that directs attention to any business, profession, product, activity, commodity, or service that is offered, sold, or manufactured on property or premises other than that upon which the sign is located. This limitation does not apply to the content of commercial messages.”
- ◇ The need for the special exception arises from a condition peculiar to the property involved because a road expansion project included South State Road 37, and the expansion of SR-37/I-69 by INDOT would eliminate the sign’s existing location at 8900 South SR 37 on private property causing the relocation of the sign.
- ◇ Indiana Code 8-23-20-25.6 reads as follows:

Sec. 25.6.

(a) As used in this section, “market area” means a point within the same county as the prior location of an outdoor advertising sign.

(b) This section applies only to an outdoor advertising sign located along the interstate and primary system, as defined in 23 U.S.C. 131(t) on June 1, 1991, or any other highway where control of outdoor advertising signs is required under 23 U.S.C. 131.

(c) If an outdoor advertising sign is no longer visible or becomes obstructed, or must be moved or removed, due to a noise abatement or safety measure, grade changes, construction, directional sign, highway widening, or aesthetic improvement made by any agency of the state along the interstate and primary system or any other highway, the owner or operator of the outdoor advertising sign, to the extent allowed by federal or state law, may:

- (1) elevate a conforming outdoor advertising sign; or*
- (2) relocate a conforming or nonconforming outdoor advertising sign to a point within the market area, if the new location of the outdoor advertising sign complies with the applicable spacing requirements and is located in land zoned for commercial or industrial purposes or unzoned areas used for commercial or industrial purposes.*

(Continued)

STAFF REPORT 2023-SE2-002 (Continued)

(d) If within one (1) year of an action being filed under IC 32-34, an owner can demonstrate that the owner has made good faith efforts to relocate a conforming or nonconforming outdoor advertising sign to a conforming location within the market area, but the owner has not obtained a new conforming location, the outdoor advertising sign will be treated as if it cannot be relocated within the market area. Notwithstanding subsection (e) and IC 8-23-20.5, if an outdoor advertising sign cannot be elevated or relocated to a conforming location and elevation within the market area, the removal or relocation of the outdoor advertising sign constitutes a taking of a property interest and the owner must be compensated under section 27 of this chapter. Notwithstanding subsections (d) and (g), if a conforming outdoor advertising sign cannot be elevated or relocated within the market area, the removal or relocation of the conforming outdoor advertising sign constitutes a total taking of a real property interest, including the sign structure, and the owner must be compensated under section 27 of this chapter.

(e) The county or municipality, under IC 36-7-4, may, if necessary, provide for the elevation or relocation by ordinance for a special exception to the zoning ordinance of the county or municipality.

(f) The elevated outdoor advertising sign or outdoor advertising sign to be relocated, to the extent allowed by federal or state law, may be modified:

(1) to elevate the sign to make the entire advertising content of the sign visible; and

(2) to an angle to make the entire advertising content of the sign visible; and

(3) in size or material type, at the expense of:

(A) the owner, if the modification in size or material type of the outdoor advertising sign is by choice of the owner; or

(B) the department, if the modification in size or material type of the outdoor advertising sign is required for the outdoor advertising sign to comply with IC 22-13.

(g) This section does not exempt an owner or operator of a sign from submitting to the department any application or fee required by law.

(h) At least twelve (12) months before the filing of an eminent domain action to acquire an outdoor advertising sign under IC 32-34, the department must provide written notice to the representative of the sign owner identified on the outdoor advertising sign permit that is on file with the Indiana Department of Transportation that a project has been planned that may impact the outdoor advertising sign.

(i) If the agency fails to provide notice required by subsection (h) within (12) twelve months of an action being filed against an owner under IC 32-24, the owner may receive reasonable compensation for losses associated with the failure to receive timely notice. However, failure to send notice required by subsection (h) is not a basis of an objection to a proceeding under IC 32-23-1-8.

(Continued)

STAFF REPORT 2023-SE2-002 (Continued)

- ◇ The current Zoning and Subdivision Ordinance does align with state code, which provides for a special exception to the zoning ordinance to allow for either an elevation increase or relocation of the outdoor advertising sign if the sign must be moved or removed due to construction or highway widening.
- ◇ The owner has a government imposed practical difficulty due to a road expansion project that includes the sign's current location at 8900 South SR 37, and the expansion of I-69 by INDOT, which would eliminate the sign's existing location on private property causing the relocation of the sign.
- ◇ State code notes that there should be the option to elevate the sign or relocate the sign but does not specify that both options must be granted. Since the widening of SR-37/I-69 is out of the petitioner's control, staff is supportive of the special exception request as proposed to relocate the sign.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The subject site parcel is addressed as 3210 Chief Lane, but also has frontage on the 3200 block of Rand Road, which the proposed outdoor advertising sign would be located and oriented.
- ◇ The petitioner has requested variances of development standards to allow for the relocated sign to have an increase in permitted sign height from 40 feet to 65 feet in height, to have a five-foot setback from Rand Road where a 20-foot front setback is required, to be within 400 feet of the centerline of an Interstate Ramp where a 500-foot separation is required and being located within 148 feet from protected districts where a 300-foot separation is required.
- ◇ The site is relatively level with the Interstate I-70 road deck and has no visible structural obstructions. With the sign being permitted at 40 feet tall, the request would provide for an additional 25 feet, resulting in a request to provide for a sign 65 feet above the road surface of Interstate I-70. No practical difficulty has been presented as to why the additional 30 feet in sign height is needed. Therefore, Staff recommends denial of the request as proposed to increase the sign height from 40 feet to 70 feet, as any increase in height, would decrease road safety by negatively impacting motorists that would be distracted.
- ◇ The petitioner has requested a variance to allow for a five-foot setback from the subject site frontage along Rand Road, where a 20-foot setback is required. Providing for a reduced setback from Rand Road would increase the intensity of the off-premise advertising sign by locating it closer to motorists on nearby Interstate I-70 that maybe distracted. Additionally, it would bring the activities on the site closer to adjacent properties, without adequate buffering.
- ◇ The site, at approximately 290 feet at its widest from Rand Road, is wide enough to accommodate the required 20-foot setback. Therefore, no peculiar condition exists on site for staff to be supportive of these requests. The strict application of the Ordinance would not constitute an unnecessary hardship. Instead, this is a self-imposed difficulty since the newly constructed/installed signs could be developed to meet the Ordinance standards by right without the need for variances.

(Continued)

STAFF REPORT 2023-SE2-002 (Continued)

- ◇ The petitioner has requested a variance to allow for the outdoor advertising sign location to be reduced from the required 500-foot separation to a 400-foot separation from the centerline of an interstate exit roadway for eastbound I-70 to northbound I-465. Outdoor advertising signs are not permitted within 500 feet from entrance or exit roadways, as they would cause those signs that are permitted and legal to become less effective and reduces their value.
- ◇ The Ordinance has been constructed to limit these signs near protected districts, because of their brightness and aesthetic impact. In this case, a D-A District is located approximately 148 feet to the southeast, with no visible obstructions or change in elevations. Due to the width and size of the lot, the sign could be located approximately 120 feet to the northwest to meet the required 300-foot separation from the adjacent protected districts.
- ◇ The requested decreased separation from the protected districts would degrade the quality of life in the area. The proposed sign has no physical barriers that limit the view of the sign from the nearby protected districts. There is no reason that a sign that meets the Sign Ordinance could not be used, along with alternative communication methods.
- ◇ No peculiar condition exists on site for staff to be supportive of these variance of development standards requests. The strict application of the Ordinance would not constitute an unnecessary hardship, as the site is already zoning compliant for I-3 uses by right without the need for the requested variance of development standards. Instead, the requested variances of development standards are a self-imposed difficulty needed for the specific proposed use of an off-premise advertising sign, that would intensify the use on the subject site that would increase the amount of driver distractions and negative impacts on adjacent properties. Therefore, Staff makes no recommendation for the variance of development standards request.

GENERAL INFORMATION**THOROUGHFARE PLAN**

This portion of Chief Lane is a private drive and is not classified in the Official Thoroughfare Plan for Marion County, Indiana.

This portion of Rand Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with an approximate 56-foot existing right-of-way.

SITE PLAN

File-dated October 25, 2023.

FINDINGS OF FACT

File-dated October 25, 2023.

(Continued)

STAFF REPORT 2023-SE2-002 (Continued)

ZONING HISTORY

2014-UV2-006; 5925 Stockberger Place (north of site), requested a variance of use of the Industrial Zoning Ordinance to provide for a Compressed Natural Gas (CNG) Fueling Station as a primary public use, **granted**.

99-V1-84, 5925 Stockberger Place (east of site); Requesting a variance of use and development standards of the Industrial Zoning Ordinance to provide for an equipment rental facility with outdoor storage, **granted**.

88-HOV-43; 3150 Rand Road (north of site), requested a variance of development standards to provide for the development of a warehouse without frontage on a public street, **granted**.

RU







Photo of subject site, proposed sign location, looking northwest.



Adjacent manufacturing facility to the north of the site.



Adjacent manufacturing facility to the west of the site.



Adjacent I-70 interstate and undeveloped protected district to the east.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV2-032
Address: 911 Sanders Street (approximate address)
Location: Center Township, Council District #21
Zoning: D-5 (TOD)
Petitioner: E&D Hopkins LLC, by Mark and Kim Crouch
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of either:

A single-family dwelling:

- a) On a medium lot typology with an area of 2,817 square feet (minimum lot area of 7,200 square feet required);
- b) A six-foot front yard setback from Sanders Street (20-feet required);
- c) A three-foot front yard setback from Hartford Street;
- d) A five-foot front yard setback from I-65;
- e) A five-foot rear yard setback (20-foot rear yard setback required);
- f) An open space of 40 percent (60 percent required); and
- g) A front-loaded garage comprising 100 percent of a façade along Hartford Street (prohibited).

Or a two-unit multi-unit home:

- a) On a small lot with an area of 2,817 square feet (minimum lot area of 5,000 square feet required);
- b) A six-foot front yard setback from Sanders Street (20-feet required);
- c) A three-foot front yard setback from Hartford Street;
- d) A five-foot front yard setback from I-65;
- e) A five-foot rear yard setback (20-foot rear yard setback required); and
- f) A front-loaded garage comprising 100 percent of a façade along Hartford Street (prohibited).

ADDENDUM FOR FEBRUARY 13, 2024

This petition was continued for cause from the December 12, 2023, hearing to the February 13, 2024, hearing at the request of the petitioner.

(Continued)

ADDENDUM FOR DECEMBER 12, 2023

This petition was continued at the request of the petitioner from the November 21, 2023, hearing to the December 12, 2023, hearing, to allow time to amend the petition.

The petitioner is working with Staff to amend the petition additional information was submitted after the deadline to review for this hearing. Therefore, **this petition should be continued** one more time, to the January 9, 2024, hearing, to allow time for the petitioner to finalize and amend their request. This will be the last continuance that Staff will support.

November 21, 2023

RECOMMENDATIONS

Staff **recommends denial of the request as proposed.**

Otherwise, this petition should be continued so that the petitioner can amend the petition to a specific request.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

Compact D-5 Undeveloped

SURROUNDING ZONING AND LAND USE

North - D-5 Single-family dwellings

South - D-5 Undeveloped

East - D-5 Single-family dwellings

West - D-5 I-65 Interstate exit ramp / Single-family dwellings

COMPREHENSIVE PLAN

The Comprehensive Plan recommends traditional neighborhood uses for the site, with an overlay for the Red Line Transit Oriented Development.

- ◇ After filing the petition, the petitioner indicated that a revised site plan and findings of fact would be submitted to amend the petition to a specific request. No additional information has been submitted to date.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ Staff believes that any proposed new construction should adequately align with modern development standards in order to better preserve the intent of each development standard. Given the size of the proposed structure and attached garage, along with the number of requested variances, in Staff’s opinion, this site would be overdeveloped.

(Continued)

STAFF REPORT 2023-DV2-032 (Continued)

- ◇ Staff feels the requested two-unit multi-unit home would be out of character for the area, as no other multi-unit dwellings are located nearby. In addition, with the number of variances requested for an undeveloped site, the proposed two-unit multi-unit home would be an overdevelopment of the small site.
- ◇ The proposed single-family dwelling with seven variances requested for an undeveloped site, presumably using the same submitted site plan, as no updated site plan has been submitted, would also be an overdevelopment of the site.
- ◇ Staff has recommended to the petitioner that the request be amended to provide for a single-family dwelling only, and to eliminate at least four or five of the original requested variances. No additional information has been submitted in a timely manner to amend the petition or update the site plan.
- ◇ Therefore, Staff recommends this petition be continued so that the petitioner can submit an amended petition and related elevations, and to allow time to review the amended information. New notice may also be required.

GENERAL INFORMATION

THOROUGHFARE PLAN This portion of Sanders Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 49-foot existing and proposed right-of-way.

This portion of Hartford Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 40-foot existing right-of-way and a 48-foot proposed right-of-way.

SITE PLAN File-dated October 4, 2023

FINDINGS OF FACT File-dated October 4, 2023

ZONING HISTORY

2021-UV1-021; 929 Sanders Street (east of site), requested a variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the renovation of existing buildings for a community center with light hosting capabilities, to provide for community meetings, artist pop-up exhibits, family gatherings such as reunions, or small business milestone celebrations and similar events, with zero parking spaces and to provide for pavers and/or stamped concrete improvements and an arbor with 0.8-foot east side setback and a planter with a zero-foot west side setback, **withdrawn**.

(Continued)

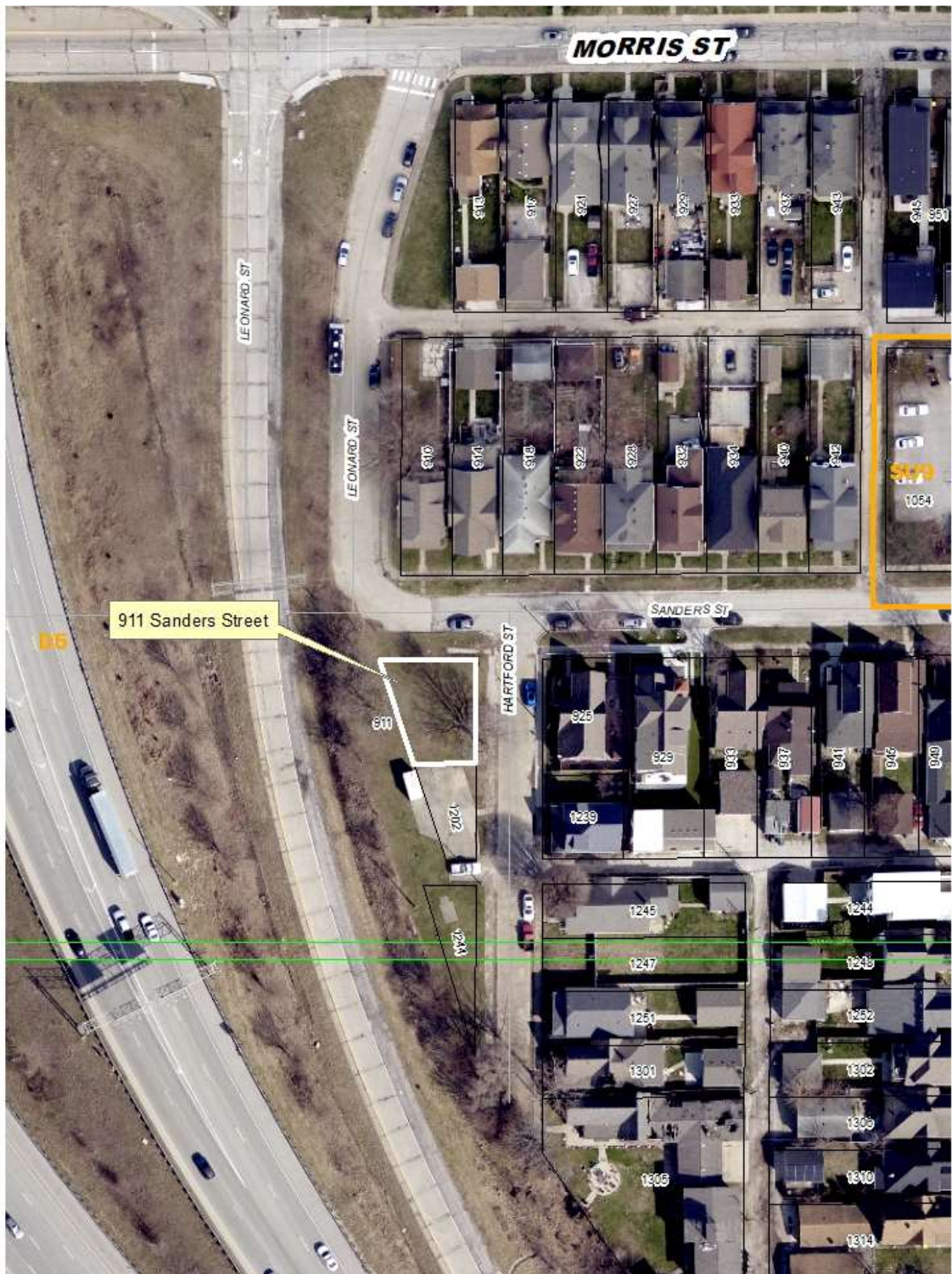
2017-DV3-015; 1015 Orange Street (south of site), requested a variance of development standards to provide for three lots, with 3,325 square feet, 4,728 square feet, and 3,268 square feet, with two lots having 35 feet of lot width, containing dwellings, with five-foot front setbacks, with setbacks along the interstate right-of-way ranging from three feet to 28 feet for dwellings and a detached garage, with 405 open space for lot one, and with a dwelling on lot one being within the clear sight triangle of the street and the abutting alley, **granted**.

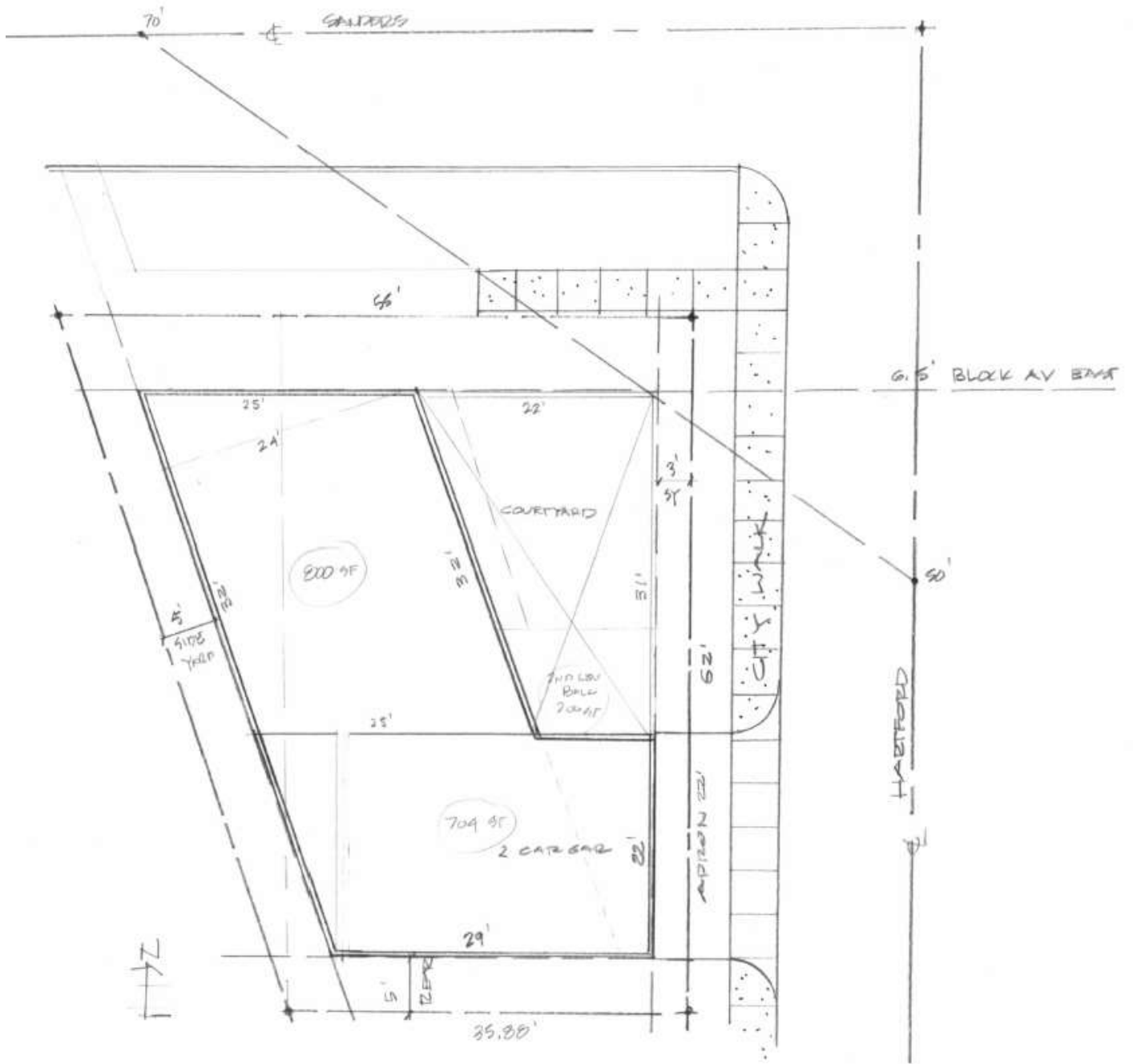
2014-HOV-014; 914 Sanders Street (north of site), requested a variance of development standards to provide for the construction of a 440-square foot garage, and an open space ratio of 50%, **granted**.

2014-HOV-043; 1249 Ringgold Avenue (east of site), requested a variance of development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a 576-square foot garage, creating an open space ratio of 55%, **granted**.

RU

2023-DV2-032; Location Map







Undeveloped subject site, looking south.



Undeveloped subject site, looking west.



Adjacent single-family dwelling to the east of subject site.



Adjacent single-family dwellings to the north of subject site, looking northeast.



Adjacent undeveloped lot to the south of subject site, looking west.



Interstate I-65 northbound exit ramp to the west of subject site.

STAFF REPORT

**Department of Metropolitan Development
Division of Planning
Current Planning Section**

Case Number: 2023-DV2-034
Address: 1949 Alvord Street (approximate address)
Location: Center Township, Council District #17
Zoning: D-8
Petitioner: Kathryn Ramseyer, by Melissa Iannucci
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a single-family dwelling with a front building line of 26 feet (maximum 19.9-foot front building line permitted) and a detached garage with four-foot side yard setbacks (five-foot side yard setbacks required).

The Petitioner has indicated intent to withdraw this petition. This would merely require the Boards acknowledgement.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV2-035 (Amended)
Address: 5602 North Keystone Avenue (approximate address)
Location: Washington Township, Council District #9
Zoning: C-4
Petitioner: T5 Keystone LLC, by Timothy E. Ochs
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a quick service oil change facility with a drive-through with only one stacking space before the final component (two stacking spaces required) that faces a public right-of-way greater than 30-foot wide (not permitted).

ADDENDUM FOR FEBRUARY 13, 2024

This petition was continued from the January 9, 2024, hearing, to the February 13, 2024, hearing at the request of the petitioner.

The petitioner has submitted a revised site plan, and proposed commitments to help alleviate possible congestion with exiting the site.

Staff continues to **recommend denial of the request**, as the proposal is an overdevelopment of the site requiring the additional variances and commitments for traffic control.

ADDENDUM FOR JANUARY 9, 2024

This petition was continued from the December 12, 2023, hearing, to the January 9, 2024, hearing at the request of the petitioner.

December 12, 2023

RECOMMENDATIONS

Staff **recommends denial** of this petition.

Amended Petition: This petition was amended to change the stacking space requirement from four stacking spaces required, to two stacking spaces required. Additional notice would not be needed, as the amended request would deviate less from the Ordinance than the original notice.

(Continued)

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

C-4 Community Commercial

SURROUNDING ZONING AND LAND USE

North -	C-4 / D-5	Commercial Contractor
South -	C-5	Integrated Commercial Center
East -	C-3	Commercial Retail uses
West -	D-5	Single-family dwellings

COMPREHENSIVE PLAN The Comprehensive plan recommends community commercial uses for the site.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The petitioner proposes to demolish and replace the existing structure, with a quick service oil change facility designed with a drive-through with only one stacking space before the final component that faces a public right-of-way greater than 30-foot wide.
- ◇ The purpose of off-street stacking space regulations is to promote public safety by alleviating on-site and off-site traffic congestion from the operation of a facility that has a drive-through service unit.
- ◇ With the lack of the required stacking spaces and the proximity of the final component facing a public right-of-way, traffic at this site is likely to result in congestion and vehicular conflict.
- ◇ The proposed oil change facility with a drive-through with only one stacking space before the final component that faces a public right-of-way is a design component of the petitioner that is proposing the development, and not reflective of any requirement or difficulty imposed on the site, as the site was previously developed with and can still be developed with C-4 uses that are Ordinance compliant without the need for any variances. The drive-through concept is by choice and not a requirement of the Ordinance.
- ◇ The petitioner’s findings of fact indicate that the practical difficulty in the use of the property does in fact result from the components of the drive through experience and are part of the overall design of the facility, and any changes to the design of the facility would be a practical difficulty.
- ◇ Staff disagrees, in that the petitioner did not do their due diligence in finding a site that accommodates their proposed design for a complete facility without the need for variances. Staff believes that since this is new construction, and not limited by an existing building or topographical features, that the design of the new construction should relate to the site in meeting the Ordinance standards.

(Continued)

◇ Any deviation from the minimum standards should be related to the property, and not to the proposed design of the facility or development. There is no inherent practical difficulty caused by the terms of the Ordinance upon the subject site, as it has been previously developed without variances and can continue to be developed without variances. This site would consist of new construction that could be designed to meet the terms of the Ordinance, but the petitioner has decided not to follow the Ordinance for their specific design. Therefore, Staff does recommend denial of the request as proposed.

GENERAL INFORMATION

THOROUGHFARE PLAN

This section of North Keystone is classified on the Official Thoroughfare Plan as a primary arterial with a 98-foot existing right-of-way and a 104-foot proposed right-of-way

This section of East 56th Street is classified on the Official Thoroughfare Plan as a local street with a 70-foot existing and proposed right-of-way

SITE PLAN

File-dated November 8, 2023

FINDINGS OF FACT

File-dated November 8, 2023

ZONING HISTORY

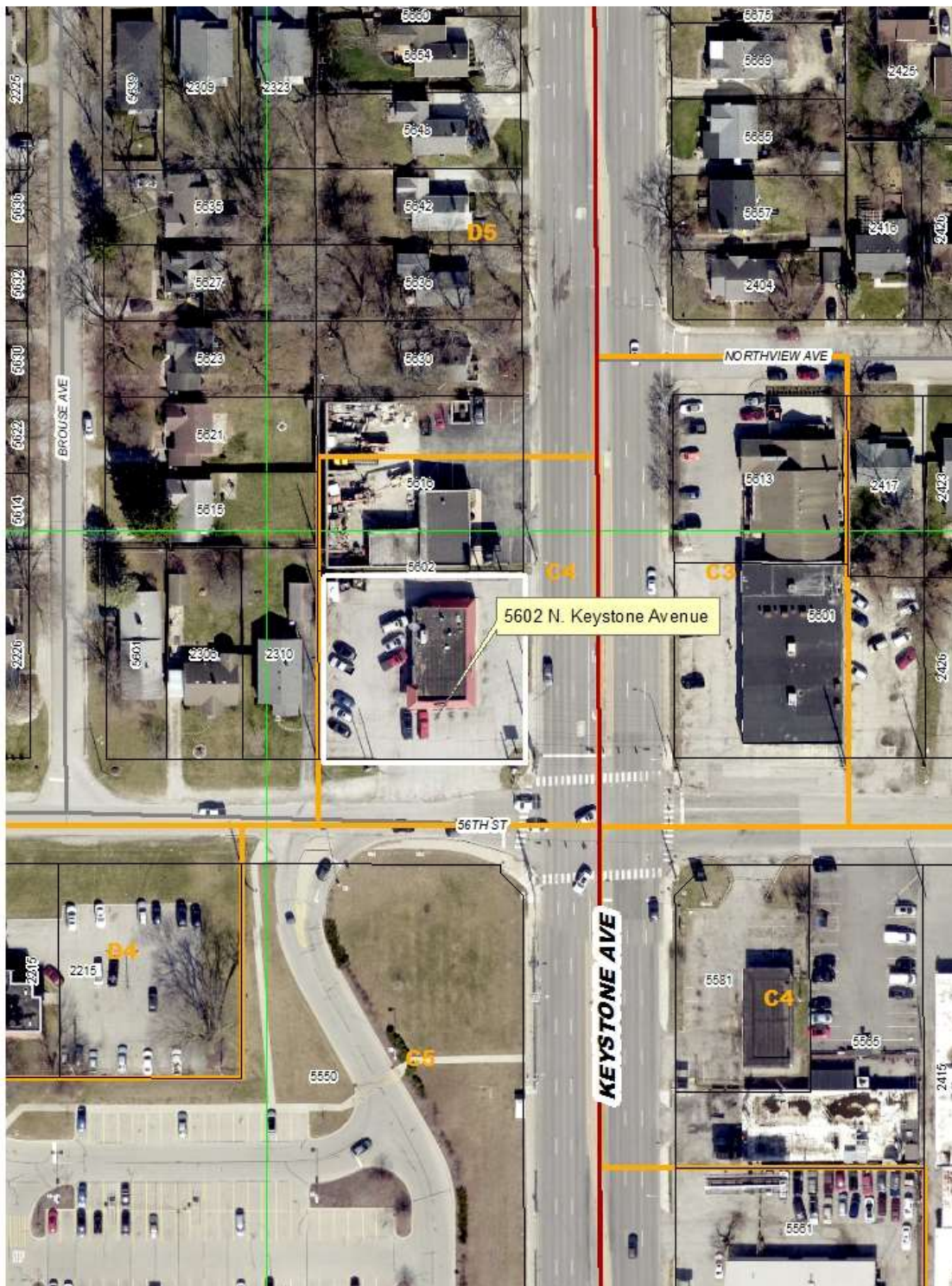
2018-ZON-065; 5581 North Keystone Avenue (southeast of site), requested the rezoning of 0.3 acre from the D-4 (W-5) district to the C-4 (W-5) classification, **approved**.

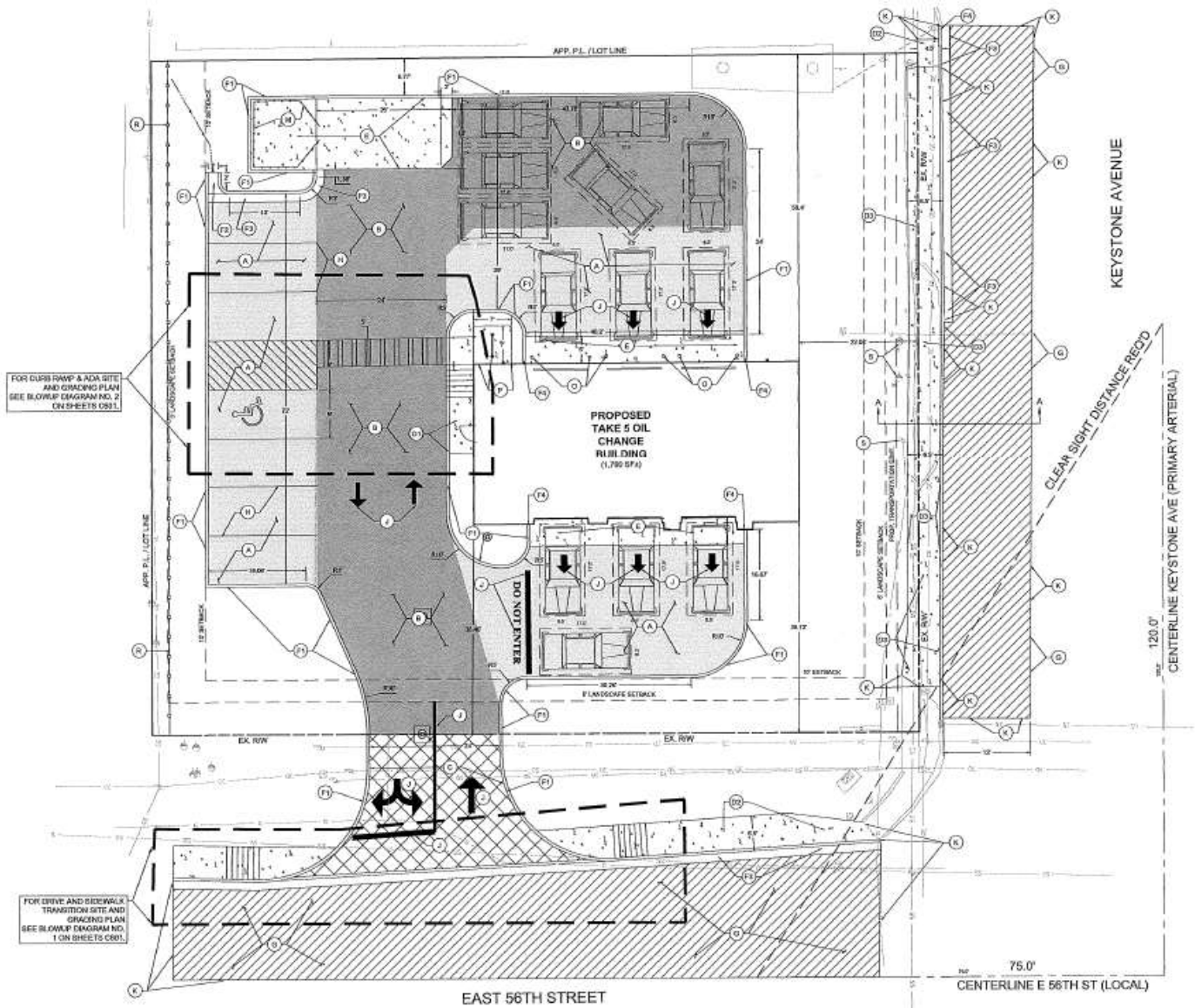
2018-UV1-027; 5565 North Keystone Avenue (southeast of site), requested a variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to legally establish three roof signs and a pylon sign with a three-foot front setback from Keystone Avenue, **granted**.

2015-UV3-022; 5616 North Keystone Avenue (north of site), requested a variance of use and development standards of the Commercial and Dwelling Districts Zoning Ordinances to provide for a contractor, with outdoor storage of construction equipment, a parking lot, a gravel outdoor storage area, with a five-foot west side transitional setback, without landscaping, and a trash container enclosure, with said storage enclosed by a 10-foot tall fence, and with the parking area having a zero-foot front yard, **granted**.

RU

2023-DV2-035: Location Map





**COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE
IN CONNECTION WITH A VARIANCE, SPECIAL EXCEPTION OR APPROVAL GRANT.**

In accordance with I.C. 36-7-4-1015, the owner of the real estate located in Marion County, Indiana, which is described below, makes the following COMMITMENTS concerning the use and development of the parcel of real estate:

Legal Description: Lots Numbered Seventy (70), Seventy-One (71) and Thirty-Five (35) feet off the entire South Side of Lots Numbered Sixty-nine (69) in North Kessler Park, an addition to the City of Indianapolis, as per the plat thereof recorded in Plat Book 24, page 582, in the Office of the Recorder of Marion County, Indiana; EXCEPT therefrom, any part taken for State Road 431, in appropriate proceedings in Superior Court Cause No. C-33486 (the "Real Estate")

Statement of COMMITMENTS:

1. Owner shall comply with the site plan attached hereto as Exhibit A.
2. During all hours that any business that utilizes a drive-through (as defined in the Zoning Ordinance for Marion County, Indiana) is open and operating on the Real Estate, the Owner shall
 - a. Cause an employee to monitor and maintain control over the exiting of vehicles from service bays, and
 - b. Install and maintain a readily visible directional sign on the Real Estate that directs customers to utilize the eastern or left most available stacking space for vehicles waiting to enter a service bay.

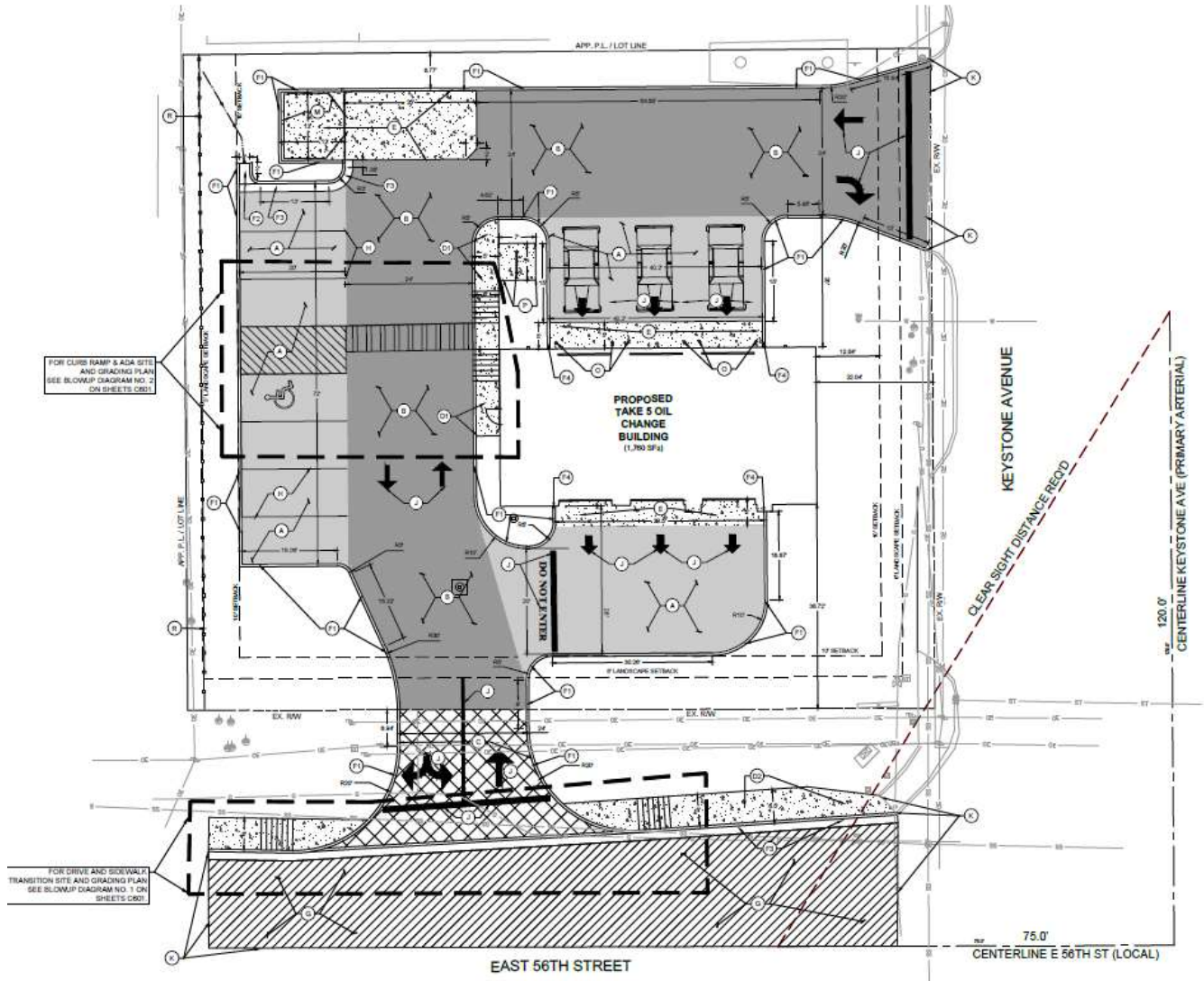
These COMMITMENTS shall be binding on the owner, subsequent owners, and other persons acquiring an interest in the real estate. These COMMITMENTS may be modified or terminated by a decision of the Metropolitan Board of Zoning Appeals made at a public hearing after proper notice has been given.

COMMITMENTS contained in this instrument shall be effective upon the grant of variance, special exception or approval petition # 2023-DV2-035 by the Metropolitan Board of Zoning Appeals or the Hearing Officer.

These COMMITMENTS may be enforced jointly and severally by:

1. The Metropolitan Development Commission; and,
2. Owners of all parcels of ground adjoining the real estate depth of two (2) ownerships, but not exceeding six hundred sixty (660) feet from the perimeter of the real estate. Owners of real estate entirely located outside Marion County are not included, however. The identity of owners shall be determined from the records in the offices of the various township assessors of the Marion County, which the current owners of record at the time the notice shall be sent. (This paragraph defines the category of persons entitled to receive personal notice of the variance, special exception or approval petition under the rules of the Board in force at the time the COMMITMENT was made); and,

BZA's Exhibit A -- Page 1 of 2





View of subject site, proposed building under construction, looking north from East 56th Street.



View of subject site, proposed building under construction, looking west from North Keystone Avenue.



View of adjacent single family residential to the west, looking north.



View of adjacent integrated commercial center to the south.

STAFF REPORT

**Department of Metropolitan Development
Division of Planning
Current Planning Section**

Case Number: 2023-UV2-014
Address: 35 East Morris Street (approximate address)
Location: Center Township, Council District #16
Zoning: D-5
Petitioner: Living Log Aquatic Services, LLC, by Matthew Kerkhof
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of an eating establishment with outdoor seating, storage and unscreened operations (not permitted, any outdoor operations must be screened), a 100-foot wide parking area within the front yard of Morris Street (parking within front yard limited to 30-foot in width) and a barbecue pit with a five-foot front yard setback from Charles Street, located in front of the primary building (minimum 20-foot front yard setback required, accessory structures not permitted within the front yard).

At the January 9, 2023 hearing, the Board continued the petition to the February 13, 2024 hearing due to a lack of quorum.

At the November 21, 2023 hearing, the Board granted Staff's request for a continuance to the January 9, 2024 hearing to allow time to revise the site plan.

BB

STAFF REPORT

**Department of Metropolitan Development
Division of Planning
Current Planning Section**

Case Number: 2024-UV2-002
Address: 5102, 5111, 5117, 5122, 5127, 5139, 5143 5210 and 5282 East 65th Street
(approximate address)
Location: Washington Township, Council District #3
Zoning: I-2
Petitioner: Schmoll Development Company L.P. and Greg Schmoll, by S. Gregory Zubek
Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the following as primary uses: sports performance training uses; physical fitness and athletics instruction and training; and dance and gymnastics instruction (not permitted).

Due to Staff error related to distribution of notice materials, Staff is requesting that this petition be continued to the March 12, 2024 hearing of Division II.

EDH
