



# Board of Zoning Appeals Board of Zoning Appeals Division III (August 20, 2024) Meeting Agenda

## Meeting Details

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

**Date:** Tuesday, August 20, 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. 2024-DV3-021 | 125 Muessing Road

Warren Township, Council District #20, zoned D-A / SU-1  
Brad Knapp & Nadine Murphy, by David Gilman

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an accessory building within the front yard of Muessing Road (not permitted).

#### **\*\* Automatic continuance filed by a registered neighborhood organization**

### 2. 2024-UV3-008 (Amended) | 2649 Fisher Road

Warren Township, Council District #20, zoned D-A  
German Mendez Sanchez and Ana Laura Miranda Dominguez, by Josh Smith

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of an event center (not permitted), with a gravel and grass parking area (parking area must be paved), and the expansion of an accessory structure resulting in it being located forward of the primary building and a five-foot south side yard setback (accessory structures may not be located in front of primary building, 15-foot side yard setback required).

#### **\*\* Petitioner to request a continuance to the September 17, 2024 hearing**

### 3. 2024-UV3-010 | 6332 Massachusetts Avenue

Warren Township, Council District #9, zoned D-3  
Baljeet Singh, by David Gilman

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the storage of six commercial vehicles, being three semi-tractor trucks and three associated trailers and the location of a six-foot tall fence within the front yard (not permitted, 3.5-foot tall fencing permitted within front yards).

#### **\*\* Automatic continuance filed by a registered neighborhood organization**

### 4. 2024-UV3-011 | 7941 East 30th Street

Warren Township, Council District #9, zoned C-3  
SARBKAM 2 LLC, by Thomas Pottschmidt

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a liquor store (not permitted).

**\*\* Automatic continuance filed by a registered neighborhood organization**

**Petitions for Public Hearing**

**PETITIONS TO BE EXPEDITED:**

- 5. 2024-DV3-022 | 5870 Hunterglen Road**  
Lawrence Township, Council District #9, zoned D-S  
Richard & Tracy Smikle, by Misha Rabinowitch

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a tennis court, partially within the front yard of Hunterglen Road (not permitted), resulting in an open space of 82 percent and a 24.33-foot front yard setback (85 percent open space, 40-foot front yard setback required).

- 6. 2024-UV3-004 | 2308 Shelby Street**  
Center Township, Council District #19, zoned C-3 (TOD)  
Walter Resinos

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a tattoo parlor within 55 feet of a protected district (not permitted within 500 feet of a protected district).

- 7. 2024-UV3-009 | 1049 East Thompson Road**  
Perry Township, Council District #23, zoned D-1 (TOD)  
Lydia Nelson

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of dog grooming as a home occupation, per the filed plan of operation.

**PETITIONS FOR PUBLIC HEARING (Transferred Petitions):**

**PETITIONS FOR PUBLIC HEARING (Continued Petitions):**

- 8. 2024-UV3-007 | 3304 South Walcott Street**  
Perry Township, Council District #19, zoned D-5  
L&A Concrete, by David Gilman

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a 4,800 square foot building to be used for storage of commercial vehicles, equipment, and supplies for a concrete contractor (not permitted).

**\*\* Petitioner to withdraw**

**PETITIONS FOR PUBLIC HEARING (New Petitions):**

- 9. 2024-UV3-012 | 3628 North Sherman Drive**  
Center Township, Council District #8, zoned D-5 (TOD)  
TWINZ22 LLC, by Natalie Gage

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a social services office (not permitted).

**\*\* Variance determined to be unnecessary, to be withdrawn**

**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](mailto:planneroncall@indy.gov). Written objections to a proposal are encouraged to be filed via email at [dmdpubliccomments@indy.gov](mailto: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.



**BOARD OF ZONING APPEALS DIVISION III**

**August 20, 2024**

**Case Number:** 2024-DV3-021  
**Address:** 125 Muessing Road (approximate address)  
**Location:** Warren Township, Council District #20  
**Zoning:** D-A / SU-1  
**Petitioner:** Brad Knapp & Nadine Murphy, by David Gilman  
**Request:** Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an accessory building within the front yard of Muessing Road (not permitted).

**Current Land Use:** Single-family dwelling

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

**Staff Reviewer:** Robert Uhlenhake, Senior Planner

**PETITION HISTORY**

This is the first public hearing for this petition.

A Registered Neighborhood Organization has filed an automatic continuance, **continuing this petition from the August 20, 2024, hearing, to the September 17, 2024, hearing.** This will require the Board's acknowledgement.



**BOARD OF ZONING APPEALS DIVISION III**

**July 16, 2024**

**Case Number:** 2024-UV3-008  
**Address:** 2649 Fisher Road (approximate address)  
**Location:** Warren Township, Council District #20  
**Zoning:** D-A  
**Petitioner:** German Mendez Sanchez and Ana Laura Miranda Dominguez, by Josh Smith  
**Request:** Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of an event center (not permitted) and the expansion of an accessory structure resulting in it being located forward of the primary building and a five-foot south side yard setback (accessory structures may not be located in front of primary building, 15-foot side yard setback required).

**PETITION HISTORY**

This petition was previously continued at the request of a registered neighborhood organization from the July 16, 2024, hearing, to the August 20, 2024, hearing.

The **petitioner has indicated they will be requesting a continuance**. Staff will support a one-month continuance to the September 17, 2024 hearing.



**BOARD OF ZONING APPEALS DIVISION III** **August 20, 2024**

**Case Number:** 2024-UV3-010

**Property Address:** 6332 Massachusetts Avenue (approximate address)

**Location:** Warren Township, Council District #9

**Petitioner:** Baljeet Singh, by David Gilman

**Current Zoning:** D-3

**Request:** Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the storage of six commercial vehicles, being three semi-tractor trucks and three associated trailers and the location of a six-foot tall fence within the front yard (not permitted, 3.5-foot tall fencing permitted within front yards).

**Current Land Use:** Residential

**Staff Reviewer:** Michael Weigel, Senior Planner

**PETITION HISTORY**

A timely automatic continuance request was received in advance of the hearing. This petition will be automatically continued to the September 17<sup>th</sup> hearing date, and a full staff report will be available in advance of that hearing.



**BOARD OF ZONING APPEALS DIVISION III**

**August 20, 2024**

**Case Number:** 2024-UV3-011  
**Address:** 7941 East 30<sup>th</sup> Street (approximate address)  
**Location:** Warren Township, Council District #9  
**Zoning:** C-3  
**Petitioner:** SARBKAM 2 LLC, by Thomas Pottschmidt  
**Request:** Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a liquor store (not permitted).

**Current Land Use:** Commercial retail uses

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

**Staff Reviewer:** Robert Uhlenhake, Senior Planner

**PETITION HISTORY**

This is the first public hearing for this petition.

A Registered Neighborhood Organization has filed an automatic continuance, **continuing this petition from the August 20, 2024, hearing, to the September 17, 2024, hearing.** This will require the Board's acknowledgement.



**BOARD OF ZONING APPEALS DIVISION III**

**August 20, 2024**

**Case Number:** 2024-DV3-022  
**Address:** 5870 Hunterglen Road (approximate address)  
**Location:** Lawrence Township, Council District #9  
**Zoning:** D-S  
**Petitioner:** Richard & Tracy Smikle, by Misha Rabinowitch  
**Request:** Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a tennis court, partially within the front yard of Hunterglen Road (not permitted), resulting in an open space of 82 percent and a 24.33-foot front yard setback (85 percent open space, 40-foot front yard setback required).

**Current Land Use:** Single-family dwelling

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

**Staff Reviewer:** Robert Uhlenhake, Senior Planner

**PETITION HISTORY**

This is the first public hearing for this petition.

**STAFF RECOMMENDATION**

Staff recommends **approval** of this petition.

**PETITION OVERVIEW**

- ◇ The request would provide for the location of a tennis court, partially within the front yard of Hunterglen Road, resulting in an open space of 82 percent and a 24.33-foot front yard setback
- ◇ The site is zoned D-S, which permits single-family dwellings and is intended to provide for the lowest-density residential development in the county, in areas with extreme topography, areas conducive to estate development, and areas that necessitate low-density development due to other environmental considerations. The D-S District requires a 40-foot front setback on this parcel.
- ◇ The proposed tennis court location and front setback would be appropriate for a parcel of this size and would have minimal impact, because of the tennis courts separation from adjacent structures and the adequate space available to provide for maintenance. In addition, the proposed reduced front setback would preserve two large heritage trees located to the west of the proposed tennis court.





- ◇ The proposed front setback would still provide adequate space to mitigate any adverse impacts and provide the minimum area necessary for maintenance setbacks. In addition, the tennis court would not affect the view shed of the Hunterglen Road corridor due to the extensive landscaping and hilly terrain elevations.
- ◇ Open space is required to provide for a development density that is consistent with the community and to reduce the impact storm water can have on adjacent properties if the land is overdeveloped.
- ◇ The proposed 82% open space would be a 3% deviation from the Ordinance requirement. In Staff’s opinion, this would be a minimal deviation as the reduction would not have any negative impact on adjacent properties.
- ◇ Existing privacy shrubs and trees adjacent to the proposed tennis court will also help to mitigate the aesthetic impacts of the court. In staff’s opinion, the request, as proposed, would be an acceptable deviation of the Ordinance.
- ◇ Generally, staff supports property improvements if their location and characteristics do not negatively impact adjoining residential areas by causing a nuisance to the surrounding neighborhood. Staff believes that this would be true for this particular variance request, and additionally that no public safety or health risks would come from the grant of this variance.

**GENERAL INFORMATION**

<b>Existing Zoning</b>	D-S
<b>Existing Land Use</b>	Single-Family Dwelling
<b>Comprehensive Plan</b>	Recommends Zero to 1.75 Dwellings Per Acre
<b>Surrounding Context</b>	<b>Zoning</b>
	North: D-S
	South: D-S
	East: D-S
	West: D-S
	<b>Surrounding Context</b>
	North: Golf Course
	South: Single-family dwelling
	East: Single-family dwelling
	West: Single-family dwelling
<b>Thoroughfare Plan</b>	
Hunterglen Road	Private Street
<b>Context Area</b>	Metro area
<b>Floodway / Floodway Fringe</b>	No
<b>Overlay</b>	N/A
<b>Wellfield Protection Area</b>	No
<b>Elevations</b>	N/A
<b>Landscape Plan</b>	N/A
<b>Site Plan</b>	June 24, 2024
<b>Findings of Fact</b>	June 24, 2024



**COMPREHENSIVE PLAN ANALYSIS**

**Comprehensive Plan**

- The Comprehensive Plan recommends 0 – 1.75 Dwelling Units Per Acre for the site.

**Pattern Book / Land Use Plan**

- This density is consistent with rural development patterns and could also limit the impact of development on property with extreme topography or other significant environmental considerations such as floodplains, wetlands, and old-growth woodlands. Additionally, this density would be conducive to agricultural and estate development.

**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**

- Not Applicable to the Site.

**Indy Moves**  
(Thoroughfare Plan, Pedestrian Plan, Bicycle Master Plan, Greenways Master Plan)

- Not Applicable to the Site.

**ZONING HISTORY**

**2017-UV3-014; 5610 East 56th Street (south of site)**, requested variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for two fuel tanks related to a storage barn and workshop for the storage, restoration, and maintenance of an automobile collection, as approved by 2015-DV3-036, being located in front of the front building line of the primary dwelling, **granted**.

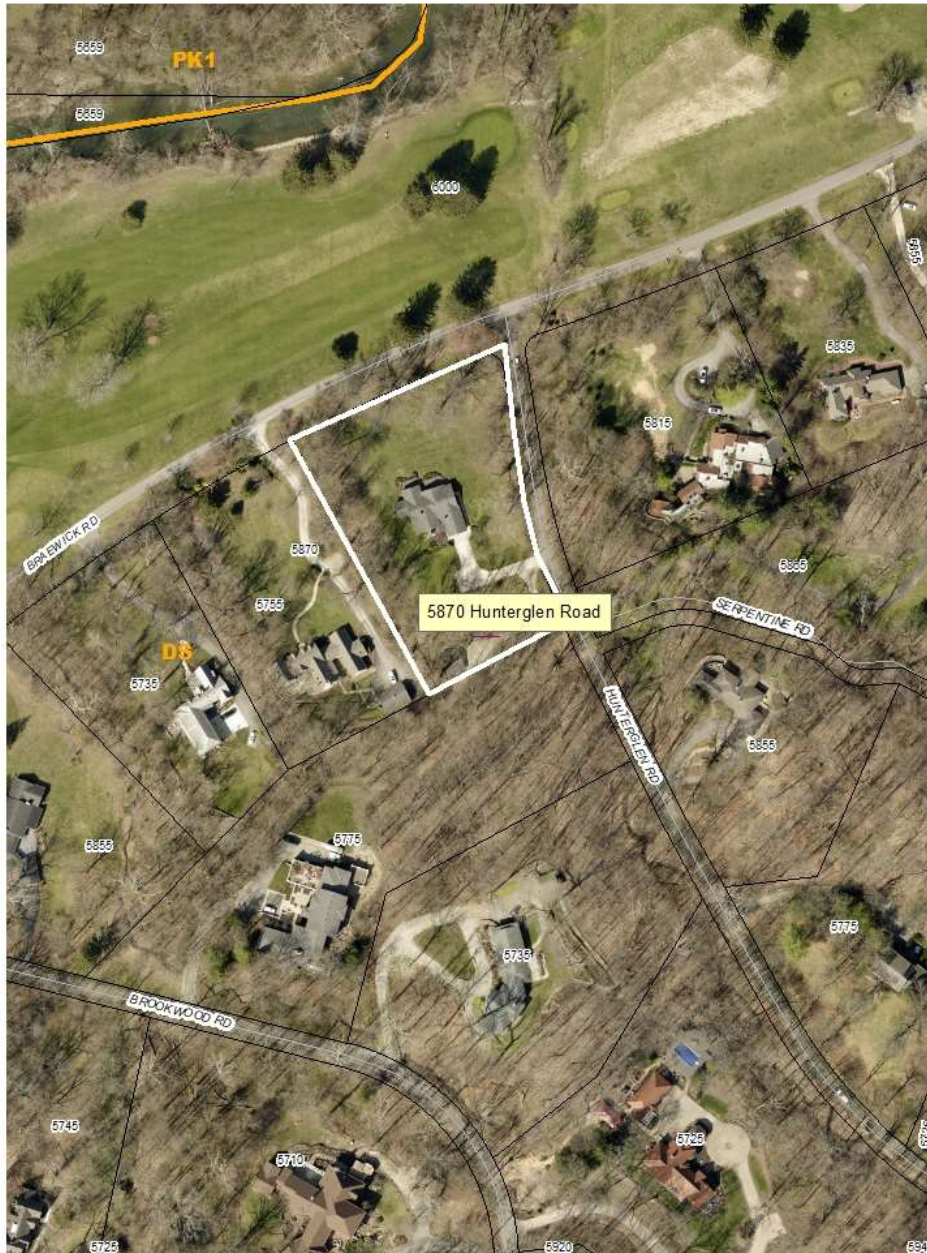
**2015-DV3-036, 5610 East 56<sup>th</sup> Street (south of site)**, requested variance of development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a two-story, 49-foot tall, 13,074-square foot two-story storage barn and workshop to house, restore and maintain an automobile collection, creating, with the existing two-story carriage house, an accessory building area of 15,538 square feet or 411.5% of the main floor area of the primary dwelling and accessory use area of 45,109 square feet or 417.52% of the total floor area of the primary dwelling, and with the proposed storage barn being in front of the established front building line of the primary dwelling, **granted**.

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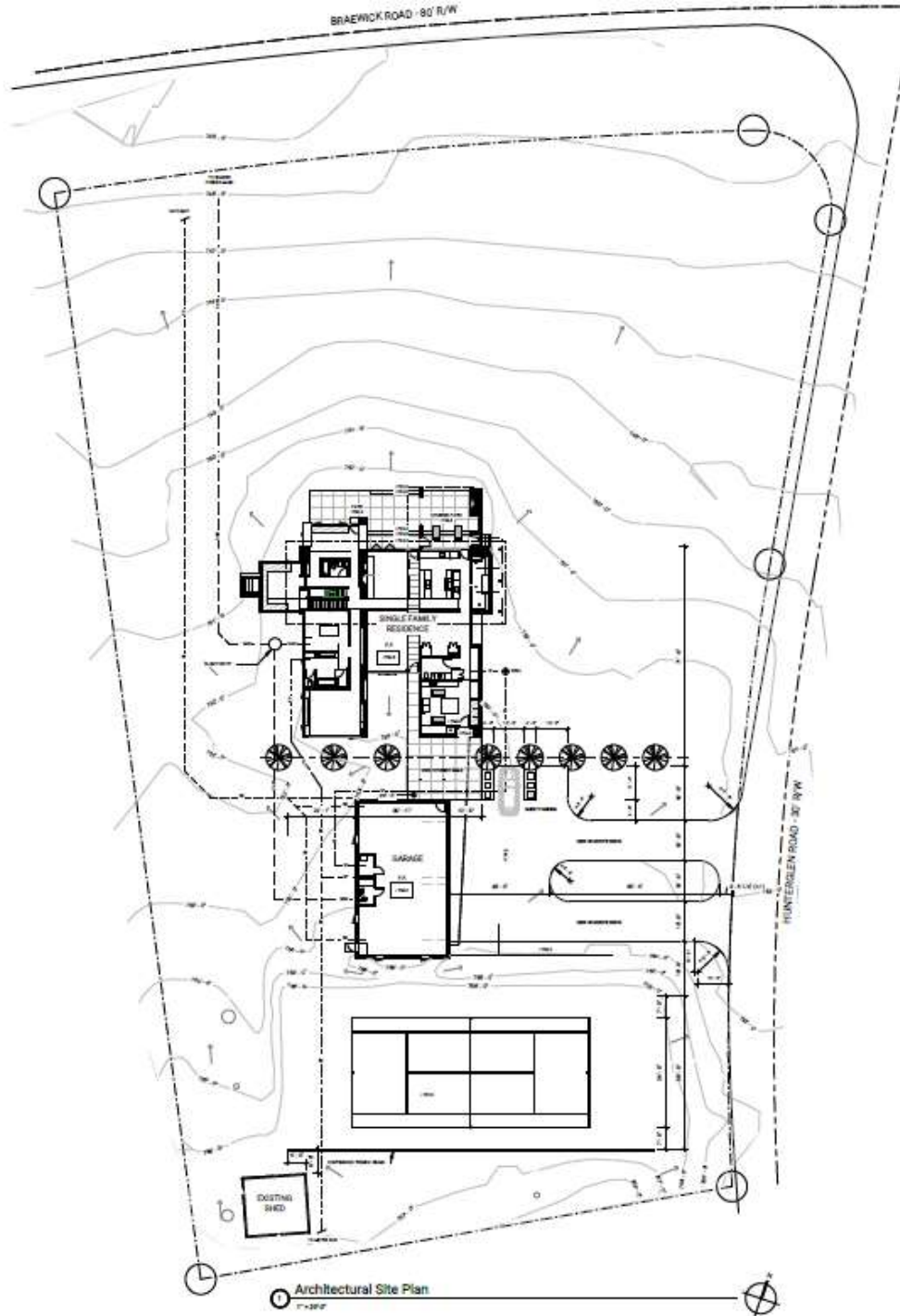
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**EXHIBITS**

Location Map



Site Plan





**Findings of Fact - Front yard**

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**

**(Front Yard)**

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

The tennis court in the front yard has been placed in substantially the same location as the tennis court that was previously located on the site. Also, there is significant green space around the tennis court and substantial setback from the adjacent street.

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 tennis court in the front yard has been placed in substantially the same location as the tennis court that was previously located on the site. Also, there is significant green space around the tennis court and substantial setback from the adjacent street.

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

of the configuration of the lot, which is trapezoidal in shape, the location of the residence on the lot, and existing mature trees, the proposed tennis court must be located partially in the front yard.

**DECISION**



**Findings of Fact – Open Space**

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**

**(Open Space)**

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

The tennis court replaces a tennis court in substantially the same location as the tennis court that was on the property previously.  
Also, there is significant lawn area as a buffer around the property.

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 tennis court replaces a tennis court in substantially the same location as the tennis court that was on the property previously.  
Also, there is significant lawn area as a buffer around the property.

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

A tennis court has previously existed on the property in substantially the same location. The new court is built to standard specifications, which results in slightly deficient open space. In addition, the subject property is a corner lot, which makes location of improvements on the site a challenge resulting in practical difficulties complying with strict application of the ordinance required open space.

**DECISION**



**Findings of Fact - Front setback**

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  
(Front Setback)**

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

The tennis court has been placed in substantially the same location as the tennis court that was previously located on the site. Also, there is significant green space around the tennis court and substantial setback from the adjacent street.

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 tennis court has been placed in substantially the same location as the tennis court that was previously located on the site. Also, there is significant green space around the tennis court and substantial setback from the adjacent street.

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 is a corner lot, trapezoidal in shape, with a number of mature trees that should be preserved, which results in the required practical difficulty.

**DECISION**

**Photographs**



Subject property single-family dwelling under construction, looking southwest.



Subject property approximate front setback of tennis court, looking north.





Subject property approximate rear setback of tennis court, with two adjacent heritage trees, looking west.



Subject property east side parcel line tree screening, looking south.



Adjacent property looking east.



Adjacent property looking west.



## BOARD OF ZONING APPEALS DIVISION III

August 20, 2024

<b>Case Number:</b>	<b>2024-UV3-004</b>
<b>Property Address:</b>	<b>2308 Shelby Street (approximate address)</b>
<b>Location:</b>	<b>Center Township, Council District #19</b>
<b>Petitioner:</b>	<b>Walter Resinos</b>
<b>Current Zoning:</b>	<b>C-3 (TOD)</b>
<b>Request:</b>	<b>Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a tattoo parlor within 55 feet of a protected district (not permitted within 500 feet of a protected district).</b>
<b>Current Land Use:</b>	<b>Commercial</b>
<b>Staff Recommendations:</b>	<b>Staff recommends approval of this petition, subject to substantial compliance with the submitted plan of operation, file-dated 3/8/24</b>
<b>Staff Reviewer:</b>	<b>Noah Stern, Senior Planner</b>

## PETITION HISTORY

### ADDENDUM FOR JULY 16, 2024 BZA DIVISION III HEARING

- This petition was continued from the April 16, 2024 BZA Division III hearing to the May 28, 2024 BZA Division III hearing due to unpaid filing fees.
- The petition was continued to the July 16, 2024 BZA Division III hearing to allow for further review by interested parties.
- A timely automatic continuance was filed by a registered neighborhood organization, which continued this petition to the August 20, 2024 BZA Division III hearing without additional notice.

## STAFF RECOMMENDATION

- Staff **recommends approval** of this petition, subject to substantial compliance with the submitted plan of operation, file-dated 3/8/24

## PETITION OVERVIEW

- This petition would provide for the operation of a tattoo parlor within 55 feet of a protected district (not permitted within 500 feet of a protected district). The plan of operation states that the business would be open from 10am to 9pm from Monday to Saturday.
- The required spacing of certain uses is in place to provide for increased protection of sensitive land uses such as parks, schools, religious uses, dwelling districts, etc. from land uses that may potentially cause nuisances or are of increased intensity. The subject site is located directly adjacent to a D-5 dwelling district to the west. The request for 55 feet of separation does represent a significant



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

deviation from the Ordinance standard, which calls for at least 500 feet of separation between any protected district.

- Staff would note that while the proposal represents a sizable deviation from the permitted separation, the Zoning Ordinance is particularly restrictive of tattoo parlors, relative to other land uses that represent a similar or even greater intensity. Examples of such uses that are permitted to be closer to protected districts than tattoo parlors include night clubs, liquor stores, as well as bars and taverns, all of which are permitted to be located as close as 100 feet from protected districts. Additionally, with other uses of similar intensity having been in operation along Shelby Street for a significant portion of time, Staff believes the proposed use to be of like character to the immediate context.
- Staff would note that Shelby Street is an emerging commercial corridor located within the Red Line TOD Overlay District with the subject site being located under ¼ mile from the Raymond Street transit station, and under ½ mile from the Garfield Park transit station.
- Finally, Staff finds the proposal to be in line with the Comprehensive Plan recommendations for the Village-Mixed Use typology, which calls for a wide range of small businesses, buildings of 1-4 stories with any parking being located in the rear, pedestrian-scale amenities, and notes that uses may be mixed vertically in the same building or horizontally along a corridor, in this case Shelby Street. Therefore, for these reasons, Staff is unopposed to the variance requested.

**GENERAL INFORMATION**

<b>Existing Zoning</b>	C-3 (TOD)	
<b>Existing Land Use</b>	Commercial	
<b>Comprehensive Plan</b>	Village Mixed-Use	
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Surrounding Context</b>
North:	C-3 (TOD)	North: Community Commercial
South:	C-3 (TOD)	South: Community Commercial
East:	C-3 (TOD)	East: Community Commercial
West:	D-5 (TOD)	West: Single-family residential
<b>Thoroughfare Plan</b>		
Shelby Street	Secondary Arterial	60 feet of right-of-way existing and 78 feet proposed
Hervey Street	Local Street	50 feet of right-of-way existing and 48 feet proposed
<b>Context Area</b>	Compact	
<b>Floodway / Floodway Fringe</b>	No	
<b>Overlay</b>	Yes	
<b>Wellfield Protection Area</b>	No	
<b>Site Plan</b>	3/8/24	
<b>Site Plan (Amended)</b>	N/A	



Elevations	N/A
Elevations (Amended)	N/A
Landscape Plan	N/A
Findings of Fact	3/8/24
Findings of Fact (Amended)	N/A

**COMPREHENSIVE PLAN ANALYSIS**

**Comprehensive Plan**

- Marion County Land Use Plan Pattern Book
- TOD Red Line Strategic Plan

**Pattern Book / Land Use Plan**

- The Marion County Land Use Plan pattern Book recommends the Village Mixed-Use typology for this site.

**Red Line / Blue Line / Purple Line TOD Strategic Plan**

- The subject site is located within ¼ mile of the Shelby Street and Raymond Street transit station. This area has been classified under the community center typology, which is characterized by a dense mixed-use neighborhood center, a minimum of 2 stories at the core, no front or side setbacks at the core, and the presence of multi-family housing with a minimum of 3 units .

**Neighborhood / Area Specific Plan**

- Not Applicable to the Site.

**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

**94-Z-130;** rezoning of 4.43 acres, being in the C-1, C-2, C-3, and D-5 districts to the C-3 classification to conform zoning to the Garfield Park/Pleasant Run Neighborhood Plan, **approved**.

### ZONING HISTORY – VICINITY

**2022ZON105; 2340 & 2344 Shelby Street (south of site),** Rezoning of 0.24 acre from the C-3 (TOD) district to the MU-2 (TOD) district, **approved**.

**2015DV2005; 2242 Shelby Street (north of site),** Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for: a) the construction of a 384-square foot detached garage for bicycle repair, an addition to the main dwelling, to be used for an espresso bar, bicycle sales and display, and bicycle and supply storage, and two decks for outdoor seating (not permitted), b) with five parking spaces (seven parking spaces required), with deficient maneuvering (not permitted), and c) to provide for a handicapped ramp, with a zero-foot front setback from Shelby Street or 30 feet from the centerline (70 feet from the centerline required), and d) to provide for a 6.25-square foot suspended sign, with less than eight feet of clearance (maximum five square feet permitted, minimum eight feet of clearance required) and a 40 square foot wall sign on the front porch parallel to Shelby Street, **approved**.

**99-UV2-64; 2230-2340 Shelby Street (north of site),** variance of use and development standards of the Commercial Zoning Ordinance to provide for the expansion of a tavern within 100 feet of a protected district, liver entertainment and no off-street parking, **granted**.

**98-UV3-81; 2320 Shelby Street (south of site),** requested a variance of use to permit the sale and repair of major appliances, **denied**.

**95-UV1-35; 2320 Shelby Street (south of site),** requested a variance of use to provide for a mechanical contractor operation and heavy equipment storage of an HVAC company, including storage of materials and tools \*such as sheet metal fabricators, arc welder, and cleaning solvents\* for HVAC service, **denied**.

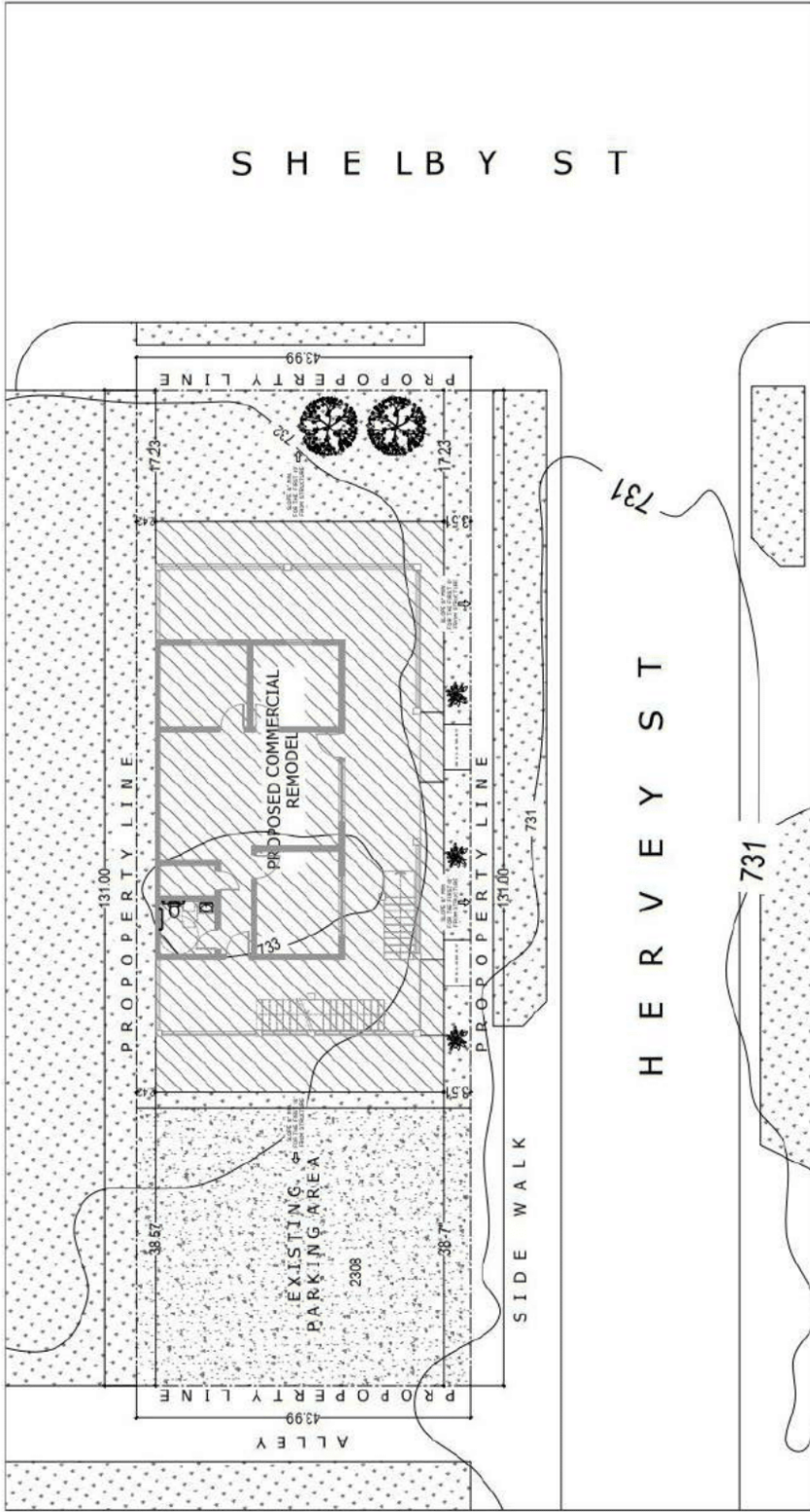
**89-UV3-73; 2242 Shelby Street (north of site),** requested a variance of use to permit retail sale of jewelry, coins and metals, **granted**.

**87-UV2-29; 2236 Shelby Street (north of site),** requested a variance of use to permit an automobile clean-up business, **denied**.

**83-UV3-4; 2310 Shelby Street (north of site),** requested a variance of use and development standards to permit a site-down restaurant, **granted**.

EXHIBITS





2308 SHELBY ST.  
 LOT 03  
 ST. CATHERINES GARFIELD PARK ADDITION

## SITE PLAN

### LEGAL DESCRIPTION

St. Catherines Garfield park  
 ADD L3



## Parking

- Parking is available in the parking lot or the street.
- Parking will be minimal since most tattoos are done by appointments. Walk ins are not encouraged.

## Hours of Operation

- The tattoo shop will be open from Monday through Saturday.
- Flexible hours of operations depending on the demand/ appointments. Some days the shop will close earlier depending on the work load.
- Official hours of operations will be around 10 a.m. to 9 p.m.

## Safety & Security provisions

- 360-degree security camera system outside the building.
- Camera system inside the building as well. Everyone entering the building/ tattoo shop will be recorded.
- All exits are marked.
- Smoke detectors are present in hallways, waiting areas and all offices.
- Fire extinguisher easily accessible and displayed.
- No smoking allowed inside the building.
- Since most tattoos will be done by appointment only, it will minimize the amount of people present inside the building at one time.
- Hazardous materials including needles will be safely handled and stored to prevent accidents.

## Clients and Customers

- The typical clients include upstanding citizens who are interested in getting tattoos and can afford them.
- The average price of a typical tattoo starts around \$150 an hour.
- Loitering around the property is prohibited.

## Materials used

- Tattoo ink, needles, sterilization chemicals, cleaning chemicals, anesthetic creams and ointments.

## Shipping and receiving

- Regular shipping and receiving have their own designated areas.

## Waste

- Hazardous waste materials including needles are collected by hazardous waste removal companies.

## Process conducted on site

- Once the client has been checked in, he/she fills in a consent form and a copy of their ID is taken.
- Clients select the tattoo and the location they want it tattooed on their body.
- The client is placed on a special chair/ tattoo bed.
- There are bathroom breaks from time to time till completion.
- Once the process is done, the tattooist offers consultation services on how to care for the tattoo until it's completely healed, concluding the process.



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 USE**

**FINDINGS OF FACT**

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

It will be rented to licensed professionals that are bound to local laws & regulations that are enforced by the board of health

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

it is an old fire station that is currently being used for storage. It will rather bring value to the adjacent property as it will be surrounded by more businesses.

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

the existing C-3 commercial zoning doesn't allow for a "Body Art / Tattoo Shop" to be operated on the premises without a variance of use

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

it will limit the additional rent income that the property can generate from the potentially multi-use building that can host various types of licensed businesses.  
It will hinder the growth of the local business community due to the limited services and operations that can be provided in the area.

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

The Variance that is being requested does not interfere in any way with the other surrounding businesses. it will not be near a church/house of service. It will not change the vibe of the neighborhood as there is a brewery across from the property. The Licensed Tattoo Shop will be adhering to the local safety regulations & ordinances from the board of health.

**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** **August 20, 2024**

**Case Number:** 2024UV3009

**Property Address:** 1049 E Thompson Road (approximate address)

**Location:** Perry Township, Council District #23

**Petitioner:** Lydia Nelson

**Current Zoning:** D-1 (TOD)

**Request:** Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of dog grooming as a home occupation, per the filed plan of operation.

**Current Land Use:** Residential

**Staff Recommendations:** Staff recommends **approval** of this petition subject to the plan of operation file-dated August 1, 2024.

**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 subject to the plan of operation file-dated August 1, 2024.

**PETITION OVERVIEW**

- The subject property currently houses two structures: the building to the north is the primary residence with a garage that opens onto Thompson Road, and the southern building is a smaller “mother-in-law” unit with attached garage fronting Shelby Street. The site is surrounded by residential uses to the west and south, a fire station to the north, and a contractor’s office to the east. The garage of the primary residence fronting Thompson contains a dog grooming business.
- A violation case (VIO24-000427) was opened at the property in 2024 for conducting an animal care use at the property which would be disallowed within D-1 zoning. Staff feels that the business would be more appropriately classified as a home occupation given the size and scope of the operation. Approval of this variance would legalize the business as an accessory use subordinate to the primary residence but would have no impact on any applicable licensure requirements or rules on waste disposal for the business from either the city or state.



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- Home occupations are allowed as an accessory use within this zoning but are subject to nineteen different use-specific standards. The fourth standard limits the size of area used in connection with the home occupation to the smaller of 600 square feet or 30% of the total square footage of the dwelling unit (the garage exceeds both), the eleventh standard places limits on receiving and storing of goods at the property, and the fourteenth standard indicates home occupations would not be allowed within secondary dwelling units. Therefore, this variance would allow the business as a home occupation that doesn't meet accessory use rules instead of as a second primary use.
- This property is zoned D-1 to allow for suburban estate-style development characterized by generous front yards for trees and a bucolic atmosphere. Similarly, it is recommended for Rural or Estate Neighborhood uses by the Comprehensive Plan. Both documents contemplate detached single-family housing (for which home occupations are an allowed accessory use). The property also falls on the edge of the TOD secondary zoning layer due to its proximity to potential future expansion of the Red Line.
- The operation plan provided by the applicant indicate that the sole employee would be a current occupant of the dwelling unit and that only one dog would be groomed at a time at the property by appointment only. The site would not have additional parking beyond the owner's car and temporary parking from owner picking up or dropping off their pet (well below the maximum of 4 customers at once from home occupation rules), and the only outdoor activity would be for the occasional bathroom break. Testimony received from at least 22 current clients reinforces that the business currently runs in a manner like that described within the plan of operation.
- Staff feels that this use would be a minor deviation from the standards outlined for home occupations and agrees with the provided findings that the business would cause little disturbance for surrounding property owners. Additionally, approval of the petition is conditioned upon the filed plan of operation, so the scale and intensity of the use (i.e. additional employees or outdoor areas) couldn't increase without a new petition allowing it. Staff recommends approval of the variance.

**GENERAL INFORMATION**

<b>Existing Zoning</b>	D-1 (TOD)		
<b>Existing Land Use</b>	Residential		
<b>Comprehensive Plan</b>	Rural or Estate Neighborhood		
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Surrounding Context</b>	
	North:	SU-9	North: Fire Station
	South:	D-1	South: Residential
	East:	C-1/D-1	East: Office/Residential
	West:	D-1	West: Residential
<b>Thoroughfare Plan</b>			
Thompson Road	Primary Arterial	114-foot right-of-way existing and 102-foot right-of-way proposed	
Shelby Street	Local Street	45-foot right-of-way existing and 50-foot right-of-way proposed	





<b>Context Area</b>	Metro
<b>Floodway / Floodway Fringe</b>	No
<b>Overlay</b>	No
<b>Wellfield Protection Area</b>	No
<b>Site Plan</b>	06/09/2024
<b>Site Plan (Amended)</b>	N/A
<b>Elevations</b>	N/A
<b>Elevations (Amended)</b>	N/A
<b>Landscape Plan</b>	N/A
<b>Findings of Fact</b>	06/09/2024
<b>Findings of Fact (Amended)</b>	N/A

**COMPREHENSIVE PLAN ANALYSIS**  
**Comprehensive Plan**

- Marion County Land Use Plan Pattern Book
- Red Line Transit-Oriented Development Strategic Plan

**Pattern Book / Land Use Plan**

- The Marion County Land Use Plan Pattern Book recommends this site to the Rural or Estate Neighborhood typology to allow for rural or agricultural areas with estate-style homes on large lots with low density and existing within existing topography as much as possible. Detached housing (which could be inclusive of home occupations) is a recommended land use type

**Red Line / Blue Line / Purple Line TOD Strategic Plan**

- The property falls within the TOD secondary zoning layer due to proximity to future expansions of the Red Line further south along Madison Avenue. The Red Line TOD Strategic Plan recommend this property for the Walkable Neighborhood typology which should be primarily small lot single family attached or detached dwellings with small commercial or multi-use nodes at the center.

**Neighborhood / Area Specific Plan**

- Not Applicable to the Site.

**Infill Housing Guidelines**



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- 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

N/A

### ZONING HISTORY – VICINITY

**2009DV2016 ; 915 E Thompson Road (west of site)**, VARIANCE OF DEVELOPMENT STANDARDS of the Dwelling Districts Zoning Ordinance to provide for a 209.6-square foot front covered porch addition, with a 17-foot front setback from the proposed right-of-way line of East Thompson Road (minimum 40-foot front setback required), to an existing single-family dwelling, **approved**.

**99-UV3-77 ; 815 E Thompson Road (west of site)**, variance of use of the Dwelling Districts Zoning Ordinance to provide for pet grooming in an adjacent detached garage (not permitted), **approved**.

**98-UV1-100 ; 833 E Thompson Road (west of site)**, variance of use of the Dwelling Districts Zoning Ordinance to provide for the sale, repair and outdoor display of reconditioned bicycles (not permitted), **approved**.

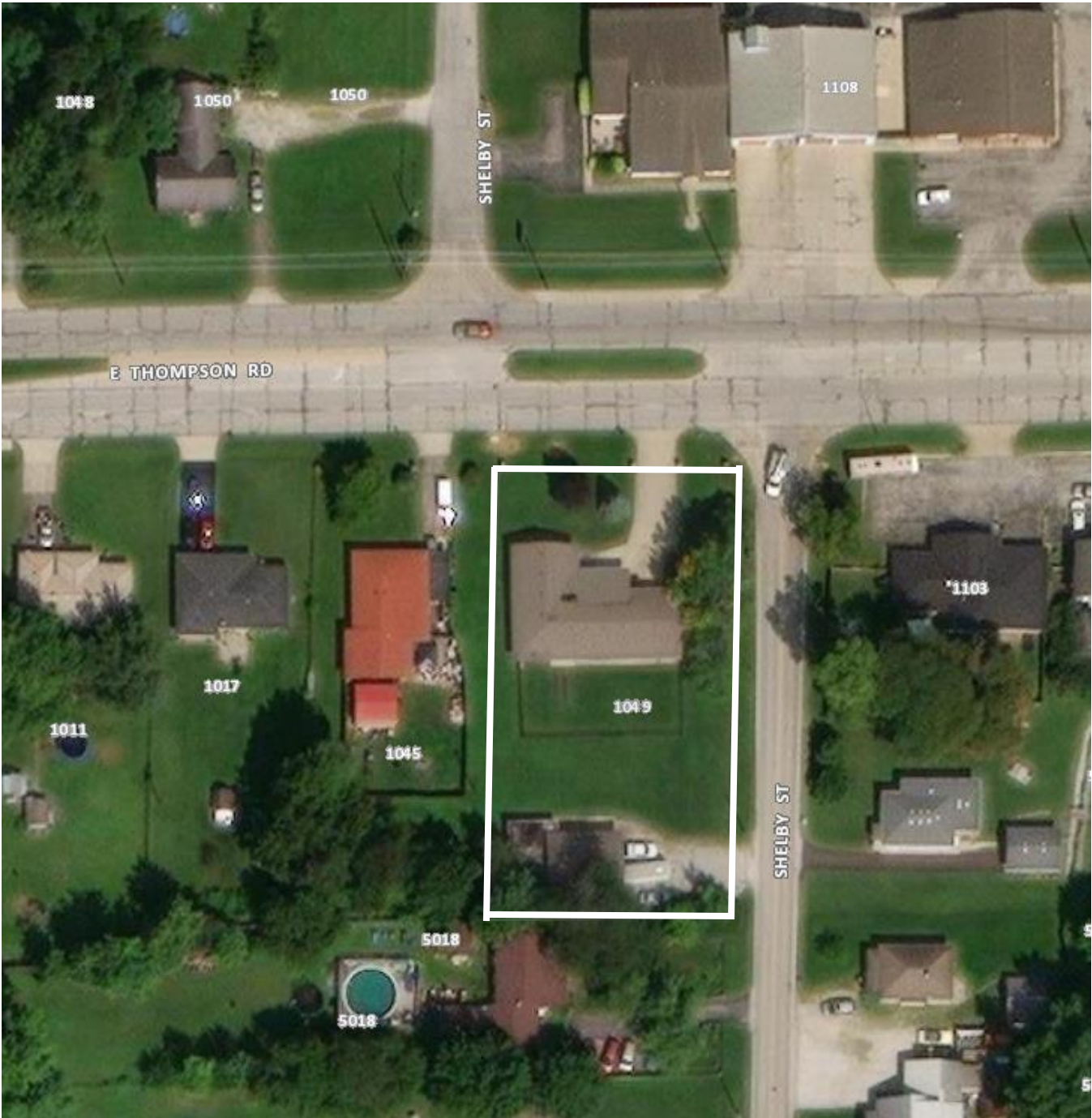
**96-SE3-6 ; 833 E Thompson Road (west of site)**, special exception of the Dwelling Districts Zoning Ordinance to provide for the placement of a 26.4 by 66.4 foot manufactured home, **approved**.

**86-Z-1 ; 1110 E Thompson Road (north of site)**, rezoning of 3.5 acres from A-3 to SU-9 to provide for a fire station, **approved**.

**84-V2-35 ; 833 E Thompson Road (west of site)**, variance of development standards of the Dwelling Districts Zoning Ordinance to provide for the continued use of a detached garage and two sheds where the total square footage of the accessory structures exceeds that of the primary residence, **denied**.

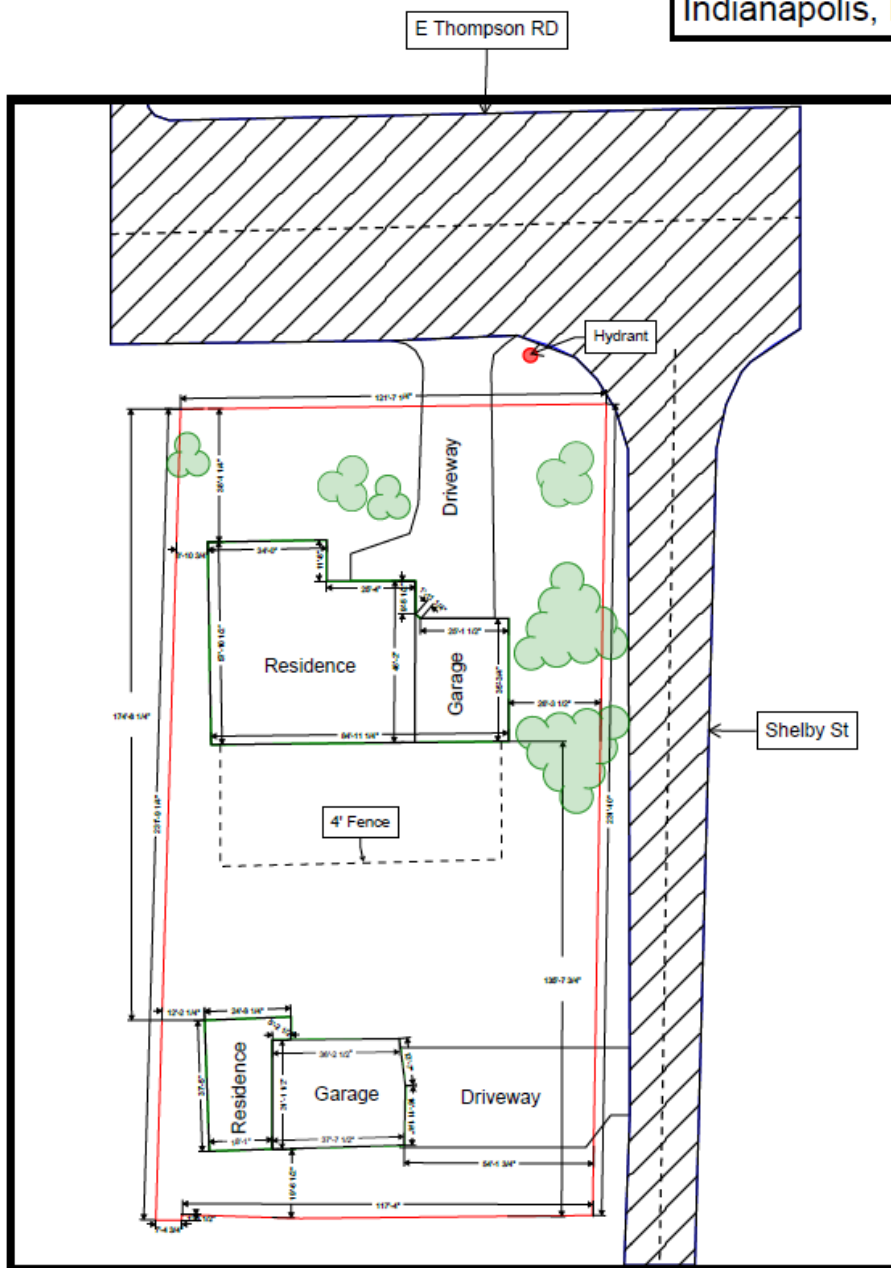
**EXHIBITS**

2024UV3009 ; Aerial Map

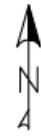


**2024UV3009 ; Site Plan**

1049 E Thompson Rd,  
Indianapolis, IN 46227



Scale 1:40



(Home occupation solely within northern garage of primary building)



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## 2024UV3009 ; Plan of Operation

- Workforce: Lydia Nelson-owner of business-grooming for 8 years, no other employees, no volunteers
- The business would comply with any requirements by the city/state
- Clients and Customers: friend/family/previous clients from past grooming salons

Do they come to the site? Yes. If so when and how many? About every hour or two a customer comes by. It is one client at a time. Where do they park? The front driveway or the back yard on the gravel. Hours of operation are usually 8am to about 7pm at the latest

The owner, Lydia Nelson resides on the property. The dog grooming is primarily in the attached garage facing Thompson rd (The primary property) only.

Dogs don't stay overnight on property. This is solely dog grooming. There is no boarding, kenneling, dog training, breeding, etc.

Dogs go home as soon as they're done. If a client does need to leave their dog for about an hour (due to another appointment for instance) the dog roams the house, separated from the owners dogs, until picked up.

- Processes conducted on site: One dog is done at a time, it gets its prep work done such as nail trimming and ear cleaning, the dog gets a bath, blow dried and then a hair cut if applicable. What happens outside? Nothing. Unless the dog is taken outside for a bathroom break. What are the safety and security measures taken by the business or organization? There are dog loops for the dogs to stay steady on a grooming table. The grooming table can also be adjusted to the dog's height if needed. In an emergency the dog would be taken to an emergency Veterinarian with the owner's permission.

The owner only grooms one dog at a time, it is by appointment only, there are no walk-in appointments. There are no overlapping dogs, if this ever happens; dogs are separated. One is in the house while the other is in the garage being groomed.

- Materials used: List the types of materials used for the operation: Are there any hazardous materials used? There are grooming clippers and scissors used to perform a dog's haircut. There are dog grooming sprays and dog shampoo for bathing and styling. Indicate the applicable safety and security measures. The more experience a person has been grooming the more safe it is. The longer an individual has groomed, their performance has the least amount of error.
- Shipping and Receiving: How are materials shipped or received: There are no items shipped. Anything received is usually from Amazon or PetEdge
  - Size of vehicle: Can vary •What time of day: Can vary •Frequency: about once a week
- Waste:
 

Indicate the types of waste generated: Feces, dog hair

How is it handled: Dog waste bags and or trash bags

By whom: The owner/self

Is hazardous waste generated: No

Is a recycling program implemented:No

All waste will be disposed of in accordance to city/state laws



**2024UV3009 ; Findings of Fact**

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

there will be one client at a time, the clients and I will not block traffic. There will be peace from this property. There will not be multiple dogs at this property at a time  
So it will be quiet. It will be non-caotic.

**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 business of this property, will be indoors, besides the clients dropping off which is one client at a time. Considering the length of The driveway, it could fit in total about 5 to 6 vehicles. Again, traffic on Thompson road would not be blocked. And in turn would not affect other pedestrians, business', or homes.

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

the property at 1049 E Thompson rd is zoned as a D1 property and dog grooming is not covered as a home occupation.

**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**

there are many dogs that need grooming. Many dogs need a quiet, indoor, one on one experience; where there are no distractions and it's just the dog and the groomer. This process of grooming provides a much safer experience for the dog. As oposed to grooming salons such as Petsmart and Petco where there are many dogs, high stress levels for the dogs and the dogs feed off of each others stress. There are too many distractions in dog salons such as these. This is why the property at hand should be allowed to have dog grooming.

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

other neighbors in the area of this property already have dog grooming, so this wouldn't be out of the normal for the comprehensive plan of the neighborhood.

**2024UV3009 ; Photographs**



Photo 1: Primary Residence Viewed from Northeast



Photo 2: Primary Residence Viewed from Southeast



**2024UV3009 ; Photographs (continued)**



Photo 3: Accessory Building Viewed from Northeast



Photo 4: Adjacent Property to the Northeast

**2024UV3009 ; Photographs (continued)**



Photo 5: Adjacent Property to the North



Photo 6: Adjacent Property to the West



**BOARD OF ZONING APPEALS DIVISION III** **August 20, 2024**

**Case Number:** 2024-UV3-007

**Property Address:** 3304 South Walcott Street (approximate address)

**Location:** Perry Township, Council District #19

**Petitioner:** L&A Concrete, by David Gilman

**Current Zoning:** D-5

**Request:** Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a 4,800 square foot building to be used for storage of commercial vehicles, equipment, and supplies for a concrete contractor (not permitted).

**Current Land Use:** Undeveloped

**Staff Reviewer:** Michael Weigel, Senior Planner

**PETITION HISTORY**

The applicant informed our offices of their plans to withdraw this petition in advance of the August 20<sup>th</sup> hearing date. This withdrawal will be acknowledged by the Board at hearing.

Staff has not yet received the payment for this petition application as of July 11<sup>th</sup> despite reminders from the planner on 6/26, 7/3, 7/5 and 7/8 as well as any requests made at the time of filing and docketing. Staff requests that this petition be continued to the August 20, 2024 hearing date to allow time for payment to be received, and a full staff report will be available in advance of that date.



**BOARD OF ZONING APPEALS DIVISION III**

**August 20, 2024**

**Case Number:** 2024-UV3-012

**Property Address:** 3628 N Sherman Drive (approximate address)

**Location:** Center Township, Council District #8

**Petitioner:** TWINZ22 LLC, by Natalie Gage

**Current Zoning:** D-5 (TOD)

**Request:** Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a social services office (not permitted).

**Current Land Use:** Commercial

**Staff Reviewer:** Michael Weigel, Senior Planner

**PETITION HISTORY**

During the intake and docketing process, staff noted that a historic variance (56-V-46) existed at the site to allow for a 'doctor's *or professional* office building'. It is staff's determination that the proposed use of a social services office building for Changing Your World LLC to facilitate supervised visitations between parents and children would be allowed at the site per grant of the previous variance, and that a new variance would not be required to legalize this use. Staff will withdraw the petition on the applicant's behalf at the August 20<sup>th</sup> hearing.