



Board of Zoning Appeals Board of Zoning Appeals Division II Meeting Agenda

Meeting Details

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

Date: Tuesday, December 09, 2025 **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. 2025-DV2-045 | 8083 Georgetown Road**
Pike Township, Council District #1, zoned D-2
Raul Flores, by Donald W. Fisher

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a 4,000 square-foot accessory building and 2,591 square-foot accessory building, both being larger than the primary building (not permitted) and the 4,000 square-foot building being located within the front yard of the property (not permitted).

****Automatic continuance filed a registered neighborhood organization, continuing this to the January 13, 2026 hearing of Division II**

- 2. 2025-UV2-017 | 853 North Tacoma Avenue**
Center Township, Council District #13, zoned D-5
Near East Area Renewal, by Joe Smoker

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a three-unit rowhouse (not permitted), each with a minimum main floor area of 612 square feet, a front building line of 20 feet from Tacoma Avenue, and a five-foot corner side yard setback (660 square foot main floor area required, maximum 19.9-foot building line permitted, eight-foot corner side yard setback required), with deficient parking, per site plan filed.

****Petitioner to request a continuance to the January 13, 2026 hearing of Division II**

Petitions for Public Hearing

PETITIONS TO BE EXPEDITED:

- 3. 2025-SE2-004 (Amended) | 6358 North College Avenue**
Washington Township, Council District #2, zoned D-7 (TOD) (FF)
Nalja Osman Inc., by Nicole Anderson

Special Exception of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a daycare center, subject to the filed plan of operation.

Variance of Use to provide for a daycare center within the Floodway Fringe (not permitted).

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a five-space parking area (minimum nine spaces required).

4. 2025-SE2-005 | 5167 North College Avenue

Washington Township, Council District #7, zoned C-3 (TOD)
52 College Avenue LLC, by Samuel Lewis

Special Exception of the Consolidated Zoning and Subdivision Ordinance to provide for a tattoo parlor (special exception required).

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a tattoo parlor within 40 feet of a protected district (500 feet required).

PETITIONS FOR PUBLIC HEARING (Transferred Petitions):

5. 2025-UV1-022 | 4502 East Michigan Street

Washington Township, Council District #13, Zoned D-5
Jose Luis Tapia Camacho, by Justin Kingen

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of an Automobile, Motorcycle and Light Vehicle Service or Repair facility and all C-3 uses (not permitted) and a parking area greater than 30-foot wide within the front yards of Linwood Avenue and Michigan Street (not permitted).

PETITIONS FOR PUBLIC HEARING (Continued Petitions):

6. 2025-DV2-041 | 1867 Singleton Street

Center Township, Council District #18, zoned D-5
AJAMAGIR LLC, by Elliot Gibson

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for enclosure of an existing front porch, resulting in the lack of a primary entry feature along the front façade (required).

7. 2025-DV2-043 (Amended) | 4360 Kessler Boulevard North Drive

Washington Township, Council District #6, zoned D-2
Tomasia Torres and Minerva Gomez, by Arnoldo Gonzales

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a six-foot tall fence and wall within the front yards of Sylvan Road and Kessler Boulevard, encroaching within the right-of-way of Sylvan Road and the clear sight triangle of each driveway along Sylvan Road (maximum 3.5-foot tall fence permitted, encroachment of rights-of-way and clear sight triangles prohibited).

8. 2025-UV2-013 | 148 West 38th Street

Washington Township, Council District #7, zoned C-4
Martin Petroleum Inc., by Jamilah Mintze

Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of an automobile fueling station within 1,555 feet of a transit station (1/2-mile separation required) and a convenience store with a one and a half-foot eastern transitional yard and a service area with a zero-foot eastern transitional yard (eight-foot transitional yard required) with deficient frontage and transitional yard landscaping.

9. 2025-UV2-014 (Amended) | 15 and 19 Iowa Street

Center Township, Council District #18, zoned D-5
Shannon Moody, by David E. Dearing

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the use of two shipping containers as a detached garage (commercial vehicles not permitted).

PETITIONS FOR PUBLIC HEARING (New Petitions):

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 planneroncall@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) 327-7093, at least 48 hours prior to the meeting. - Department of Metropolitan Development - Current Planning Division.

This meeting can be viewed live at <https://www.indy.gov/activity/channel-16-live-web-stream>. The recording of this meeting will also be archived (along with recordings of other City/County entities) at <https://www.indy.gov/activity/watch-previously-recorded-programs>.

Member	Appointed By	Term
Craig Von Deylen, Chair	City-County Council	January 1, 2025 – December 21, 2025
James Duke, Vice-Chair	Mayor's Office	January 1, 2025 – December 21, 2025
Patrice Duckett-Brown, Secretary	City-County Council	January 1, 2025 – December 21, 2025
Beth Brandon	Mayor's Office	January 1, 2025 – December 21, 2025
Tom Barnes	Metropolitan Development Commission	January 1, 2025 – December 21, 2025



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BOARD OF ZONING APPEALS DIVISION II

December 9, 2025

Case Number: 2025-DV2-045

Property Address: 8083 Georgetown Road

Location: Pike Township, Council District #1

Petitioner: Raul Flores, by Donald W. Fisher

Current Zoning: D-2

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a 4,000 square-foot accessory building and 2,591 square-foot accessory building, both being larger than the primary building (not permitted) and the 4,000 square-foot building being located within the front yard of the property (not permitted).

Current Land Use: Residential

Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

A timely automatic continuance request was filed by a registered neighborhood organization, automatically continuing this petition to the January 13, 2025 hearing date. A full staff report will be made available in advance of that hearing.



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BOARD OF ZONING APPEALS DIVISION II

December 9, 2025

Case Number: 2025-UV2-017
Address: 853 North Tacoma Avenue (approximate address)
Location: Center Township, Council District #13
Zoning: D-5
Petitioner: Near East Area Renewal, by Joe Smoker
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a three-unit rowhouse (not permitted), each with a minimum main floor area of 612 square feet, a front building line of 20 feet from Tacoma Avenue, and a five-foot corner side yard setback (660 square foot main floor area required, maximum 19.9-foot building line permitted, eight-foot corner side yard setback required), with deficient parking, per site plan filed.

Current Land Use: Undeveloped Lot

Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

The petitioner is requesting that this petition be continued for cause **from the December 9, 2025, hearing, to the January 13, 2026, hearing.**



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BOARD OF ZONING APPEALS DIVISION II

December 9, 2025

Case Number: 2025-SE2-004 (Amended)

Property Address: 6358 North College Avenue (approximate address)

Location: Washington Township, Council District #2

Petitioner: Nalja Osman Inc., by Nicole Anderson

Current Zoning: D-7 (TOD)

Request: Special Exception of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a daycare center, subject to the filed plan of operation.

Request: Variance of Use to provide for a daycare center within the Floodway Fringe (not permitted).

Current Land Use: Vacant Commercial

Staff Recommendations: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a five-space parking area (minimum nine spaces required).

Staff Reviewer: Staff **recommends approval** of the Special Exception to provide for a daycare center within the D-7 district, and the Variance of Use to provide for a daycare center within the Floodway Fringe secondary district.

Staff Reviewer: Noah Stern, Senior Planner

PETITION HISTORY

- The petition was automatically continued by the petitioner from the October 14, 2025 hearing to the November 18, 2025 Division II hearing.
- The petition was continued to the December 9, 2025 hearing to provide for further review.

STAFF RECOMMENDATION

- Staff **recommends approval** of the Special Exception to provide for a daycare center within the D-7 district, and the Variance of Use to provide for a daycare center within the Floodway Fringe secondary district.

PETITION OVERVIEW

- The subject site is zoned D-7 (FF), is approximately 7,900 square feet, and is improved with a vacant commercial building. This petition would allow for the operation of a daycare center, in the D-7 district, which requires the approval of a Special Exception, and within the Floodway Fringe secondary zoning district, which requires the approval of a Variance of Use.
- With the petitioner providing a share parking agreement with the property directly to the north (6364 N College Avenue) and with the site therefore containing up to 17 parking spaces available for the daycare operation, the variance for reduced parking is no longer needed and is to be removed from the request.
- Staff finds that the site's characteristics, as well as the surrounding context, are broadly appropriate for small commercial uses such as a daycare center. With the site being located on a primary arterial, the existing building being previously used commercially, and with this portion of College Avenue containing a mix of uses including commercial, Staff does not find the proposed use to be inappropriate for the site. Likewise, Staff finds the proposed use to be an appropriate level of intensity and that the proposed use would have minimal impact on surrounding properties. Further, the site plan indicates a vehicular one-way entrance from College Avenue for pick-up/drop-off, and a one-way exit that utilizes the rear alley. Staff finds the proposed vehicular flow, along with the plan of operation indicating staggered pick-up/drop-off times, will provide adequate flow that will not result in congestion. DPW also found this proposal to be sufficient and the best option for vehicular ingress and egress. Therefore, Staff is unopposed to the Special Exception request to allow for the operation of a daycare within the D-7 district at this location.
- The Flood Division of the Department of Business and Neighborhood Services has indicated that no flood permits would be needed to operate a daycare on this site, as this location is within the Zone X (500-year floodplain) of the most updated FEMA maps, and is at reduced risk for flooding due to nearby levees. While no permits for flood-related review are required, the Variance of Use is still needed since the site is located within the Floodway Fringe secondary zoning district. Given that the Flood Division has determined that no flood permits are needed, Staff is unopposed to the Variance of Use for the operation of a daycare at this location.

GENERAL INFORMATION

Existing Zoning	D-7 (TOD)	
Existing Land Use	Vacant Commercial	
Comprehensive Plan	Village Mixed-Use	
Surrounding Context	Zoning	Surrounding Context
North:	D-7 (TOD)	North: Commercial
South:	D-7 (TOD)	South: Multi-family residential
East:	MU-1 (TOD)	East: Mixed-Use

West:	D-4 (TOD)	West: Single-family residential
Thoroughfare Plan		
North College Avenue	Primary Arterial	64 feet of right-of-way existing and 78 feet proposed
Context Area	Compact	
Floodway / Floodway Fringe	Yes, Floodway Fringe	
Overlay	Yes, Transit-Oriented Development overlay	
Wellfield Protection Area	No	
Site Plan	8/20/25	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	8/20/25	
Findings of Fact (Amended)	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Envision Broad Ripple Neighborhood Plan (2012)
- Red Line Strategic Plan (2020)

Pattern Book / Land Use Plan

- Not applicable to this site.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- The subject site is located approximately ¼ mile from the College and Broad Ripple Ave station, which is characterized as a District Center. District Centers contain a mix of commercial, mixed-use, and residential uses around the station.

Neighborhood / Area Specific Plan

- The Envision Broad Ripple Plan calls for the Village Mixed-Use typology for this site.
- This land use category consists of a development focused on a mixed-use core of small, neighborhood office/retail nodes, public and semi public uses, open space and light industrial



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development. Village mixed use areas are intended to strengthen existing, historically rural, small towns and cities within Indianapolis, which are intended to continue as neighborhood gathering places and should allow a wide range of small businesses, housing types, and public and semi-public facilities. This category should be compatible in size and scale to existing villages in Marion County. It will allow development of residential and limited commercial uses on smaller lots than in other sections of rural and suburban Indianapolis. Potential development in these areas should focus on design issues related to architecture, building size, parking, landscaping and lighting to promote a pedestrian-oriented “village” or “small town” atmosphere, rather than focusing on residential density. Strip commercial development (integrated centers setback from rights-of-way by parking areas), large-scale freestanding retail uses and heavy industrial development are generally inappropriate within this land use category. The Plan anticipates that this category will typically be designated as a critical area.

Infill Housing Guidelines

- Enter Recommendation by IHG or “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

2022CMP825; 6355 N College Ave, Rezoning of 0.44 acres from the MU-1 (TOD) (FF) District to the SU-9 (TOD) (FF) district to provide for a fire station, Variance of Use and Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a fire station in the Floodway Fringe District (not permitted), a surface parking lot with a 10-foot setback from College Avenue (25-foot setback required) and a 60-foot wide driveway (maximum 24 feet permitted), **approved**.

2018-DV2-010, 6320 North College Avenue, Variance to provide for a 57-square foot wall sign, **granted**.



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2017-UV2-005, 6320 North College Avenue, Variance to provide for a medical urgent care, dental and general medical use, with an addition to the existing building, **granted**.

2015-DV3-022, 6349 North College Avenue, Variance to provide for mixed-use development, including a maximum 35,000- square foot grocery store and 152 dwelling units, with 340 parking spaces, **granted**.

2013-VAR-001, 6349 North College Avenue, Variance to provide for outdoor seating, a building height of 75 feet to the roof deck, with a parapet extending five feet above the roof deck, and architectural corner elements and an open-air roof-top shelter extending 15 feet above the roof deck, and 340 parking spaces, **granted**.

2013-ZON-013, 6349 North College Avenue, Rezoning of from the C-2 (FF) district to the C-S (FF) classification, **approved**.

2010-UV1-025, 6338 North College Avenue, Variance to construct a two-story, 14 by 27.5-foot addition, for an existing real estate office, with a front setback of 26.5 feet from College Avenue, **granted**.

2010-UV1-020, 6346 North College Avenue, Variance to provide for retail sales, repair and instruction related to musical instruments, with a 4.5-foot tall freestanding sign, with an eight-foot front setback from the right-of-way of North College Avenue, with an eighteen-square foot wall sign on the east façade, and a twenty-square foot wall sign on the west facade, **granted**.

2006-UV1-016, 6310 North College Avenue (south of site), Variance to provide for the construction of a 50-foot tall, four-story structure with five condominium units on the upper floors and parking on the lower floor with a fourteen-foot front setback, with a one-foot north side setback, resulting in an eight-foot side yard aggregate, with a thirteen-foot rear yard setback, with a floor area ration of 1.65, and an open space ration of 0.61, and a livability space ration of 0.21, and a major livability space ration of zero, **denied**.

2004-UV2-008, 6320 North College Avenue, Variance to provide for a bank with a twelve-foot front yard setback, a two foot north and south side yard setback and a six-foot rear yard setback, and a variance of development standards of the Sign Regulations to provide for a five-foot tall, sixty square foot pylon sign within the existing right-of-way of North College Avenue, **granted**.

2003-UV3-015, 6320 North College Avenue, Variance to provide for a bank with an eight-foot front yard setback, a two foot north side yard setback, a two-foot south side yard setback, and a six-foot rear yard, and to provide for a five-foot tall, 60-square foot pylon sign extending ten feet into the existing public right-of-way of North College Avenue, **withdrawn**.

2003-UV3-033, 6320 North College Avenue, Variance to provide for a motorcycle accessories store and a variance of development standards of the Sign Regulations to provide for a 21-square foot ground sign, with a one-foot encroachment into the right-of-way of College Avenue, **granted**.

99-UV2-76, 6346 North College Avenue, Variance to provide for a business office, art studio, and art retail sales, **granted**.



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98-UV1-110, 6346 North College Avenue, Variance to provide for commercial offices and a commercial art studio in an existing multifamily residential structure, **withdrawn**.

96-UV3-117, 6328 North College Avenue, Variance to legally establish a photography studio and a four foot by six-foot wall sign, **granted**

96-UV2-007, 6320 - 6322 North College Avenue, Variance to provide for a real estate office use with a 6 by 2.75 -foot illuminated pylon sign being located 10 feet from College Avenue and being 4.75 feet in height, **granted**.

91-UV1-64, 6310 - 6312 North College Avenue, Variance to permit a beauty shop within an existing building, **granted**.

91-V3-12, 6380 North College Avenue, variance to permit a 336-square foot addition to an existing building without the required ten-foot transitional yard to the west, and without required landscaping, **granted**.

90-UV1-48, 6338 North College Avenue, Variance to permit a beauty shop within a converted residential structure, **withdrawn**.

86-UV3-14, 6302 North College Avenue, Variance to provide for the use of the existing building for a carpet cleaning business, **granted**.

86-UV2-79, 6328 North College Avenue, Variance to provide for the use of an existing building for audio equipment sales and service with a pole sign located at 8 feet from the front property line, **granted**.

85-UV1-25, 6338 North College Avenue, Variance to provide for the use of an existing structure as a doctor's office, **granted**.

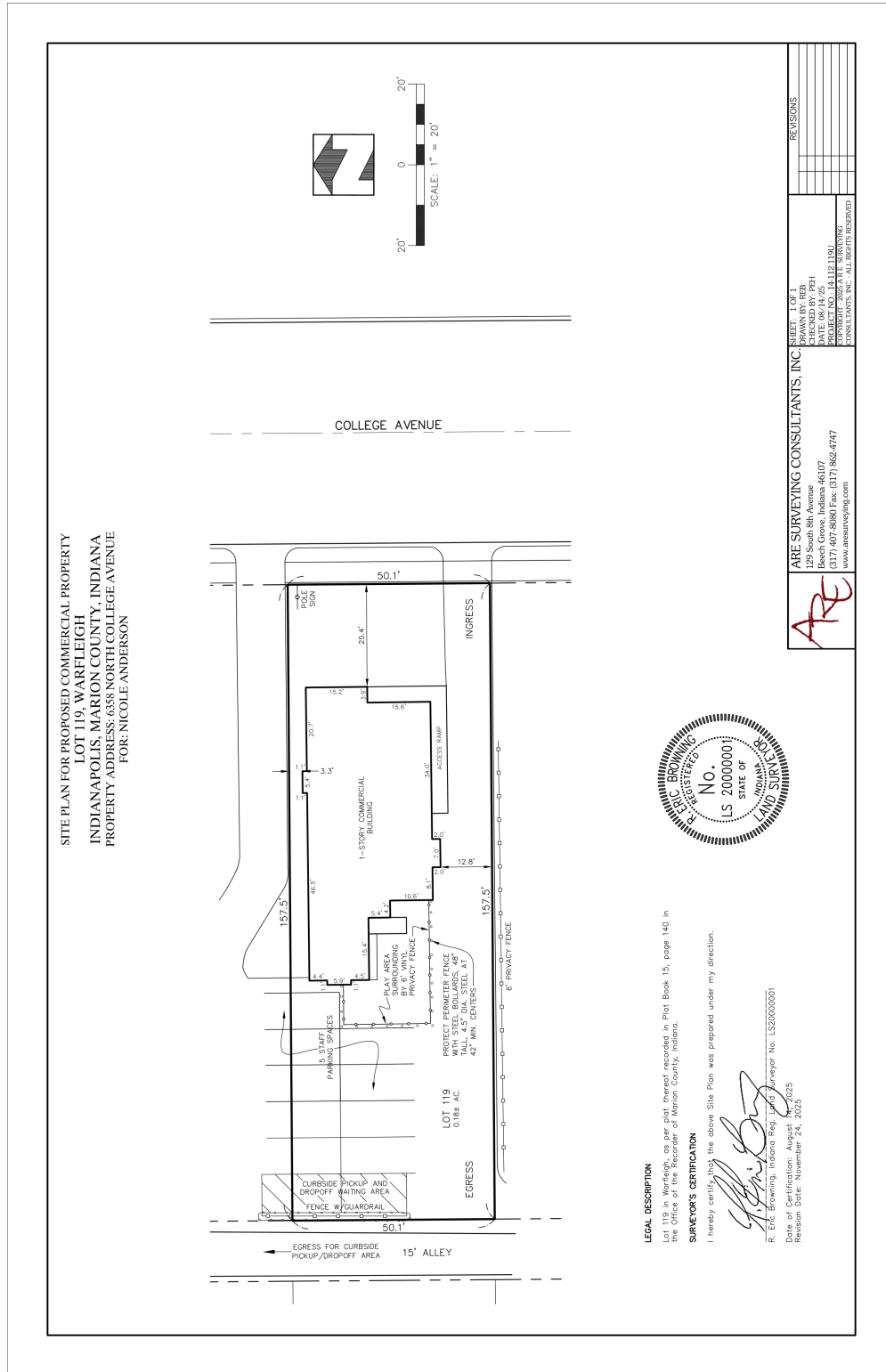
EXHIBITS



Aerial Photo



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Site plan, file-dated 11/26/25



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Plan of Operation – Smart Sprouts Learning & Language Academy

Petition for Special Exception

Address: 6358 N. College Ave, Indianapolis, IN 46220

Description of Proposed Facility

Smart Sprouts Learning & Language Academy seeks a special exception approval to operate a licensed childcare and early learning center at 6358 N. College Ave, Indianapolis, IN 46220. The proposed facility is approximately 3,610 square feet, including dedicated classrooms, indoor learning and activity areas, and a secured outdoor play space meeting Consumer Product Safety Commission (CPSC) standard. The Academy will serve children from 2 through age 5, and school aged children with before – and after-school care, with a maximum licensed capacity to be determined by the state licensing agency.

The program will provide immersive, multilingual education in English, Spanish, and Mandarin, alongside early literacy, cultural enrichment, and before- and after-school care.

Hours of Operation

The Academy will operate **Monday through Friday, 7:00 AM – 5:30 PM**. These extended hours are designed to meet the needs of working families in the community.

Number of Employees

At full operation, Smart Sprouts anticipates a staffing level of 5, including the following:

- 1 Director
- 4 Teachers (4 age-specific classrooms)

Staffing levels will comply with all Indiana licensing requirements and child-to-staff ratios, including:

- Toddlers (1:5–1:7 depending on age)
- Preschoolers (1:10–1:12)
- School Age (1:15)

Security Provisions

To ensure the safety of children, families, staff, and the community, the facility will implement the following measures:

- Controlled entry system with secure check-in/check-out for families.
- Staff-only key card access for all primary doors.
- Visitor management protocols, including ID verification and escorted access.
- Security cameras positioned at entrances, hallways, classrooms, and outdoor play areas, monitored by administrative staff.
- Full compliance with all state and local fire safety, health, and childcare regulations.
- Emergency preparedness and response training for all staff (fire, severe weather, lockdown procedures).

Operations and Services

- Full-day early childhood education and care for infants, toddlers, and preschoolers.
- Kindergarten readiness programming.
- Multilingual instruction (English, Spanish, Mandarin) integrated into all daily learning activities.
- Onsite preparation of nutritious meals and snacks in compliance with dietary and health standards.
- Technology-based parent communication system for daily updates, billing, and progress reporting.

Parking Agreement and Traffic Flow

- Smart Sprouts has a parking agreement with the property landlord, with 6 spaces dedicated to the exclusive use of Smart Sprouts, and non-exclusive rights to use the remainder of the 18 parking spaces on the subject property. Only 7 tenants occupy the building on the subject property and use the parking lot, leaving at least 5 spaces available at most times that Smart Sprouts will be operating
- Smart Sprouts will not require a parking variance because we have secured a shared parking agreement with the property owner. This agreement provides the Academy access to all 18 parking spaces within the shared lot, as well as recognition of shared use with the adjacent northern property, which satisfies the minimum parking requirement of nine (9) spaces.
- Smart Sprouts will have 5 staff members, using a total of 5 parking spaces, primarily during weekday working hours when most tenants may not be on-site.
- Parents will be guided to enter from College Avenue and exit through the alleyway, creating a one-directional traffic flow that prevents bottlenecks and ensures smooth circulation.

Pick-Up and Drop-Off Plan

- To further ensure smooth operations, Smart Sprouts will implement staggered arrival and dismissal windows in 10-minute increments (7:00–8:00 AM drop off) and (4:45–5:30 PM pick-up). All children must arrive by 8:00 AM, ensuring that instructional activities begin without interruption and minimizing traffic during mid-morning hours (no drop-offs permitted after 8:00 AM).

The system works as follows:

- Up to five families per time slot are allowed to park in the 10-minute spaces.
- Any additional families scheduled for that same window will be designated curbside families.
- This hybrid system guarantees that at no point will more cars be on-site than the lot can safely hold.



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Curbside Drop-Off/Pick-Up Zone

Along the back of the parking lot near the alleyway, the site plan designates a curbside loading area.

Rules for curbside:

- No more than three vehicles are ever permitted in the curbside queue at one time.
- If the curbside area reaches three cars, the next vehicle will be asked to:
 1. Use an available parking space, OR
 2. Loop back around using College Avenue until an opening becomes available.

This prevents cars from

- Blocking the ingress
- Stopping on College Avenue
- Extending into the alley

Staff will be outside during all arrival and dismissal windows to manage smooth flow.

Outdoor Play Area Safety – Fence + Bollards

- The site plan identifies a fully protected play area on the southwest side of the building, enclosed by a:
- 6-foot vinyl privacy fence, and
- Steel bollards spaced at 4 feet for vehicular impact protection
- This two-layer barrier ensures the children's play zone is isolated from all parking activities and fully shielded from vehicle movement.

Community Impact

Smart Sprouts will expand access to high-quality, multilingual childcare in Marion County. The Academy will:

- Create local jobs.
- Provide affordable tuition options, accepting CCDF vouchers and offering supplemental scholarships.
- Support families by offering extended weekday hours to align with work schedules.



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dotloop signature verification: dotloop.us/a3yw-vs2U-3rqf

AMENDMENT TO LEASE

THIS AMENDMENT TO LEASE (the “Amendment”) is made, to be effective as of the 24th day of November, 2025 (“Effective Date”), between Najla Osman Inc. (“Landlord”), and Smart Sprouts Learning and Language Academy LLC (“Tenant”).

WITNESSES THAT:

WHEREAS, Landlord and Tenant entered into that certain lease agreement on August 4, 2025, (the “Lease”) for the real property located at 6358 N. College Ave., Indianapolis, IN 46220 (the “Property”); and

WHEREAS, Landlord and Tenant have agreed to amend the terms of the Lease, upon the terms and conditions more particularly set forth herein.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements set forth herein and in the Lease, the sufficiency of which is hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. **Incorporation of Recitals and Defined Terms.** The foregoing recitals are hereby incorporated into this Amendment and made a part hereof as though set forth herein verbatim. Any term used herein which is not specifically defined herein shall have the meaning ascribed thereto in the Lease.
2. **Tenant’s Customer Parking.** For the duration of this Lease, Tenant’s customers will be allowed to make use of any available parking spot in the parking lot adjacent to the building located on the Property and the adjacent property to the north, solely for pick-up and drop-off of the customers’ children. As of the date of this Amendment, the parking lot contains eighteen (18) parking spots, twelve (12) of which are located on 6358 N. College Ave. and six (6) of which are located on 6364 N. College Ave (collectively, the “Parking Lot”). Pick-up and drop-off hours shall be Monday through Friday, from 7:00am through 8:00am in the morning, and from 4:45pm through 5:30pm in the afternoon/evening. Tenant’s customers are allowed ten (10) minutes within which to complete pick-up or drop-off of their children, after which time the customer must vacate the Parking Lot. Any of Tenant’s customers who remain parked in the Parking Lot longer than the allowed ten (10) minutes may be subject to towing at the customer’s expense, and without notice from the Landlord. Tenant shall notify all of its customers regarding this parking policy, in writing. Should any signage be necessary to effectuate said notice or be required by law, Tenant shall be responsible for all costs associated with installing said signage. Landlord is not liable for any damages that result from towing customer vehicles, and the liability and indemnification paragraphs contained in the Lease remain in full force and effect as to the revised parking policy contained herein. Landlord reserves the right to modify the provisions of this Amendment unilaterally, as needed, with thirty (30) days’ written notice to Tenant.
3. **Ratification of Amended Lease.** Except as otherwise modified or amended by this Amendment, all other terms and conditions of the Lease shall remain unmodified, unamended, and in full force and effect and, except as otherwise modified or amended by this Amendment, the Lease shall continue to be and remain in full force and effect in accordance with its terms,



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covenants, conditions and provisions. In the Lease, or any instrument, document or other consideration executed or delivered in connection therewith, any reference to the "Lease," shall be deemed and construed to be a reference to the Lease as amended hereby. The previous amendment to the Lease regarding parking and executed on or about November 11, 2025, is hereby replaced with this Amendment.

4. **Execution Authority.** The individual signing this Amendment on behalf of Tenant represents and warrants that such individual has the full power and authority to execute this Amendment and that upon such execution, Tenant shall be fully bound by each and every provision of the Lease, as amended by this Amendment.
5. **Counterparts; Facsimile.** This Amendment may be executed in any number of identical counterparts, all of which, when taken together, shall constitute the same instrument. An executed facsimile copy of this Amendment shall be deemed an original for all relevant purposes.

[SIGNATURES APPEAR ON FOLLOWING PAGE]




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IN WITNESS WHEREOF, Landlord and Tenant have executed this Amendment as of the date set forth above.

"LANDLORD"

By:  dotloop verified
11/24/25 11:45 AM EST
EUYB-D5H-HM8C-TFZY
Garrett Lawton, as agent of Najla Osman Inc.

Date: 11/24/2025

"TENANT"

By:  dotloop verified
11/24/25 11:48 AM EST
7PHX-XDPK-KPXS-XCLB
Nicole Anderson, as owner of Smart Sprouts
Learning and Language Academy, LLC

Date: 11/24/2025



Subject site looking northwest



Subject site looking southwest



Looking northwest at the rear of the property



Looking east towards College Ave



Looking towards rear of site



Looking north at rear of building



Looking west with adjacent apartments on the left



Looking south down College Ave



Looking north up College Ave



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BOARD OF ZONING APPEALS DIVISION II

December 9, 2025

Case Number: 2025-SE2-005

Property Address: 5167 North College Avenue (approximate address)

Location: Washington Township, Council District #7

Petitioner: 52 College LLC, by Samuel Lewis

Current Zoning: C-3 (TOD) (W-5)
Special Exception of the Consolidated Zoning and Subdivision Ordinance to provide for a tattoo parlor (Special Exception required).

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a tattoo parlor within 40 feet of a protected district (500 feet required).

Current Land Use: Commercial

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

Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

11/18: A timely automatic continuance request was filed by a registered neighborhood organization.

STAFF RECOMMENDATION

Staff recommends **approval** of this petition.

PETITION OVERVIEW

- 5167 North College Avenue is a commercial parcel located at the southeastern corner of the intersection of College and 52nd Street. It is improved with a multitenant commercial building and is bordered by residential uses to the south and other neighborhood commercial uses clustered around the intersection. Additional tenants within the subject building include a fitness studio and a metaphysical supply store, and the previous use at the subject site was the office of a professional cleaning service which appears to have closed around 2019.
- The enforcement case VIO24-004302 was opened in 2024 at the property, and cited the use of a tattoo parlor as well as the placement of an unpermitted wall sign and an unenclosed dumpster. Violations related to the sign and dumpster have been addressed, and approval of this petition would allow for legal operation of a tattoo parlor both within the C-3 zoning district (requires a Special Exception petition) and within 500 feet of a Protected District (requires a Use Variance).



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- The Plan of Operation provided by the applicant indicates that the business would employ nine (9) employees in total, who would utilize on-site parking when taking appointments (the parcel has adequate on-site parking for the proposed use and square footage). The business would operate Tuesday through Saturday from 11 am to 9 pm and on Sunday from 12 pm to 6 pm. Additional information about waste and disposal of hazardous materials is within the Exhibits, and the business would be required to comply with all applicable State and local laws for licensure.
- The property is currently zoned C-3 to provide for an extensive range of retail sales and personal and professional services required to meet the demands of a fully developed neighborhood. It is also within both the Transit-Oriented Development Secondary Zoning District (designed for coordination of compact and walkable development patterns near existing or proposed IndyGo Bus Rapid Transit) and a Wellhead Protection Area (designed to protect groundwater quality).
- Additionally, the Meridian-Kessler Neighborhood Plan recommends it to the Urban Mixed-Use typology to allow for dense, pedestrian-oriented, mixed-use (primarily commercial) development and places it within Critical Area 104 to allow for a variety of neighborhood-serving commercial uses near residences and with an emphasis on preservation of historic buildings and character. The Red Line TOD Strategic Plan recommends it to the Walkable Neighborhood typology which encourages a mix of uses near BRT stations with residential uses beyond.
- Since at least the late 1990s, the City has had spacing requirements for certain uses, namely as a tool to separate them from residences, schools and parks. Although licensing requirements for tattoo parlors to not allow service to patrons under 18 years of age, tattoo parlors are not considered an adult use. Although the requested deviation from the Ordinance standards in this case is extreme, staff would note that the Ordinance separation requirements for tattoo parlors are quite restrictive when compared with separation requirements for other uses that only serve adults: nightclubs, liquor stores and bars/taverns would only require a separation of 100 feet.
- Additionally, the scope of the business presented within the Plan of Operation does not indicate a level of service that would cause major disruption to surrounding properties. Relevant requirements from both state law (410 IAC 1-5, Sanitary Operation of Tattoo Parlors) and the local health department (19-701 to 19-712 of the Marion County Health and Hospital Code) would require licensure and minimum standards of cleanliness which would also limit negative externalities for residents living near the proposed use.
- Finally, staff feels that the proposed use would not conflict with the Urban Mixed Use recommendation from the Comprehensive Plan since it would allow for multiple neighborhood-serving businesses within the same horizontal space at a walkable level and would not be out of place within the existing context of the corner commercial node where a mix of neighborhood commercial and residential uses are encouraged. Staff would recommend approval of the Development Standards Variance and Special Exception requests.



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GENERAL INFORMATION

Existing Zoning	C-3 (TOD) (W-5)	
Existing Land Use	Commercial	
Comprehensive Plan	Urban Mixed Use	
Surrounding Context	<u>Zoning</u>	Surrounding Context
North:	C-3	North: Commercial
South:	D-5	South: Residential
East:	C-3	East: Commercial
West:	C-3	West: Commercial
Thoroughfare Plan		
College Avenue	Primary Arterial	80-foot existing right-of-way and 78-foot proposed right-of-way
52 nd Street	Primary Collector	50-foot existing right-of-way and 56-foot proposed right-of-way
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	Yes	
Wellfield Protection Area	Yes	
Site Plan	10/16/2025	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	09/26/2024	
Findings of Fact (Amended)	11/03/2025	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Red Line Transit-Oriented Development Strategic Plan
- Meridian Kessler Neighborhood Plan (2016)

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



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- The Walkable Neighborhood typology is designed for walkable areas that primarily residential but may have a commercial node of one to two city blocks with mixed-use encouraged near stations.

Neighborhood / Area Specific Plan

- The Urban Mixed-Use typology is intended to provide for dense, pedestrian-oriented, mixed-use (primarily commercial) development within either the historic central city and first-generation suburban areas of Indianapolis or in areas around transit hubs intended to replicate that older style of development. Development patterns can vary but typically include multi-story buildings located at or near right-of-way lines, side- or rear-loaded parking, and retail/service uses on the first floors.
- The MKNA Plan also places the site within Critical Area 104 (College/52nd) to allow a variety of commercial uses that primarily serve the surrounding neighborhood with an emphasis on integrating commercial and residential uses and preserving the historic building and character of the intersection.

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.



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ZONING HISTORY

ZONING HISTORY – SITE

N/A

ZONING HISTORY – VICINITY

2020DV1056 ; 5162 N College Avenue (west of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for 47-foot tall wood and metal poles for small cell wireless communications facilities, with associated equipment and antennas within the right-of-way (underground utilities only permitted after January 1, 1973), **denied**.

2015DV3024 ; 5212 N College Avenue (northwest of site), Variance of development standards of the Commercial Zoning Ordinance to provide for a second level, 646-square foot outdoor seating and dining area (not permitted), **approved**.

2011DV1026 ; 5170 N College Avenue (west of site), Variance of development standards of the Commercial Zoning Ordinance to provide for the construction of a 28-seat, 288.02-square foot outdoor seating area (not permitted), with a zero-foot front setback (minimum ten-foot front setback required) located 7.17 feet within the right-of-way of East 52nd Street (not permitted), with zero off-street parking spaces (off-street parking spaces required) and to legally establish a dumpster enclosure and provide for outdoor seating within the ten-foot west transitional yard (not permitted) within the clear-sight triangle (not permitted), **approved**.

2010CZN802 ; 5212 N College Avenue (north of site), Rezoning of 0.13 acre, from the D-5 (W-5) District, to the C-3 (W-5) classification to legally establish an accessory parking lot, **withdrawn**.

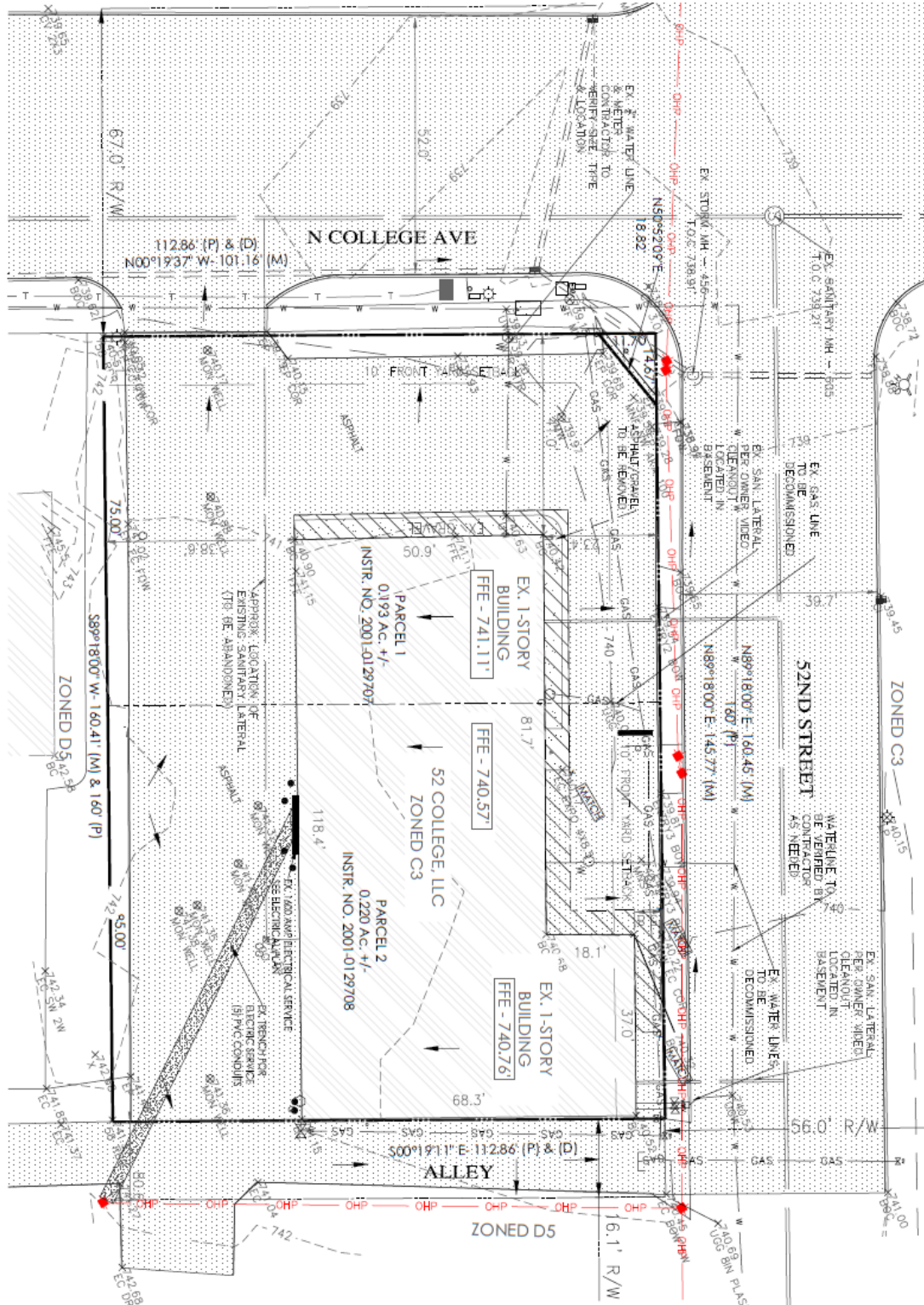
2010DV3030 ; 5215 N College Avenue (north of site), Variance of development standards of the Commercial Zoning Ordinance to provide for a restaurant (a) with 21 parking spaces (56 parking spaces required); (b) with a 3.5-foot south side and rear transitional setback (20-foot side and rear transitional setback required); (c) with a zero-foot north side transitional yard (20-foot side transitional yard required); (d) with a zero-foot front yard, without landscaping, being approximately 40 feet from the centerline (70-foot setback from the centerline required); and (e) with an outdoor seating area, with 32 seats (not permitted), **approved**.

EXHIBITS

2025SE2005 ; Aerial Map



2025SE2005 ; Site Plan





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2025SE2005 ; Plan of Operation

Workforce

-There will be about 9 employees on site daily. Employees are responsible for transportation to and from work. There is a parking lot available for use onsite. There are security cameras inside and outside 24/7.

Clients & Customers

- Clients are as young as 5 up to 85. Clients from ages 5 to 17 need a parent to accompany them where they need a school or state ID for the child, a birth certificate and the parent needs an ID. Clients aged 18 and up need a ID or State to fill out the consent for desired service. Sunday 12-6, closed Mondays, Tuesday thru Saturday 11-9. Our service is piercing and tattooing

Materials Used.

Materials used: cleaning supplies and disinfectant these materials will be used for sanitizing and disinfecting bathrooms, floors, tables and common areas. These cleaning products will be stored in a closed-door storage cabinet.

Drawing tables, chairs, couches, tv stand, coffee table, jewelry cabinet, front desk, tattoo chairs, 6 drawer cabinet, gloves, needles, tattoo ointment, plastic wrap, distilled water, disposable razors, non-scented antibacterial soap, ring lights, tattoo chairs, arm rests, stools, tables, ink, ink caps, paper towels, tattoo machine, cavalcade, body jewelry

Hazardous Materials

Every employee has a sharps container for used needles and there is a hazard box located near the side exit for disposal. There is a contract with Med Monkey that picks up our sharps containers twice a year.

No Shipping

Supplies deliveries

Cleaning Supplies are brought to the company in owners' vehicle. All employees are responsible for supplying supplies minus paper towels. Materials should be brought before or during business hours. Stocking of materials happen every other week.

Waste

Type of waste: food trash, paper, plastic wrap- trash generated by employees and clients. With the restroom there are 8 trash barrels with lids and bags on site. Trash is removed from barrels every day.



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2025SE2005 : Findings of Fact (Special Exception)

1. The proposed use meets the definition of that use in Chapter 740, Article II because

The proposed special exception for Big Lew's Tattoos will not be detrimental to the community's public health, safety, morals, or general welfare. The business will adhere to all local health regulations and safety standards, including proper sterilization procedures and the use of professional equipment. Additionally, the presence of a reputable tattoo establishment can contribute positively to the community by providing a safe and regulated environment for body art.

2. The proposed use will not injure or adversely affect the adjacent area or property values in that area because

The special exception will not diminish the value, use, or enjoyment of nearby properties. The site is located within a mixed-use area where similar businesses operate without negatively impacting adjacent properties. The establishment of a tattoo parlor will enhance the diversity of services available in the area, potentially attracting more visitors and customers, which may benefit local businesses.

3. The grant will not materially and substantially interfere with the lawful use and enjoyment of adjoining property because

The special exception will not impede the development of surrounding properties. The area is already characterized by various commercial enterprises, and the introduction of Big Lew's Tattoos aligns with the existing commercial landscape. The business will complement other local establishment and contribute to the vibrancy of the neighborhood.

4. The proposed use will be compatible with the character of the district, land use authorized therein and the Comprehensive Plan for Marion County because

Adequate utilities, access roads, and drainage are available for the proposed business. The site is serviced by existing infrastructure, including electricity, water, sewage, and internet services. Access to the location is convenient, with sufficient parking available for customers, thus supporting the operational needs of the business.

5. The proposed use conforms to the development standards in Chapter 744 applicable to the zoning district in which it is located because

Measures are in place to minimize traffic congestion. The location has ample parking and is situated on a major thoroughfare that can accommodate traffic flow without causing significant delays. Business hours will be designed to avoid peak traffic times, further mitigating potential congestion.

6. The proposed use conforms to all provisions of the Zoning Ordinance, including the performance standards in Chapter 740 and the development standards in Chapter 744 applicable to the zoning district in which it is located because

The construction and development of Big Lew's Tattoos conform to the zoning district's standards. The site is located in a zoning district that permits commercial use, and the proposed business complies with all applicable zoning regulations and requirements.

7. The proposed use conforms to all of the use-specific standards in Chapter 743 for that use, including any Special Exception standards for that use because

The special exception is in the proper zone district. The property is designated for commercial use, which includes service-oriented businesses like tattoo parlors. This aligns with the city's zoning regulations and development goals for the area. The special exception will serve a public need by providing high-quality tattoo services in a professional environment. There is a growing demand for body art services in the community, and Big Lew's Tattoos aims to fill this need while promoting safe practices and responsible artistry.



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2025SE2005 ; Findings of Fact (Variance of Use)

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

Big Lew's Tattoos will adhere to all applicable health department regulations and industry safety standards, including single use needles, hospital grade sterilization, surface sanitation, and proper sharps disposal. Procedures are conducted by trained professionals using professional equipment. Providing a regulated, reputable studio improves community welfare by ensuring body art services occur in a safe, code compliant setting rather than in unregulated environments.

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 site is within an established mixed use/commercial corridor with similar personal service tenants. Tattoo studios are quiet, appointment based uses that generate modest, steady patronage without unusual noise, odor, or outdoor activity. By diversifying services and attracting foot traffic that also patronizes nearby shops and restaurants, the use supports rather than diminishes the value and enjoyment of adjacent properties.

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

The existing building and floor plan were built out for small format personal service tenants, including private rooms, hand wash sinks, and code compliant sanitation areas, making the space uniquely suited to a professional tattoo studio. The property fronts a major thoroughfare with on site/adjacent parking and transit access, features that align with an appointment based studio. These physical characteristics of the premises—not general neighborhood conditions—create the need to recognize this compatible personal service use at this location.

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

Without a variance, the property could not reasonably accommodate this lawful, low impact personal service use despite the building's long standing commercial configuration and the corridor's established pattern of comparable services. Strict application would either force vacancy or require extensive, impractical alterations to convert the space to a less suitable use, imposing a hardship tied to the property's existing layout and improvements rather than to the owner's actions.

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

The proposal advances Comprehensive Plan objectives to strengthen neighborhood serving commercial nodes along mixed use corridors, encourage adaptive reuse of existing storefronts, and support small businesses that provide services locally. As a regulated, appointment based personal service use in an existing commercial building, the studio is compatible with the character, intensity, and pedestrian oriented goals envisioned for this corridor.

2025SE2005 ; Notice of Violation (VIO24-004302)

Section 740 -1005.A.1. Civil Zoning Violation

Specific Violation: The location, erection, or maintenance of any sign not specifically permitted by the Zoning Ordinance; (744-903.B. - Failure to obtain a sign permit for the display of a wall sign..."Big Lew's Tattoos").

Section 740 -1005.A.8. Civil Zoning Violation

Specific Violation: Failure to comply with use-specific standards and zoning district development standards for the C-3 district; (744-508.B.1.a. - Failure to enclose dumpster with a solid wall at least the height of the service area on 3 sides with the 4th side having a solid gate).

Section 740 -1005.A.8. Civil Zoning Violation

Specific Violation: Failure to comply with use-specific standards and zoning district development standards for the C-3 district; (743-305.L.L.2. - A tattoo parlor located in a C-3 shall not be located within 500 feet of a dwelling district).

Section 740 -1005.A.9. Civil Zoning Violation

Specific Violation: The failure to comply with the terms, provisions, conditions or commitments of a variance grant, special exception, ordinance, or other approval grant; (Tattoo parlor is not a permitted use in a C-3 zoning District without the grant of a Special Exception...contact Current Planning, 18th Floor of the City/County Building, 200 E Washington St...317-327-5155).

2025SE2005 ; Photographs



Photo 1: Subject Site Viewed from Northwest



Photo 2: Subject Site Viewed from West

2025SE2005 ; Photographs (continued)



Photo 3: Subject Site Viewed from Southwest



Photo 4: 52nd Frontage and Adjacent Property to East

2025SE2005 ; Photographs (continued)



Photo 5: Adjacent Property to North



Photo 6: Adjacent Property to Northwest

2025SE2005 ; Photographs (continued)



Photo 7: Adjacent Property to West



Photo 8: Adjacent Property to South



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BOARD OF ZONING APPEALS DIVISION I

December 9, 2025

Case Number: 2025-UV1-022
Address: 4502 East Michigan Street (approximate address)
Location: Center Township, Council District #13
Zoning: D-5
Petitioner: Jose Luis Tapia Camacho, by Justin Kingen
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of an Automobile, Motorcycle and Light Vehicle Service or Repair facility and all C-3 uses (not permitted) and a parking area greater than 30-foot wide within the front yards of Linwood Avenue and Michigan Street (not permitted).

Current Land Use: Vacant Commercial Building

Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

This petition was continued for cause by the petitioner from the December 2, 2025, hearing, and transferred to the December 9, 2025, hearing of Board II.

The petitioner is requesting this petition be **continued to the January 13, 2026, hearing**, from the December 9, 2025, hearing.



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BOARD OF ZONING APPEALS DIVISION II

November 18, 2025

Case Number: 2025-DV2-041
Address: 1867 Singleton Street (approximate address)
Location: Center Township, Council District #18
Zoning: D-5 (TOD)
Petitioner: AJAMAGIR LLC, by Elliott Gibson
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for enclosure of an existing front porch, resulting in the lack of a primary entry feature along the front façade (required).

Current Land Use: Single-family dwelling

Staff Recommendation: Staff recommends denial of this petition.

Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

This petition was continued for cause at the request of the petitioner, from the November 18, 2025, hearing, to the December 9, 2025, hearing.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

- ◇ The site contains a single-family dwelling that was remodeled in 2025. The remodel work included the enclosure of the front porch and moving the primary entry feature to the side elevation before applying for permits on August 8, 2025. Had permits been applied for first prior to any remodel work, then a variance would have been required at that time before any remodel work could have started.
- ◇ Under Table 744-701-2, the subject site would fall under the Terrace Frontage category for Private Frontage Design Standards. The subject site is in a neighborhood where the context of the block establishes smaller frontages as the predominant pattern (typically 50% or more on the block face or at transitions to adjacent blocks and frontages). Table 744-701-2 describes Front Loaded Garage Placement and Limitations, where it stipulates front entry and entry features for all buildings shall have a primary entrance on the front facade. A single-story entry feature may project up to 10' in front of the front building line, but never more than 5' from the front lot line, provided it meets the scale and design standards in Section 744-701.D
- ◇ The proposed primary entry has been relocated to the side façade, resulting in the need of a variance.



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- ◇ The findings submitted by the applicant for this petition indicate the current entry configuration limits functional access and does not provide a suitable orientation for the primary façade.
- ◇ Staff disagrees, as the original primary entry façade had existed for approximately 109 years since the house was built in 1916 according to Assessor's records and did not limit functional access or need to be relocated during that time.
- ◇ Staff concludes the desire not to use the previously existing primary entry on the front façade, is a self-imposed practical difficulty. Given the subject site originally had a front door elevation, which was relocated to the side façade at the request of the petitioner in order to expand interior living space onto the front porch, Staff feels that there is no practical difficulty in meeting the Ordinance, as the subject site was previously compliant prior to the relocation, and that compliance can be restored.
- ◇ Staff does believe this would be a significant deviation from the Ordinance and the Infill Housing Guidelines. As a result, it would negatively impact the character of development within the surrounding area, and would therefore, not be supportable.

GENERAL INFORMATION

Existing Zoning	D-5		
Existing Land Use	Single Family Dwelling		
Comprehensive Plan	Traditional Neighborhood		
Surrounding Context		<u>Zoning</u>	Surrounding Context
	North:	D-5	Single-family dwelling
	South:	I-4	Single-family dwellings
	East:	D-5	Single-family dwelling
	West:	D-5	Neighborhood Park
Thoroughfare Plan			
	Singleton Street	Local Street	50-foot existing and proposed right-of-way.
Context Area	Compact area		
Floodway / Floodway Fringe	No		
Overlay	Red Line Transit Oriented Development		
Wellfield Protection Area	No		
Site Plan	September 30, 2025		
Elevations	N/A		
Landscape Plan	N/A		
Findings of Fact	September 30, 2025		

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book (2019)
- Infill Housing Guidelines (2021)

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book (2019) recommends traditional neighborhood development of the site.
- The Traditional Neighborhood typology includes a full spectrum of housing types, ranging from single family homes to large-scale multifamily housing. The development pattern of this typology should be compact and well-connected, with access to individual parcels by an alley when practical. Building form should promote the social connectivity of the neighborhood, with clearly defined public, semi-public, and private spaces. Infill development should continue the existing visual pattern, rhythm, or orientation of surrounding buildings when possible. A wide range of neighborhood-serving businesses, institutions, and amenities should be present. Ideally, most daily needs are within walking distance. This typology usually has a residential density of 5 to 15 dwelling units per acre, but a higher density is recommended if the development is within a quarter mile of a frequent transit line, greenway, or park.
- **Conditions for All Housing**
 - A mix of housing types is encouraged.
 - Should be within a one-mile distance (using streets, sidewalks, and/or off-street paths) of a school, playground, library, public greenway, or similar publicly accessible recreational or cultural amenity that is available at no cost to the user.
 - Primary structures should be no more than one and a half times the height of other adjacent primary structures.
 - Should be oriented towards the street with a pedestrian connection from the front door(s) to the sidewalk. Driveways/parking areas do not qualify as a pedestrian connection.
 - Developments with densities higher than 15 dwelling units per acre should have design character compatible with adjacent properties. Density intensification should be incremental with higher density housing types located closer to frequent transit lines, greenways, or parks.
- **Detached Housing**
 - The house should extend beyond the front of the garage. Garages should be loaded from an alley or side street when possible and should be detached if located on the side of the house.
 - Secondary units are encouraged.
 - Lots should be no larger than one and a half times the adjacent lots.



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- **Attached Housing**

- Duplexes should be located on corner lots, with entrances located on different sides of the lot.
- It is preferred that townhomes should be organized around intersections of neighborhood collector streets, greenways, parks or public squares, or neighborhood- serving retail.
- If the above conditions are not met, individual buildings of attached housing (not part of a complex) may be interspersed with single-family homes but should not make up more than 25% of the primary residential structures on a block.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- The subject site is within the Red Line Transit Oriented Development Secondary District.
- The Transit Oriented Development Secondary District is established on all lots, wholly or partially, within 1,000' from centerline of a Bus Rapid Transit (BRT) Line. The intent of the Transit Oriented Development (TOD) Secondary District is to coordinate more compact, walkable, and urban development patterns with public investment in the transit system. These development patterns ensure that walking and biking are viable options for short trips and transit is a priority for longer trips. Development patterns and site designs that prioritize automobile travel undermine these public and private investments. This district follows the policies and principles of the comprehensive plan, the transit-oriented development strategic plans, and the Livability Principles in this code, and has the following specific design objectives:
 - Place a wide range of housing types within walking distance of commercial centers and transit stops or stations, and at a critical mass that supports these places.
 - Create connections through many different modes of transportation between neighborhoods and places for commercial services and employment.
 - Provide a concentration of many different and small-scale uses with a fine-grained pattern that integrates and transitions well with the neighborhoods they support.
 - Ensure human-scale design that prioritizes relationships of sites and buildings to the streetscapes.

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

- **BUILDING ELEVATIONS AND ARCHITECTURAL ELEMENTS**
 - **1. Utilize Foundation Styles and Heights that are Consistent with Nearby Houses:** The height of the foundation affects where doors, porches, and windows are located. Unless there are special circumstances that require additional height, such as the location is in or near a floodplain, the foundation height for new construction should be consistent with nearby buildings.
 - **2. Be Consistent with Surrounding Entry Locations:** Main entries should be visible from the street. Entries should not be hidden, obscured, or missing from the main street elevation (front). The entry should reflect a similar characteristic to those that surround it, such as formal or casual, recessed, or flush, narrow, or wide.
 - **3. Where Appropriate, Include Porches or Stoops:** Use context to determine if front porches are consistent elements used in the neighborhood. If so, add porches or stoops to new construction.
 - **4. Coordinate the Location and Door Style of Balconies with the Surrounding Neighborhood:** Balconies are common architectural elements in some neighborhoods, but uncommon in others. Balconies along the street should be used when appropriate. When a balcony is used, consider the appropriate door access for the type of balcony. For example, Juliet balconies, which are intended to bring the outside in, make the most sense when French doors are used.
 - **5. Consider Nearby Roof Styles:** The basic outline of a new building should reflect building outlines typical of the area. Roof selection and overall height contribute to the building outline. Select roof shapes that are frequently used in the neighborhood.
 - **6. Fenestration Should Relate to the Surrounding Context:** Windows and doors should be arranged on buildings so as not to conflict with the basic fenestration patterns in the neighborhood. The proportion of glass (windows) to solid materials (wood, bricks, and other materials) which is found within the surrounding context should be reflected in new construction. Every elevation (sides and rear) should have windows on each story to help break up the monotony of the façade.
 - **7. Materials Used Should Reflect the Context of the Neighborhood:** Introducing new materials that are not used in the existing context should be done in a way where those materials are not the dominant material and make up less than 30% of the overall façade design.
 - **8. Consider Unique Neighborhood Features:** In addition to the architectural features mentioned above, consider other common features like chimneys, dormers, gables, and overhanging eaves that shape the character of a neighborhood. When possible, include these features into new construction.



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Current Planning

Indy Moves

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

- Not Applicable to the Site.

ZONING HISTORY

2021-DV1-005; 1844 and 1848 Singleton Street (north of site), Variance of Development Standards to provide for a detached garage without access from an improved alley, **granted**.

2021-DV2-001; 1823 Singleton Street (north of site), Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a single-family dwelling and detached garage with a 10-foot front setback and six feet between dwellings, **approved**.

2019-ZON-024; 430 Beecher Street (west of site), Rezoning of 0.456 acre from the I-4 district to the D-8 classification, **approved**.

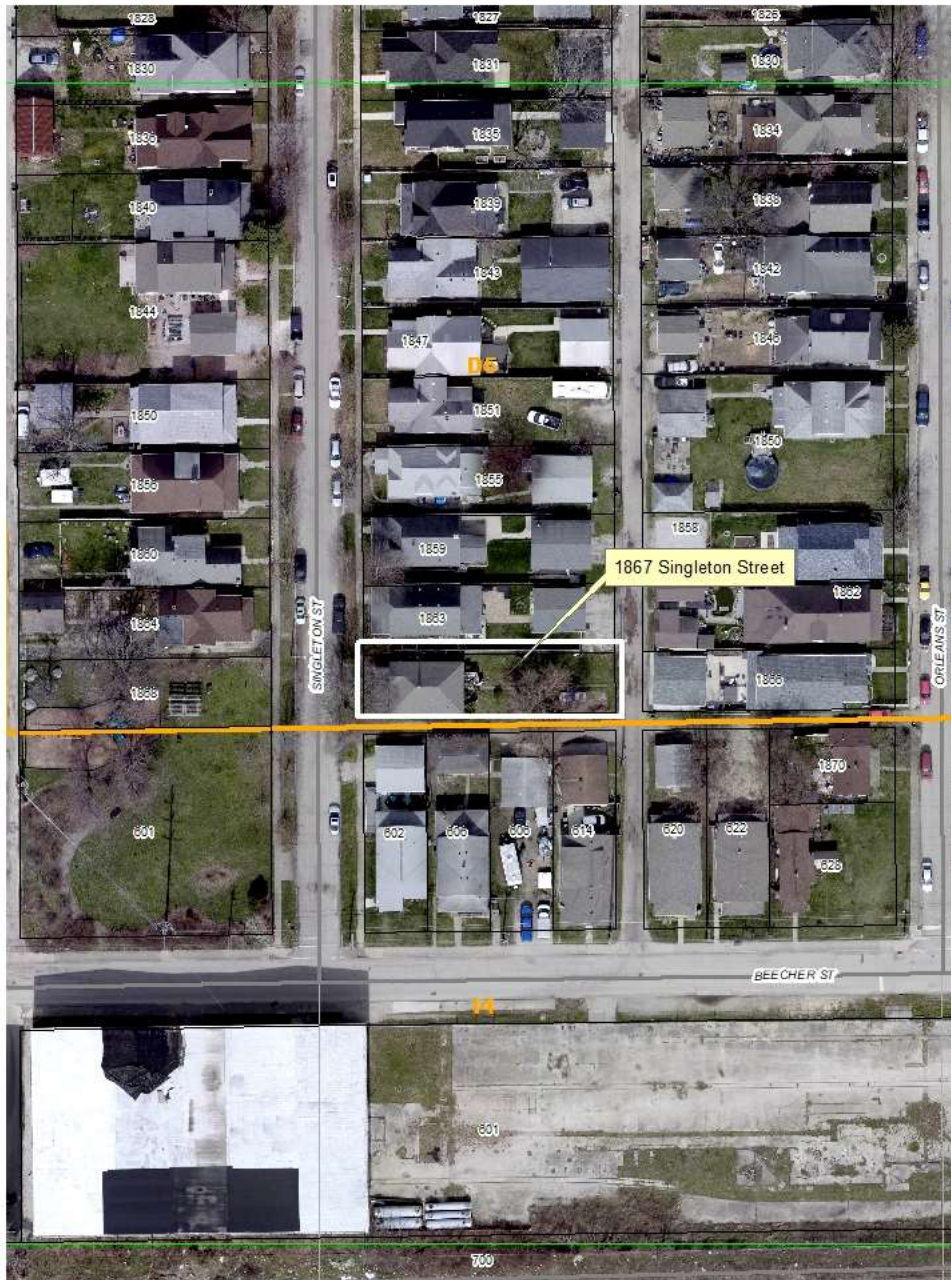
2017-ZON-016; 1401, 1425, 1441, 1460, 1462, 1464, 1502, 1816 and 1827 South East Street; 828 Beecher Street; 306 310, 318, 322, 329, 353, and 401 Lincoln Street; 510 East Morris Street; 1538, 1542, 1551 and 1555 South New Jersey Street; 438 Orange Street; 445 and 446 Parkway Avenue (northwest of site), Rezoning of 1.95 acres, from the C-1, C-3, C-5 and I-4 districts, to the D-5 classification, **approved**.

2015-DV1-028; 1862 Orleans Street (east of site), Variance of Development Standards of the Dwelling Districts Zoning Ordinance to legally establish multiple accessory structures, with zero-foot side, aggregate side, and rear yards, and to provide for an open space of approximately 39%, **granted**.

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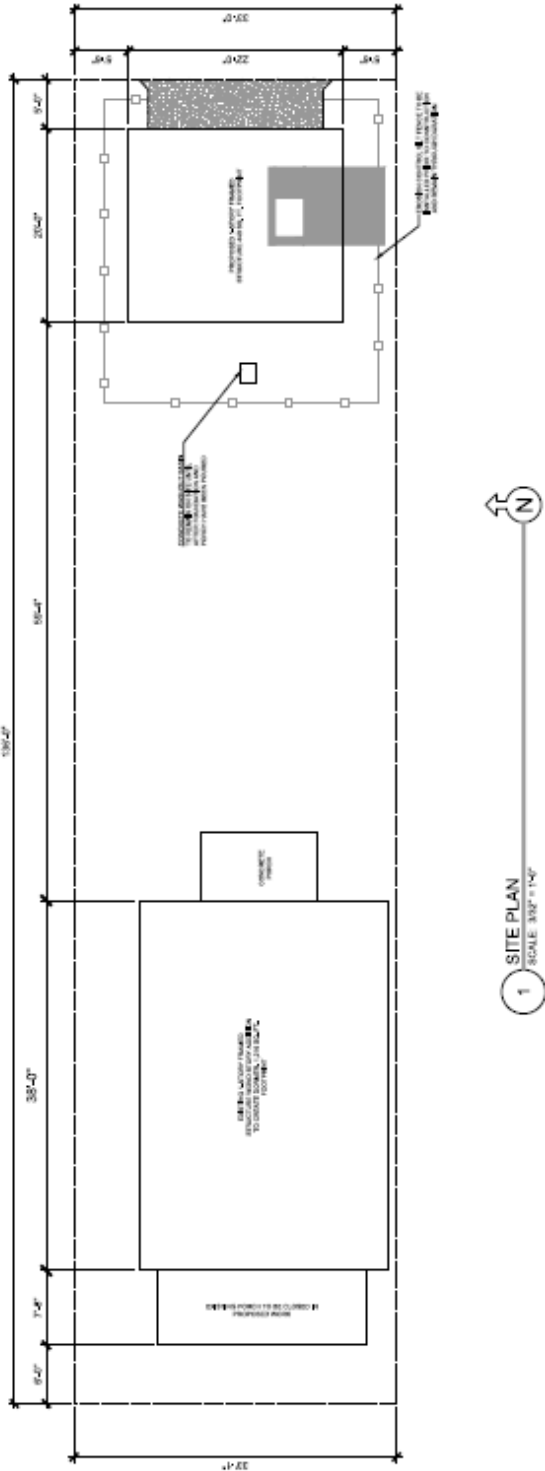
EXHIBITS

Location Map





Site Plan





Department of Metropolitan Development
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Current Planning

Findings of Fact

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:

Relocating the front door to the front-facing side of the house will not change the residential use of the property, will not create safety hazards, and will provide improved entry orientation and accessibility without altering traffic flow or emergency access. residential character and is not anticipated to diminish nearby property values.

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 modification is limited to the placement of an entry door and does not expand the building he primary façade. Allowing relocation of the door to the front side will enhance safe access, usability

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

The current entry configuration limits functional access and does not provide a suitable orientation for the primary façade. Allowing relocation of the door to the front side will enhance safe access, usability, and curb appeal, which cannot be reasonably achieved under the strict ordinance.

Photographs



Photo of subject site front facade, looking east.



Photo of relocated primary entry feature to subject site north side façade, looking southeast.



Adjacent single family dwelling with primary entry feature on the front façade, located to the north of subject site, looking east.



Adjacent single family dwelling with primary entry feature on the front façade, located to the west of subject site.



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BOARD OF ZONING APPEALS DIVISION II

December 9, 2025

Case Number: 2025-DV2-043 (Amended)

Property Address: 4360 Kessler Boulevard North Drive (approximate address)

Location: Washington Township, Council District #6

Petitioner: Tomasa Torres and Minerva Gomez, by Arnoldo Gonzales

Current Zoning: D-2

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide a six-foot tall fence and wall within the front yards of Sylvan Road and Kessler Boulevard, encroaching within the right-of-way of Sylvan Road and the clear sight triangle of each driveway along Sylvan Road (maximum 3.5-foot tall fence permitted, encroachment of rights-of-way and clear sight triangles prohibited).

Current Land Use: Residential

Staff Recommendations: Staff recommends **denial** of the requested variances.

Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

The petitioner requested a for-cause continuance from the November 18th hearing date of Division II.

STAFF RECOMMENDATION

Staff recommends **denial** of the requested variances.

PETITION OVERVIEW

- 4360 Kessler Boulevard North Drive is a residential parcel located at the southwest corner of Kessler to the east and Sylvan Road to the north. The property is improved with a single-family residence that temporarily housed an accessory apartment unit (per approval of 90-UV3-23; since expired) and is accessed from Sylvan Road by two separate driveways.
- The violation case VIO24-005073 was opened in 2024 in relation to the placement of a front-yard fence along the Sylvan Road frontage that was six (6) feet in height when the maximum allowed would be 3.5 feet. Per available street photography, the fence appears to have been installed between 2019 and 2021 (see photos 2 and 4 within the Exhibits). Staff also notes that the fence is both within several required clear-sight triangles (see Exhibits) as well as the right-of-way of Sylvan Road.



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- Approval of this variance would allow for (a) a front-yard fence with a height of six (6) feet when the maximum height allowed by the district would be 3.5 feet; (b) encroachment of the six-foot fence into the four (4) clear-sight triangular areas created by the intersection of Sylvan Road and the two private driveways used to access the site; and (c) encroachment of the six-foot front yard fence into the public right-of-way by approximately 15 feet. Staff would note that improvements with ROW would require an Encroachment License from the Department of Business and Neighborhood Services, and that this variance would not exempt the owner from that requirement.
- Between 2022 and 2025, 10 investigation cases were opened through the Mayor's Action Center. Nine (9) of these filed complaints were broadly related to the routine parking of 10+ vehicles at the site at any given time (visible in aerial photography and Photo 6 within the Exhibits), with multiple individuals mentioning concerns about the potential operation of a commercial automobile repair business from the subject site. The applicant indicated to Staff that the husband of the property owner collects cars and that there is no current or future intention for commercial use at the site. Staff would note that the violation case at the property did not include citation for any commercial use at the site, and that approval of this variance would not constitute permission for the operation of a commercial automobile repair use.
- The subject site is zoned D-2 to allow for suburban development with ample yards, trees and passive open spaces easily serving each individual lot. Similarly, the Comprehensive Plan recommends it to the Suburban Neighborhood typology to allow for predominantly single-family housing. Infill Housing Guidelines indicate that front-yard fences should be ornamental in scale and that privacy fences should not be installed in front yards. The current fence at the site runs directly counter to the recommendations of the Infill Housing Guidelines.
- Finding of Fact provided by the applicant primarily indicate safety as their rationale for approval of the variance. Staff would note that surrounding residential land uses appear to be able to function safely without 6-foot front-yard fences and that the subject site maintained an attractive front yard along Sylvan Road prior to recent installation of the fence. Additionally, the placement of a tall and opaque improvement in such close proximity to a public roadway creates a clear public safety hazard: the complete lack of clear-sight visibility between vehicles or pedestrians moving west on Sylvan Drive and the private driveways (see the Clear-Sight Triangle diagram and Photo 10 within the Exhibits) would increase the likelihood of a crash in a manner directly opposed to Ordinance and Vision Zero guidance on both yard appearance and vehicular safety.
- Staff would note that in addition to the legitimate public safety concerns created by the visual impediment within ROW and clear-sight triangles, no site-specific practical difficulty has been identified to justify approval of the variance requests (construction of the fence without a knowledge of relevant requirements would be a self-imposed difficulty). For reasons related to public safety as well as aesthetic concerns laid out within the Infill Housing Guidelines, staff recommends denial of the requested variances.

GENERAL INFORMATION

Existing Zoning	D-2	
Existing Land Use	Residential	
Comprehensive Plan	Suburban Neighborhood	
Surrounding Context	<u>Zoning</u>	Surrounding Context
North:	D-S	North: Residential
South:	D-2	South: Residential
East:	D-2	East: Residential
West:	D-2	West: Residential
Thoroughfare Plan		
Kessler Boulevard N Dr	Primary Arterial	100-foot existing right-of-way and 90-foot proposed right-of-way
Sylvan Rd	Local Street	58-foot existing right-of-way and 50-foot proposed right-of-way
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	Yes	
Wellfield Protection Area	No	
Site Plan	10/17/2025	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	10/17/2025	
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 Suburban Neighborhood typology is predominantly made up of single-family housing mixed with attached and multifamily housing where appropriate. This typology should be supported by a variety of neighborhood serving businesses and amenities and should treat natural corridor and features such as stream corridors, wetlands, and woodlands as focal points for development.



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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

- Infill Housing Guidelines indicate that within front yards, fences should be ornamental in style and that privacy fences should not be installed.

Indy Moves

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

- Not Applicable to the Site.



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ZONING HISTORY

ZONING HISTORY – SITE

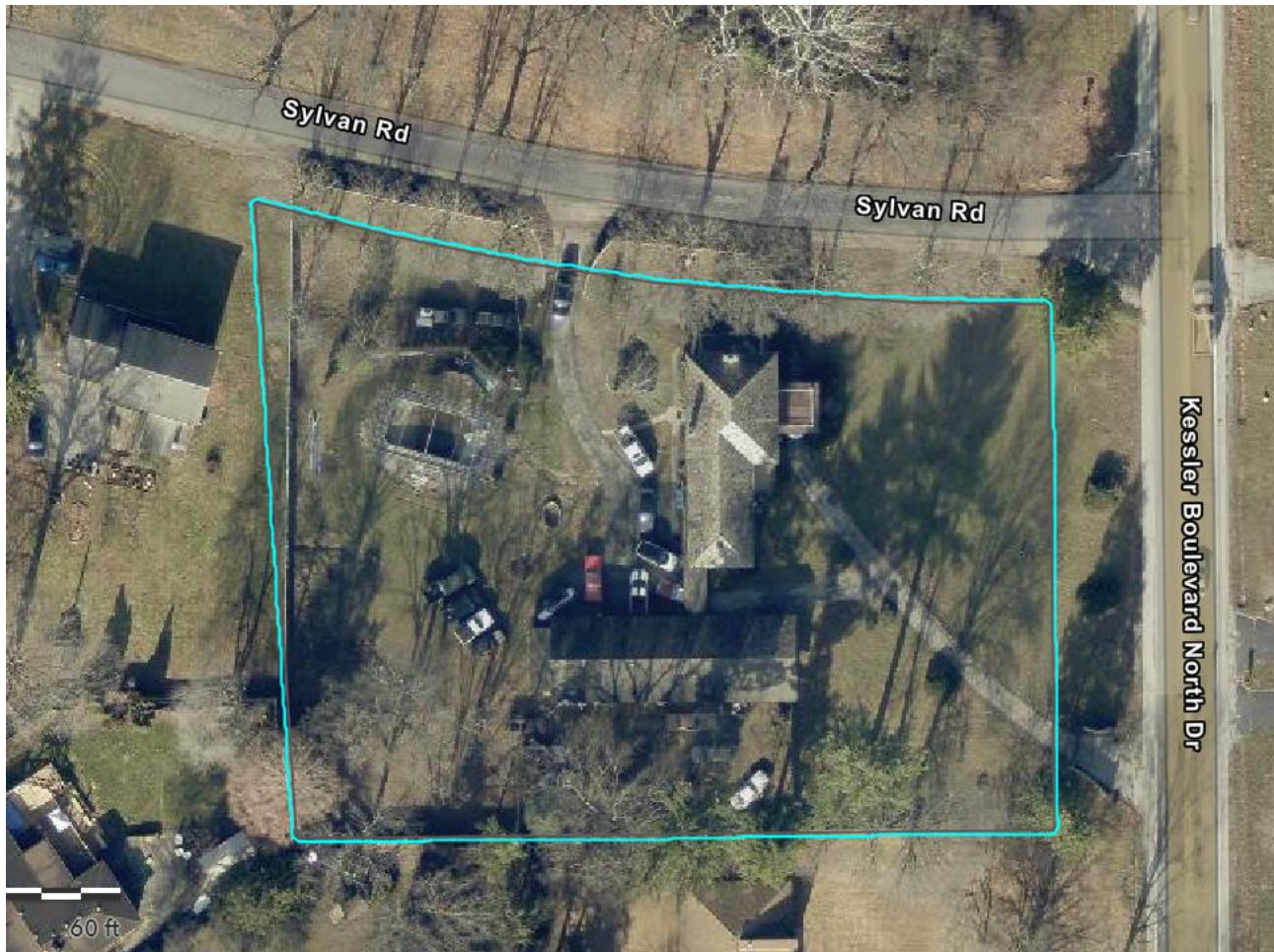
90-UV3-23, Variance of Use of the Dwelling District Zoning Ordinance to permit a portion of an existing detached garage to be converted to an apartment, **temporary approval**.

ZONING HISTORY – VICINITY

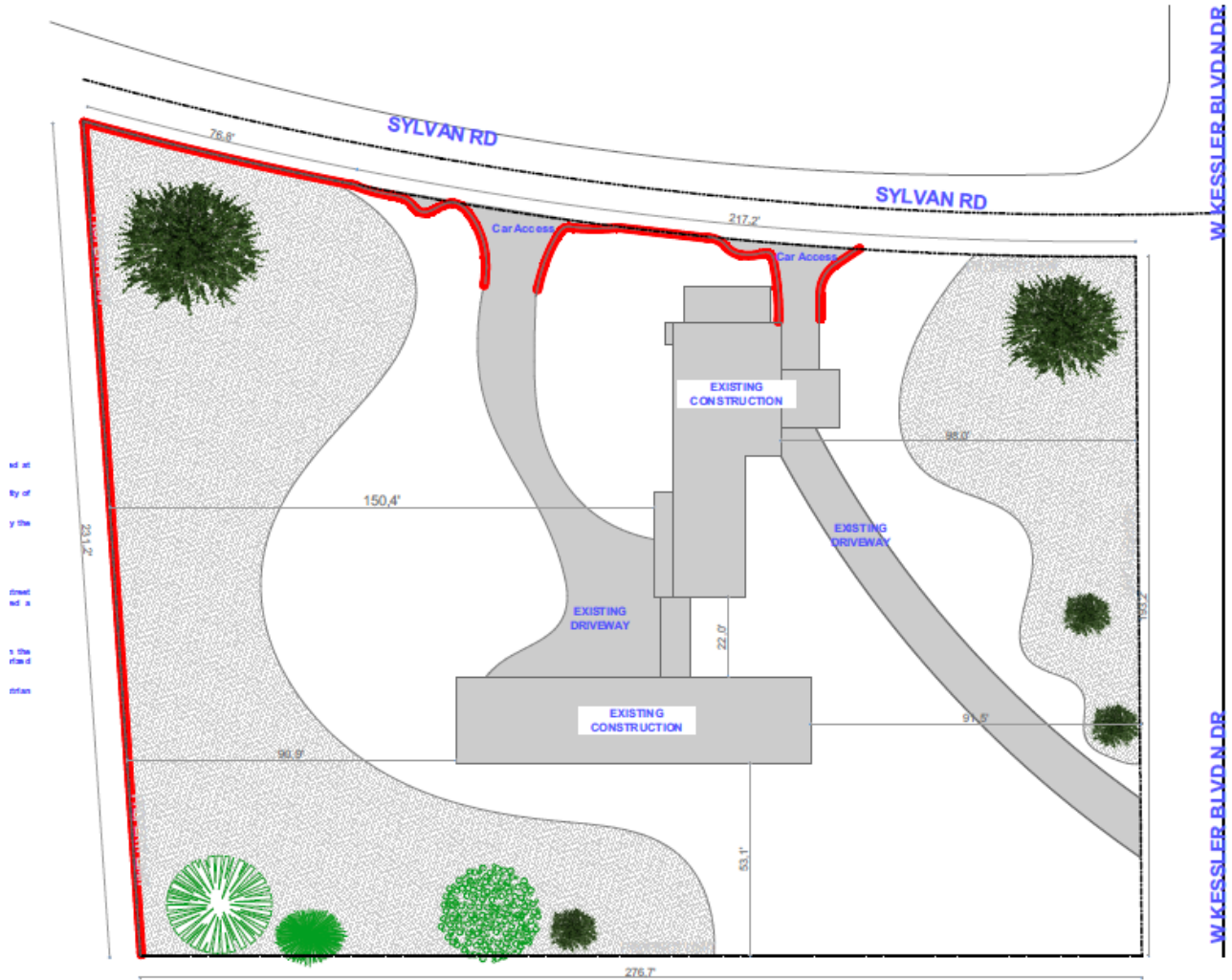
N/A

EXHIBITS

2025DV2043 ; Aerial Map

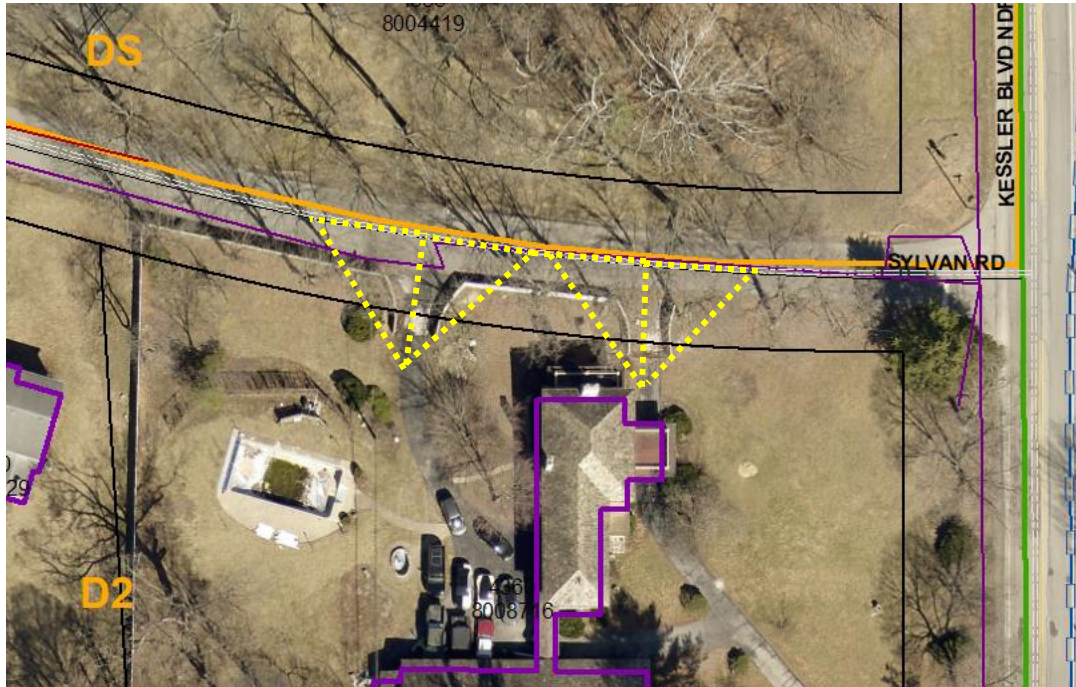


2025DV2043 ; Site Plan



Note: site plan appears to conflate the northern property line and the edge of the street. Staff would note the accurate location of the property line is shown in the aerial photograph on the previous page, and that the current fence appears to encroach into public ROW by about 15 feet.

2025DV2043 ; Clear-Sight Triangle Diagram



2025DV2043 ; Notice of Violation (VIO24-005073)

RE: 4360 KESSLER BLVD NDR

Dear TORRES, TOMASA YADIRA & MINERVA GOMEZ:

A recent inspection of the above referenced property indicated violation(s) of the Revised Code of Indianapolis and Marion County as follows:

Section 740 -1005.A.8. Civil Zoning Violation

Specific Violation: Failure to comply with use-specific standards and zoning district development standards for the D-2 district; (Table 744-510-2: - Fence height exceeding 42 inches in the front yard with more than 30% opacity...privacy fence).



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2025DV2043 ; Findings of Fact

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

The intention to build a 6 feet fence helps ensure the safety on the property located on a corner lot in a busy street, where at the Sylvan Rd. are missing light poles, and at nights it becomes so dark and dangerous; if there were no visible tall fence it could be worse.

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 use and value of the adjacent properties will not be affected in a substantially adverse manner. The existing fence was installed strictly for security and safety purposes. Ensuring the safety in the neighborhood will have a positive impact on the life of neighbors and their families

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

The property sits on a corner lot facing a heavily traffic street, been the property quite large, have a private driveway and the fence prevent the unauthorized use by drivers like a public shortcut, leading to infringement on privacy and property rights.

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 constant use of the private driveway like if this were a public one provoke a noticeable damage on the lawn and landscaping due to frequent unauthorized automobile traffic, and even the loss items in the house due to pedestrians trespassing into the property

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

It will ensure the safety in the neighborhood, fulfilling the City of Indianapolis comprehensive plan

2025DV2043 ; Photographs



Photo 1: Western Driveway Viewed from North



Photo 2: Western Driveway Viewed from North (June 2019)

2025DV2043 ; Photographs (continued)



Photo 3: Eastern Driveway Viewed from North



Photo 4: Eastern Driveway Viewed from North (June 2019)

2025DV2043 ; Photographs (continued)



Photo 5: Subject Site Viewed from North

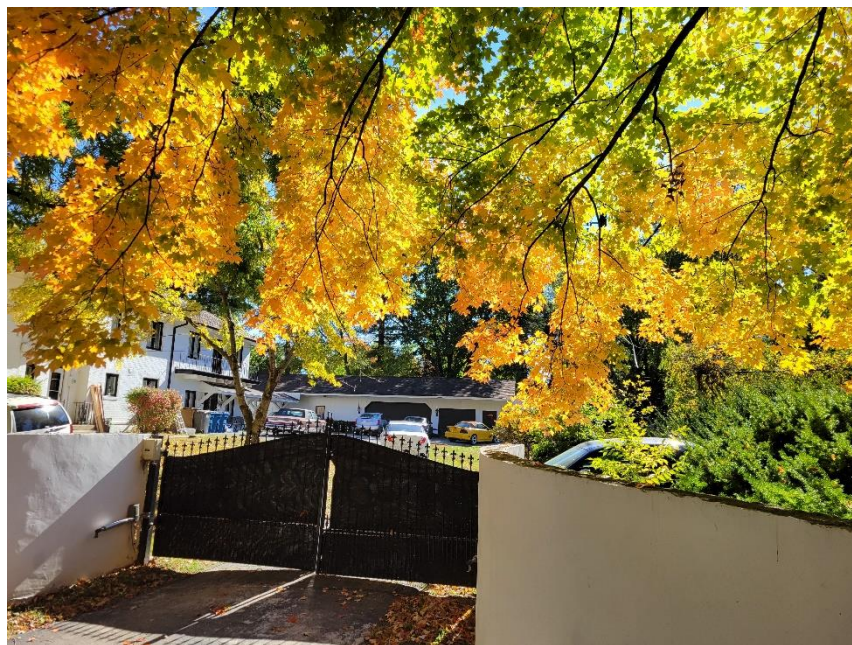


Photo 6: Partial Site Interior Viewed from North

2025DV2043 ; Photographs (continued)

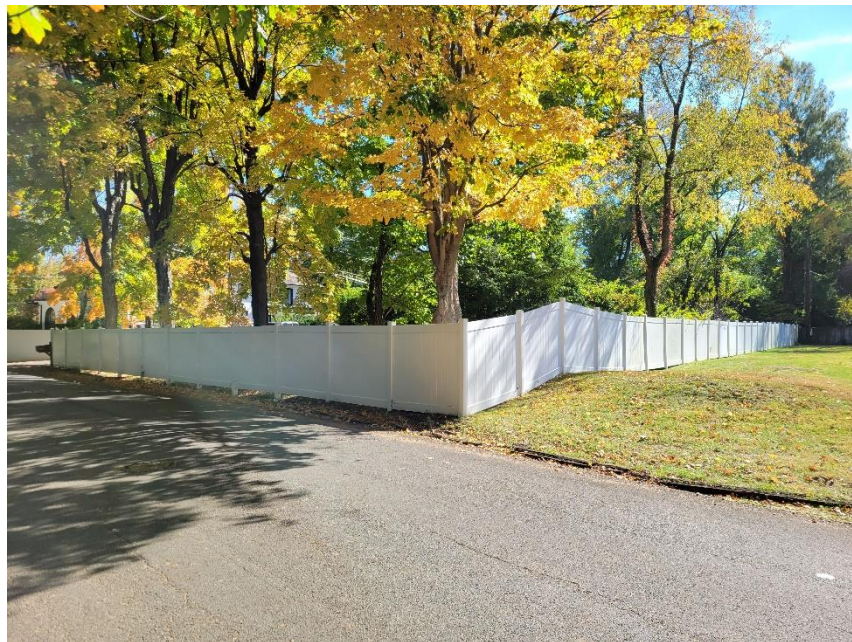


Photo 7: Subject Site Viewed from Northwest



Photo 8: Subject Site Viewed from Northeast

2025DV2043 ; Photographs (continued)



Photo 9: Clear-Sight Triangular View from West



Photo 10: Clear-Sight Triangular View from East

2025DV2043 ; Photographs (continued)



Photo 11: Adjacent Property to West



Photo 12: Adjacent Property to Northwest



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BOARD OF ZONING APPEALS DIVISION II

December 9, 2025

Case Number: 2025-UV2-013

Property Address: 148 West 38th Street (*approximate address*)

Location: Washington Township, Council District #7

Petitioner: Martin Petroleum Inc., by Jamilah Mintze

Current Zoning: C-4

Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of an automobile fueling station within 1,555 feet of a transit station (1/2-mile separation required) and a convenience store with a one and a half-foot eastern transitional yard and a service area with a zero-foot eastern transitional yard (eight-foot transitional yard required) with deficient frontage and transitional yard landscaping.

Current Land Use: Commercial

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

Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

11/18/25: A timely automatic continuance request was filed by the petitioner, automatically continuing this petition to the December 9th hearing of Division II.

10/14/25: A timely automatic continuance request was filed by a registered neighborhood organization, automatically continuing this petition to the November 18th hearing of Division II.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

- 148 W 38th Street is a 0.33-acre commercial parcel at the northeast corner of the intersection of 38th Street and North Capitol Avenue that is currently developed with a tire shop built in 1965. The current structure is placed on the northeast corner of the site with setbacks that would not conform with current ordinance, as well as parking areas within the front yards along 38th and Capitol. Surrounding land uses include a liquor store to the south, another tire shop to the west, a fueling station to the southwest, a restaurant and undeveloped residential parcel to the east, and what appears to be a single-family residence to the north. The parcel is also 1,555 feet to the west of an existing Red/Purple Line BRT stop (the 38th and Meridian Street stop).



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- Approval of this petition would allow for the demolition of the existing building and the construction of a new 2500-square-foot convenience store and fueling station use at the site. Submitted plans indicate six (6) fuel pumps under a canopy as well as underground storage tanks, changes to the existing parking layout, and more clearly defined curb cuts for driveways.
- Several variances would be required to allow for the proposed use and layout: **(a)** the proposed fueling station use would be prohibited since it is located within one half-mile of a transit station (existing 38th and Meridian BRT stop); **(b)** the new building and service area would establish eastern transitional yard setbacks of 1.5 feet and 0 feet respectively when eight (8) feet is the requirement; and **(c)** deficient landscaping along both the 38th and Capitol frontages as well as deficient transitional yard landscaping for the portions of the site bordering a D-5 zoning district.
- Staff would note that this property does *not* fall within the Transit-Oriented Development Secondary Zoning Layer, since it is more than 1000 linear feet away from the closest BRT stop. The proximity rule referenced above is a general use-specific standard applicable for fueling station uses throughout the county that has been in place since 2016. However, the property *does* fall within the Transit-Oriented Development Overlay as defined by the Pattern Book of the Comprehensive Plan, and guidance from the Red and Purple Line TOD Strategic Plans would also be relevant for the site and proposed development given its proximity to the 38th and Meridian BRT stop.
- Building elevations and landscaping plans were not provided for staff's review prior to publication of this report. The variance related to frontage and transitional yard landscaping was added to the request language given this lack of information, and approval of this variance would not allow for deviations from ordinance standards beyond those specified within the request. Staff would also note that the property to the north of the site is zoned C-3 but appears to be used residentially, and that if this zoning matched the land use there would be an enforceable transitional yard. Additionally, redevelopment of the site would need to involve proper closure of existing driveways with new curbing and ADA-compliant sidewalks with less than 2% cross slope (it is unclear from the provided site plan if this would be the case, but it would be a requirement for permit issuance).
- This property is zoned C-4 (Community-Regional District) to allow for the development of major business groupings and regional-size shopping centers to serve a population ranging from a community or neighborhoods to a major segment of the total metropolitan area. The Comprehensive Plan recommends it to the Village Mixed-Use typology to create compact and walkable neighborhood centers that feature a mix of small businesses and housing types. In this typology, parking areas should be in rear yards, and pedestrian-scale amenities such as lighting, landscaping, and sidewalk furniture should contribute to a walkable environment. Automotive uses such as fueling stations and automobile repair are explicitly excluded as recommended land uses within this typology. In addition to this primary recommendation, the Pattern Book places this site within a TOD overlay designed for areas within walking distance of a rapid transit station where the promotion of pedestrian connectivity is desired.

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- Although the site does not fall within the Primary Focus Areas designated by the Red Line and Purple Line TOD Strategic Plans, it would fall within a Secondary Focus Area given that it is within a half-mile of a transit station. These strategic plans recommend that car-only uses be discouraged given that they are not likely to contribute to the pedestrian environment, and that development should have active ground floors along sidewalks with parking areas in the rear yard. Areas near the 38th and Meridian BRT stop are recommended to the District Center TOD typology, which contemplates walkable areas of multiple city blocks with an emphasis on walkable businesses and mixed-use development nearest the station and attached or detached single family uses beyond. Staff does not feel that the use or layout as proposed comport with guidance from either the Land Use Plan Pattern Book or the TOD Strategic Plans.
- Findings of Fact provided by the applicant indicate that the proposed convenience store would utilize a similar setback to the current tire shop building and that the subject site does not directly front on a BRT transit route and therefore would be an appropriate candidate for automobile uses. Staff would note that destruction of the currently existing building would forfeit any legally non-conforming status related to setbacks, and that Ordinance regulations and Plan guidance would be applicable for areas in the immediate vicinity of transit lines as well as direct adjoiners.
- Although the subject site only comprises of one-third of an acre, the full demolition and removal of the existing structure would allow for a greater level of flexibility in redesigning this site in a manner that would comply with relevant setback standards. In addition to the 8-foot eastern transitional yard setback for which a variance would be required, a 10-foot setback would typically be required from the residential lot to the north if the current land use matched the zoning.
- It appears that a primary reason for this encroachment into the required setback would be to facilitate placement of the canopy and 6 fueling pumps related to a prohibited use, and that removal of those pumps would avoid overdevelopment of the site. This could also allow for compliant setbacks and a primary building located closer to street frontages and with greater pedestrian activation or landscaping as contemplated by the Village Mixed-Use typology and TOD overlay. Staff recommends denial of the requested Variances of Development Standards.
- With regards to the use variance request, staff does not feel that undue hardship has been established to justify grant of the variance: the C-4 zoning designation allows for dozens of uses to be established by-right (including convenience store uses), and nothing inherent to the site would preclude the establishment of any number of those C-4 uses. Additionally, the proposed use runs directly counter to relevant guidance from multiple aspects of the Comprehensive Plan that envision areas near BRT lines to be developed with walkable and pedestrian-oriented uses. Staff would also point out that while tire shops, auto repair and fueling stations are all auto-oriented uses, a fueling station is a more intense use. As no appointments for service are required, it is reasonable to assume that traffic generation will be significantly higher. The petitioner did not specify business hours within their plan of operation, so it is feasible that the activity and traffic will occur on-site 24 hours a day. Staff recommends denial of the requested Variance of Use.

GENERAL INFORMATION

Existing Zoning	C-4	
Existing Land Use	Commercial	
Comprehensive Plan	Village Mixed-Use	
Surrounding Context	<u>Zoning</u>	Surrounding Context
North:	C-3	North: Residential
South:	C-4	South: Commercial
East:	C-3 / D-5	East: Commercial / Undeveloped
West:	C-3	West: Commercial
Thoroughfare Plan		
38 th Street	Primary Arterial	100-foot existing right-of-way and 114-foot proposed right-of-way
N Capitol Avenue	Secondary Arterial	60-foot existing right-of-way and 56-foot proposed right-of-way
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	Yes	
Wellfield Protection Area	No	
Site Plan	08/18/2025	
Site Plan (Amended)	09/16/2025	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	08/13/2025	
Findings of Fact (Amended)	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

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

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends this site to the Village Mixed-Use typology to create neighborhood gathering places with a wide range of small businesses, housing types, and public facilities. Businesses found in this typology serve adjacent neighborhoods rather than the wider community and is typified by compact and walkable development with parking at the rear of buildings. Pedestrian-scale amenities such as lighting, landscaping, and sidewalk furniture



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also contribute to a walkable environment. Although small-scale retailing and professional services are a contemplated land use for this typology, automotive uses (such as gas stations and auto repair) and uses with drive-through lanes are explicitly excluded from that recommendation.

- The site also falls within a Transit-Oriented Development (TOD) overlay intended for areas within walking distance of a rapid transit station. The purpose of this overlay is to promote pedestrian connectivity and a higher density than the surrounding area.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- The Red and Purple Line TOD Strategic Plans recommends areas near the 38th and Meridian BRT stop to the District Center TOD typology to allow for walkable areas of multiple city blocks, with a mix of office, retail, entertainment, and residential uses with higher densities closest to the station. Off-street parking is discouraged and should be limited to garages visually separate from the street.

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.



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ZONING HISTORY

ZONING HISTORY – SITE

2013CVR814, Variance of development standards of the Commercial Zoning Ordinance to provide for a gasoline station and a 484-square foot addition to an existing building (a) with a canopy with a 64.42-foot setback from the centerline of Capitol Avenue (70-foot setback from centerline required); (b) with a parking area with a zero-foot setback from Capitol Avenue (10-foot front setback required); (c) with access drives with a 1.5-foot front setback along Capitol Avenue and a 2.5-foot front setback along 38th Street (10-foot front setback required); (d) with carryout food service within 10 feet of a D-5 zoned protected district (100-foot separation required), **withdrawn**.

2013CZN814, Rezoning of 0.33 acre from the C-4 district to the C-3 classification to provide for a convenience store / gasoline station, **withdrawn**.

89-UV3-96, variance of use and development standards of the Commercial Zoning Ordinance and the Sign Regulations to provide for a drive-thru restaurant within one hundred feet of a residential zoning district and a sign within the required setback, **denied**.

ZONING HISTORY – VICINITY

2023CVR830 ; 201 W 38th Street (southwest of site), Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the redevelopment of a convenience store within a residential district (not permitted) with a zero-foot south side transitional yard (10-foot side transitional yard required), **approved**.

2023CZN830 ; 208 W 38th Street (southwest of site), Rezoning of 0.44 acre from the D-5 and C-4 districts to the C-4 district, **approved**.

2020CVR821 ; 111 W 38th Street (southeast of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a carwash with stacking spaces in the front yard of Illinois Street, 38th Street and Kenwood Avenue (not permitted along street 30 feet in width or greater), 35 feet from a protected district, with an 80-foot front setback from 38th Street and with a 55-foot exit drive lane (100-foot separation requirement, maximum 65-foot front setback and 100-foot exit drive required), **approved**.

2018UV3026 ; 227 W 38th Street (southwest of site), Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for an automobile repair facility (not permitted), **approved**.

2013UV1038 ; 202 W 38th Street (west of site), Variance of use and development standards of the Commercial Zoning Ordinance to legally establish a 1,380-square foot storage addition (not permitted) for a tire sales and repair shop, with a one-foot north side transitional yard (20-foot transitional yard required), **withdrawn**.



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2005DV1059 ; 3802 N Kenwood Avenue (east of site), legally establish a 2,070-square foot carryout restaurant located zero feet from a protected district (minimum 100-foot separation from a protected district required), with a four-foot front landscape strip along 38th Street and without a landscape strip along Kenwood Avenue (minimum twenty-foot front landscape strip along 38th Street and ten-foot front landscape strip along Kenwood Avenue required), with a zero-foot north side transitional yard (minimum twenty-foot side transitional yard required), **denied**.

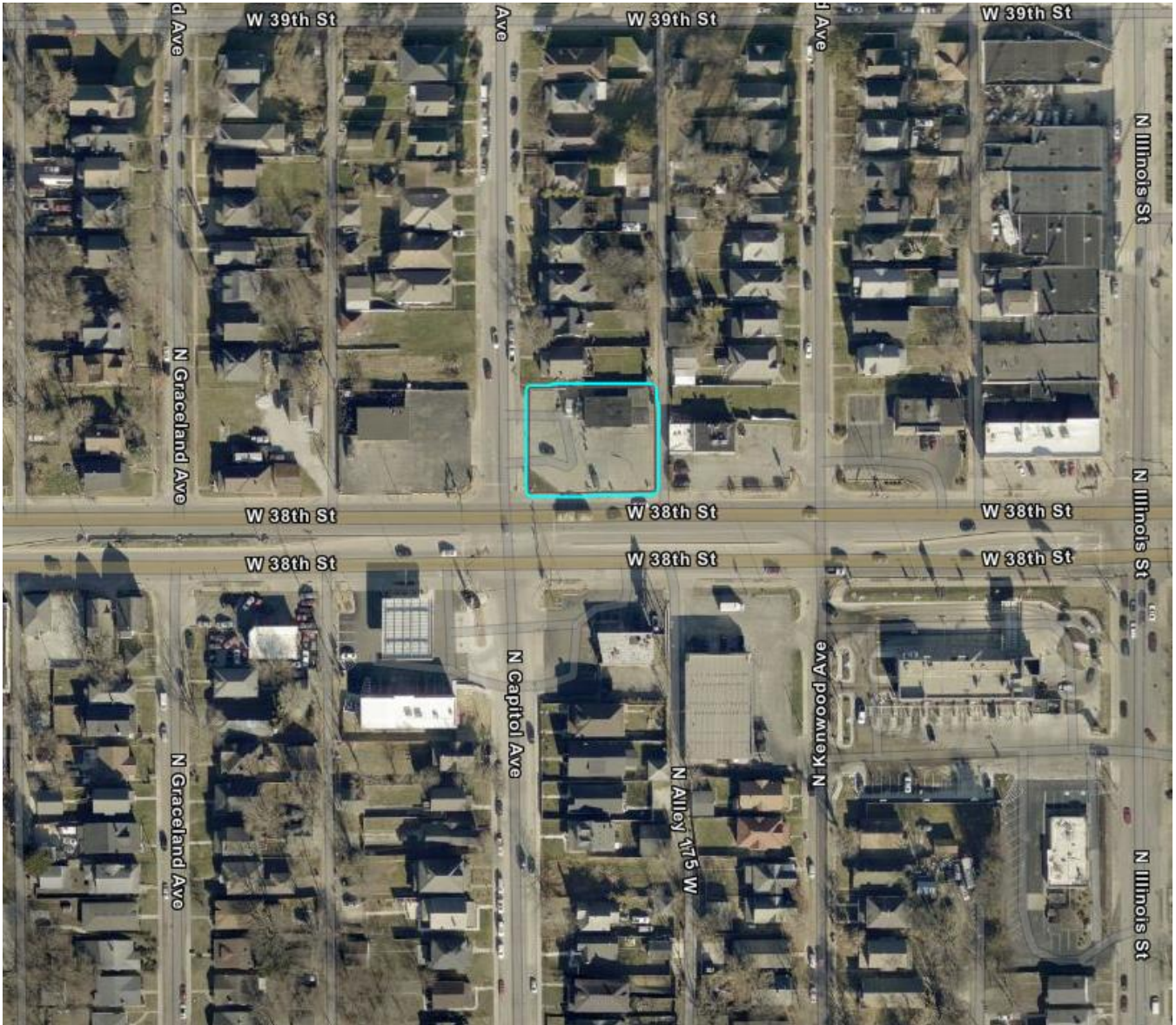
2003ZON069 ; 3816 N Kenwood Avenue (east of site), rezoning of 0.2 acre, being in the D-5 district, to the C-3 classification to provide for a commercial parking lot, **denied**.

2003HOV022 ; 3816 N Kenwood Avenue (east of site), variance of development standards of the Commercial Zoning Ordinance to provide for an eleven-foot north transitional yard for a restaurant parking lot (minimum 20-foot transitional yard require when abutting a protected district), **approved**.

93-UV2-23 ; 217 W 38th Street (southwest of site), variance of use of the Dwelling Districts Zoning Ordinance to provide for the continued operation of an automobile repair shop, **approved**.

EXHIBITS

2025UV2013 ; Aerial Map







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2025UV2013 ; Plan of Operation (partial selections)

I. EXECUTIVE SUMMARY

This Development Plan of Operations outlines the comprehensive strategy for the development, construction, and operation of a six pump diesel gas station facility. The proposed development will serve commercial and retail customers with diesel fuel dispensing capabilities, convenience retail services, and ancillary automotive services.

II. PROJECT DESCRIPTION

Facility Specifications:

- Six (6) diesel fuel dispensing pumps
- Retail convenience store (approximately 2,500 square feet)
- Canopy structure covering fuel dispensing area
- Underground storage tanks (USTs) with appropriate capacity
- Vehicle service bay (optional)
- Customer parking and truck maneuvering areas

A. Fuel Operations

- Fuel Delivery:** Scheduled fuel deliveries with proper safety protocols
- Quality Control:** Regular fuel quality testing and monitoring
- Inventory Management:** Automated tank gauging and inventory tracking systems
- Dispensing Operations:** Customer service protocols and payment processing

A. Organizational Structure

- General Manager:** Overall operations oversight
- Assistant Manager:** Daily operations and customer service
- Fuel Attendants:** Customer service and facility maintenance
- Maintenance Personnel:** Equipment servicing and repairs

IB. Operational Hours

- Standard Hours:** [To be determined based on market analysis]
- Staffing Coverage:** Adequate personnel for safe operations during all hours



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2025UV2013 ; 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 does not have frontage on an existing or planned transit line or transit station and, as such, will not conflict with pedestrian traffic choosing bus transit.

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

None of the adjoining properties front on an existing or planned transit line or transit station and, absent that, the use is permitted in the existing C-4 zoning district.

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

The property has traditionally been used for auto-oriented uses and is located on a primary thoroughfare.

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, although within one half mile of a transit station, is two streets removed from the nearest transit station.

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

The: (a) existing improvements, (b) curb cuts, (c) historic use of the property, and (d) presence along a primary thoroughfare all indicate that automobile-related uses are appropriate, despite the Village-Mixed designation.

2025UV2013 ; 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 building triggering the setback variance exists today and does not interfere with any line of sight at the intersection of 38th Street and Capitol Avenue. Furthermore, the site has been previously developed without significant landscaping; any additional landscaping provided by the Petitioner only helps the public health, safety and general welfare.

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 setback issues exist today and are not being exacerbated and, therefore, there will be no new impact on adjoining properties. Any additional landscaping supports the use and value of adjoining properties.

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

The change in use triggers new requirements in circumstances where new improvements are made to small lots with historic non-conforming structures, which, if reused, would remain as legal non-conforming structures. The Subject Property was developed long before current landscaping standards were adopted, making it extremely difficult to meet current standards, even with a redevelopment.

2025UV2013 ; Photographs



Photo 1: Subject Site Viewed from Southwest (September 2024)



Photo 2: Subject Site & Eastern Alley Viewed from Southeast

2025UV2013 ; Photographs (continued)



Photo 3: Current Building Viewed from East (June 2024)



Photo 4: Adjacent Undeveloped Residential Lot to East (June 2024)

2025UV2013 ; Photographs (continued)



Photo 5: Adjacent Property to East (Viewed from South)

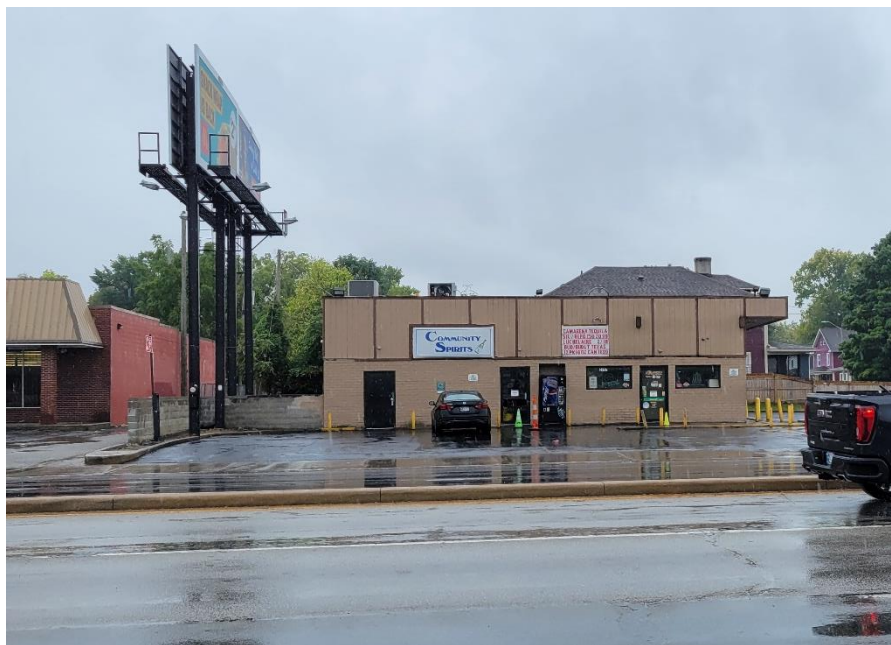


Photo 6: Adjacent Property to South

2025UV2013 ; Photographs (continued)



Photo 7: Adjacent Property to Southwest



Photo 8: Adjacent Property to West

2025UV2013 ; Photographs (continued)



Photo 9: Adjacent Property to Northwest



Photo 10: Adjacent Property to North



BOARD OF ZONING APPEALS DIVISION II

December 9, 2025

Case Number: 2025-UV2-014 (Amended)
Address: 15 and 19 Iowa Street (approximate address)
Location: Center Township, Council District #18
Zoning: D-5
Petitioner: Shannon Moody, by David E. Dearing
Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the use of two shipping containers as a detached garage (commercial vehicles not permitted).

Current Land Use: Single Family Dwelling

Staff Recommendation: Staff recommends Denial of this petition.

Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

This petition was previously continued from the November 18, 2025, hearing, to the December 9, 2025, hearing.

STAFF RECOMMENDATION

Staff recommends **denial** of this amended petition.

PETITION OVERVIEW

- ◇ The two (2) proposed portable shipping containers are considered commercial vehicles and are not permitted to be used as a permanent storage building in Dwelling Districts.
- ◇ Commercial vehicles or shipping containers, when located on appropriately zoned properties, require transitional yards to buffer such intense uses from Protected Districts which include dwellings, parks and schools. In this instance, the proposed use would not be required to provide such buffer areas since the D-5 District is intended to be utilized for less intense uses such as residential neighborhoods. Therefore, the site provides insufficient screening to the surrounding dwellings, which staff finds concerning.
- ◇ The shipping containers are proposed to be used in conjunction with a new garage structure. A permanent garage structure could be provided through a permitted accessory structure that is built, has a building form, and meets the Zoning Ordinance, without the need for a Use Variance.



Department of Metropolitan Development
Division of Planning
Current Planning

- ◇ Staff has concerns if this petition were to be approved, that the use of portable shipping containers for accessory storage could potentially expand on surrounding residential lots, and continue the disregard of the Comprehensive Plan recommendation, and the clearly residential nature of the surrounding area.
- ◇ The strict application of the terms of the zoning ordinance does not constitute a practical difficulty for the property, since the site is zoned D-5 and could use appropriate accessory garage structures by right, in the D-5 zoning classification without any variances. The need for the requested variance for the shipping containers as part of a garage structure is self-imposed and could be addressed without a variance, by using permitted garage structures. Any practical difficulty is self-imposed by the petitioner's desire to choose to not follow the ordinance and use the site with portable shipping containers instead.

GENERAL INFORMATION

Existing Zoning	D-5	
Existing Land Use	Single Family Dwelling	
Comprehensive Plan	Traditional Neighborhood uses	
Surrounding Context	<u>Zoning</u>	Surrounding Context
	North: D-5	Two Family Dwelling
	South: D-5	Single Family Dwelling
	East: D-5	Single Family Dwelling
	West: D-8	Single Family Dwellings
Thoroughfare Plan		
	Iowa Street. Local Street	40-foot existing right-of-way and 48-foot proposed right-of-way
Context Area	Compact area	
Floodway / Floodway Fringe	N/A	
Overlay	N/A	
Wellfield Protection Area	N/A	
Site Plan	August 21, 2025	
Landscape Plan	N/A	
Findings of Fact	August 21, 2025	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- The Comprehensive Plan recommends Traditional Neighborhood uses for the site.



Department of Metropolitan Development
Division of Planning
Current Planning

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends the Traditional Neighborhood typology includes a full spectrum of housing types, ranging from single family homes to large-scale multifamily housing. The development pattern of this typology should be compact and well-connected, with access to individual parcels by an alley when practical. Building form should promote the social connectivity of the neighborhood, with clearly defined public, semi-public, and private spaces. Infill development should continue the existing visual pattern, rhythm, or orientation of surrounding buildings when possible. A wide range of neighborhood-serving businesses, institutions, and amenities should be present. Ideally, most daily needs are within walking distance. This typology usually has a residential density of 5 to 15 dwelling units per acre.

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

2022-UV3-039; 1751 South Meridian Street (south of site), requested a Variance of Use and Development Standards to provide for the operation of an event center and eating establishment, with a parking area maintaining a zero-foot transitional yard along the alley and a two-foot north transitional yard, a trash enclosure, and an outdoor patio with a five-foot transitional yard along Caven Street, **granted**.

2022-DV2-046; 14 East Caven Street (south of site), requested a Variance of Development Standards to provide for the construction of a multi-unit house on a 30-foot wide, 3,000-square foot lot, encroaching into the clear sight triangles of Caven Street and the intersecting alley, and the intersecting alleys along the rear and western lot lines, **granted**.



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2021-ZON-097; 1747 South Meridian Street (south of site), requested the Rezoning of 0.09 acre from the C-1 district to the D-8 district, **approved.**

2018-HOV-057; 21 East Caven Street (east of site), requested a Variance of Development Standards to provide for a single-family dwelling, with a 15-foot front setback and with seven and nine feet between dwellings, **approved.**

2004-UV2-001; 13 East Caven Street and 14, 18, and 22 Adler Street (south of site), requested a Variance of Use to provide for a parking lot for a popcorn production, distribution, and retail outlet, **granted.**

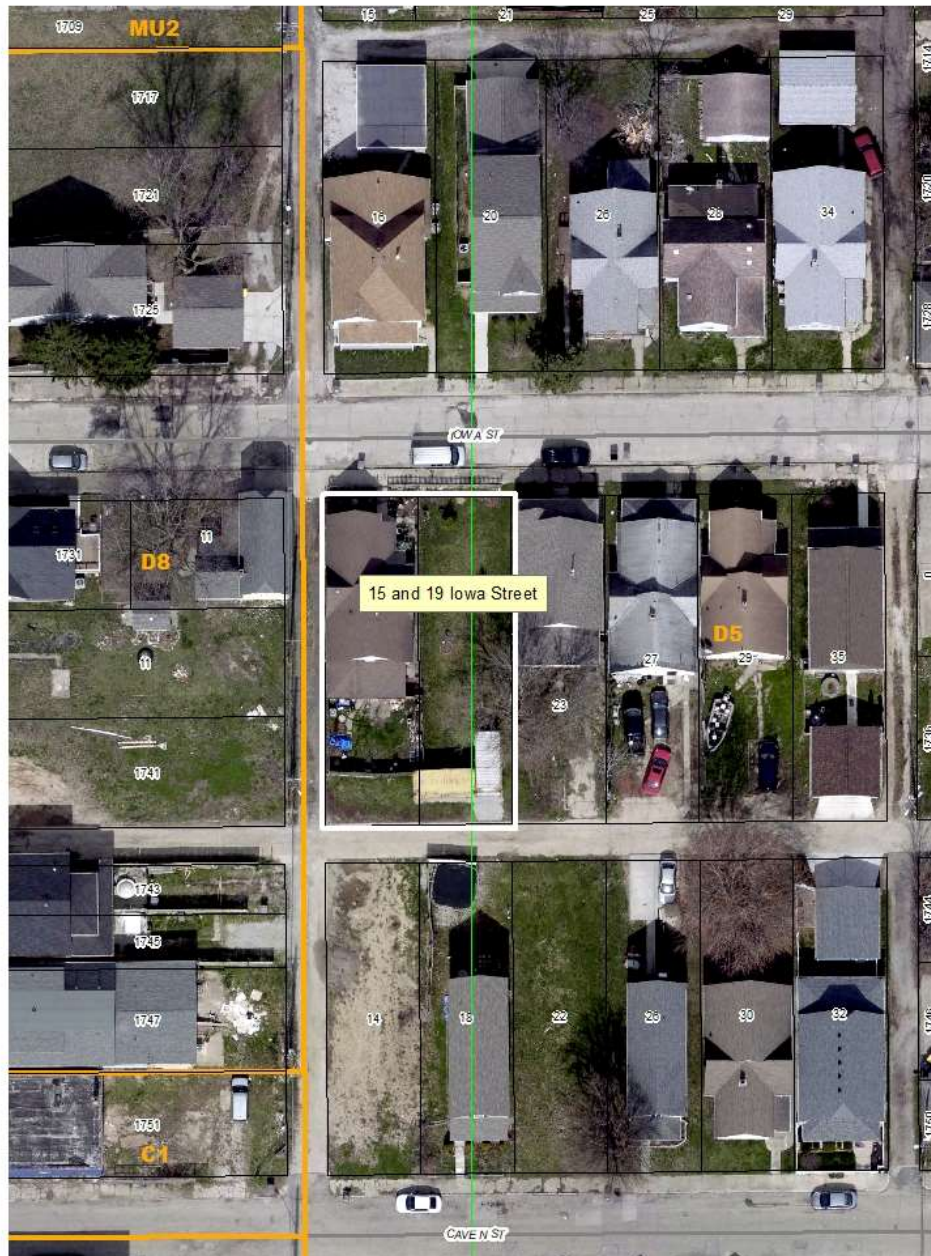
2003-ZON-035; 1805, 1807, 1817, 1821, and 1827 South Meridian Street (south of site), requested the Rezoning 0.66 acre from D-8 and C-1 to the C-S classification to legally establish a popcorn production, distribution, and retail outlet, **approved.**

2001-UV3-033; 1741 South Meridian Street (west of site), requested a Variance of Use to legally establish a contractor's warehouse and a variance of development standards of the Dwelling Districts Zoning Ordinance to legally establish a 1,943-square foot commercial warehouse, with a 6.5-foot setback from Meridian Street, a zero-foot side setback from the south property line and a two-foot side setback from the north property line and a two-foot aggregate side setback; and a garage with a two-foot rear setback and a nine-foot aggregate side setback, **granted.**

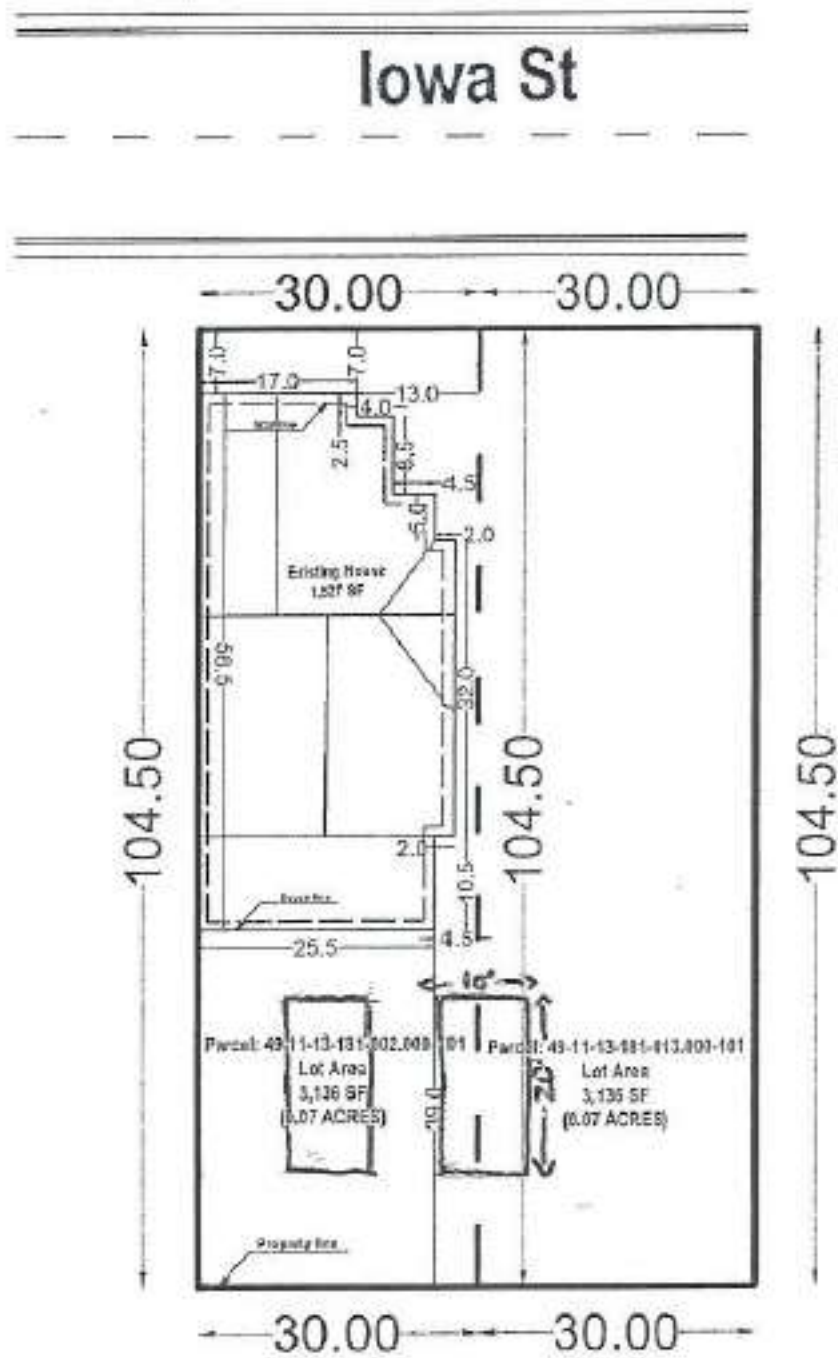
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EXHIBITS

Location Map



Site Plan





Department of Metropolitan Development
Division of Planning
Current Planning

Findings of Fact

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

the garage will be confined to the Petitioner's property, will be subject only to her personal use, and thus lacks the capacity to affect the public's health, safety, morals or general welfare.

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 two containers will be topped with a gable roof and thus will be similar in appearance to other garages in the area.

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

the property is zoned in a classification (residential) that effectively prohibits the presence of items that have been repurposed to enhance the residential characteristics of the property.

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 would prevent the Petitioner from improving the property in a manner consistent with residential use merely because the materials comprising the garage originally served a commercial purpose.

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

the garage will have a residential appearance and serve a residential purpose.

Photographs



Subject site, looking south.



Subject site, existing shipping containers on site, looking south.



Subject site, existing shipping containers on site, looking northeast.



Subject site, existing shipping containers on site, looking northwest.



Adjacent dwelling garage structures along alley, looking east from subject site.



Adjacent dwellings garage structures along alley north of Iowa Street, looking east.