



Board of Zoning Appeals Board of Zoning Appeals Division III (August 18, 2026) Meeting Agenda

Meeting Details

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

Date: Tuesday, August 18, 2026

Time: 1:00 PM

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

Business:

Adoption of Meeting Minutes:

Special Requests

2026-UV3-007 | 1531 Hunter Road

Warren Township, Council District #20, zoned D-A

Joel Gomez & Asuncion Caballero, by Arnoldo Gonzalez

Variance of Use to allow for a 240 foot by 140 foot soccer field with accessory parking and structures (outdoor recreation not permitted within D-A) and a variance of development standards to provide for a side setback of 21 feet and 9 inches (minimum 30 feet required), a rear setback of 21 feet and 6 inches (minimum 75 feet required), to provide for a fence taller than 6 feet (not permitted in D-A), and deficient bike parking (greater of 3 spaces or 10% of required off-street parking spaces required).

****This petition will be withdrawn.**

PETITIONS REQUESTING TO BE CONTINUED:

1. 2026-UV3-011 | 2001 West Washington Street

Center Township, Council District #18, zoned C-4 (TOD)

Don's Legacy LLC, by Jennifer Wright

Variance of Use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of an automobile parts and supply store on a lot greater than 0.5-acre (automobile service and repair prohibited on lots larger than 0.5-acre in the TOD district).

****A Registered Neighborhood Organization has automatically continued this petition to the September 15, 2026 hearing.**

Petitions for Public Hearing

PETITIONS TO BE EXPEDITED:

2. 2026-DV3-028 | 6335 Old Orchard Road

Lawrence Township, Council District #9, zoned D-S (W-5)

Gabriel D. Browne & Emily Kay Love Browne, by Misha Rabinowitch

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the placement of an accessory hot tub and deck within the front yard (side or rear yard required) and with a front setback of 70 feet (100 feet required), and to legally establish the existing home on a lot without access from a public street (required).

3. 2026-UV3-014 | 4038 & 4040 Otterbein Avenue
Perry Township, Council District #23, zoned D-4 (TOD)
Roberta Lopez, by Anthony S. Ridolfo

Variance of Use of the Consolidated Zoning and Subdivision Ordinance to allow for a secondary dwelling unit with a size of 727 square feet (maximum 720 feet permitted) and to allow for a primary and secondary dwelling unit without permanent occupancy by the owner (occupancy of either the primary or secondary dwelling unit by the owner required).

PETITIONS FOR PUBLIC HEARING (Transferred Petitions):

PETITIONS FOR PUBLIC HEARING (Continued Petitions):

4. 2026-DV3-014 | 4202 Carson Avenue
Perry Township, Council District #19, zoned D-A (FW) (FF) / D-6II
Kevin and Heather Davis

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a six-foot tall fence within the front yard of Carson Avenue (maximum 3.5-foot tall fence permitted) and encroaching within the required clear-sight triangle (not permitted).

5. 2026-DV3-016 (Amended) | 10220 East Washington Street
Warren Township, Council District #20, zoned C-4 (TOD)
Indy WS40 LLC, by Barnes & Thornburg LLP (Joseph Calderon)

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a drive through with access provided by Ring Road instead of an alley (drive throughs prohibited within 600 feet of a transit station except where located behind the building and all access is provided by alleys), for a drive through without an exclusive bypass aisle (bypass aisle required).

PETITIONS FOR PUBLIC HEARING (New Petitions):

6. 2026-UV3-015 | 3305 Pinetop Drive
Perry Township, Council District #24, zoned D-3
Min Sung Zi and Mang Hluan

Variance of Use and Development Standards of the Consolidated Zoning and Subdivision Ordinance to permit more than 12 chickens as personal livestock (maximum 12 permitted); to permit an accessory chicken coop with a 16-foot front-yard setback (25-feet minimum) in a front yard (not permitted); a 6-foot-tall fence within a front yard (maximum 3.5-feet permitted) and reduced side-yard setbacks (6-feet required) for all existing accessory structures.

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
Joanna Taft, Chair	Metropolitan Development Commission	January 1, 2025 – December 21, 2025
Bryan Hannon, Vice-Chair	Mayor's Office	January 1, 2025 – December 21, 2025
Rayanna Binder, Secretary	Mayor's Office	January 1, 2025 – December 21, 2025
Rod Bohannon	City-County Council	January 1, 2025 – December 21, 2025
Percy Bland	City-County Council	January 1, 2025 – December 21, 2025

Board of Zoning Appeals Division III

August 18, 2026

Case Number: 2026-UV3-007

Property Address: 1531 Hunter Road (*approximate address*)

Location: Warren Township, Council District #20

Petitioner: Joel Gomez & Asuncion Caballero, by Arnoldo Gonzalez

Current Zoning: D-A

Request: Variance of Use to allow for a 240 foot by 140 foot soccer field with accessory parking and structures (outdoor recreation not permitted within D-A) and a variance of development standards to provide for a side setback of 21 feet and 9 inches (minimum 30 feet required), a rear setback of 21 feet and 6 inches (minimum 75 feet required), to provide for a fence taller than 6 feet (not permitted in D-A), and deficient bike parking (greater of 3 spaces or 10% of required off-street parking spaces required).

Current Land Use: Single-family residential

Staff Reviewer: Josh Levesque, Senior Planner

PETITION OVERVIEW

The petitioner's agent indicated via voicemail on August 10th that they will withdraw the petition. This merely requires the board's acknowledgement.



Department of Metropolitan Development
Division of Planning
Current Planning

Board of Zoning Appeals Division III

August 18, 2026

Case Number: 2026-UV3-011

Property Address: 2001 West Washington Street (*approximate address*)

Location: Center Township, Council District #18

Petitioner: Don's Legacy LLC, by Jennifer Wright (Joseph Calderon)

Current Zoning: C-4 (TOD)

Request: Variance of Use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of an automobile parts and supply store on a lot greater than 0.5-acre (automobile service and repair prohibited on lots larger than 0.5-acre in the TOD district).

Current Land Use: Vacant tenant bay in commercial strip

Staff Reviewer: Josh Levesque, Senior Planner

PETITION HISTORY

N/A

PETITION OVERVIEW

A registered neighborhood organization has filed a complete and timely automatic continuance. This petition will be continued to the September 15th BZA III hearing. This merely requires the Board's acknowledgement.



Department of Metropolitan Development
Division of Planning
Current Planning

BOARD OF ZONING APPEALS DIVISION III

August 18, 2026

Case Number:	2026-DV3-028
Property Address:	6335 Old Orchard Road (approximate address)
Location:	Lawrence Township, Council District #9
Petitioner:	Gabriel D. Browne & Emily Kay Love Browne, by Misha Rabinowitch
Current Zoning:	D-S (W-5)
Request:	Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the placement of an accessory hot tub and deck within the front yard (side or rear yard required) and with a front setback of 70 feet (100 feet required).
Current Land Use:	Residential
Staff Recommendations:	Staff recommends approval of the requested variances, subject to a commitment.
Staff Reviewer:	Michael Weigel, Principal Planner I

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff recommends **approval** of the requested variances, subject to a commitment that landscaping be installed around the spa to provide additional visual buffering in substantial compliance with the landscape detail sheet file-dated July 13, 2026.

PETITION OVERVIEW

6335 Old Orchard Road is a pie-shaped, residentially-zoned parcel with a size of 1.52 acres that is currently improved with a single-family residence built in 1949. The property is located within the Brendonwood neighborhood within Lawrence Township, and adjacent land uses are also residential in nature with similar setbacks and open space ratios to the subject property. The site is accessed from a single driveway accessed from Old Orchard Road to the northwest of the existing residence.

Within the past year, began on the installation of a therapeutic hot tub/spa and deck near the northeastern façade of the existing residence, within the front yard (see photo 1 within Exhibits, as well as photos 2-4 for visibility of the project from the street to the north and to the west). This work was initially undertaken without required permits in place, but the construction is currently on hold until all required City approvals have been granted. Approval of this variance would allow for the release of the zoning permit ILP26-01656 and for placement of the hot tub/spa and deck to be completed legally.



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

Two variances of development standards would be required to allow for installation of the hot tub/spa and deck to be completed as proposed and as partially built:

- The spa and deck would be accessory structures placed between the residence and the front property line to the northeast, and the Ordinance would require placement of these sorts of minor residential structures within side and rear yard areas.
- The spa and deck addition would result in a 70-foot setback from Old Orchard Drive to the northeast. The required front setback for the D-S zoning district would be the *larger* of either (a) 40 feet or (b) the average of the two front-yard setbacks of adjacent properties. In this case, the latter requirement would be for a front setback of 100 feet (given the existing 64-foot setback for the home to the west and 136-foot setback for the home to the southeast). Since the larger 100-foot requirement is not met, a second variance of development standards would be required.

This property is zoned D-S to allow for suburban areas of extreme topography, areas conducive to estate development, or areas where it is desirable to permit only low-density residential development (such as adjacent to floodplains, aquifers, urban conservation areas, within the extended alignment of airport runways, etc.). Similarly, the Comprehensive Plan recommends that the property be developed residentially with a density of 0 to 1.75 residential units per acre (see Comprehensive Plan Analysis below). The property also falls both within an Environmentally Sensitive Areas overlay per the Pattern Book and within a Wellhead Protection Area (wellfield status would not limit residential use or impact applicable development standards)

Application documents and Findings of Fact provided by the petitioner indicate that the placement of the spa in this location would be ideal given proximity to an existing door on the residence for the elderly resident seeking to utilize it for therapeutic purposes. They also indicate that alternate locations of the spa that might be within Ordinance compliance would both result in more difficult access for the resident as well as the need for tree removal to allow construction equipment to access alternate side- or rear-yard locations.

Staff would concur that alternate placement would likely have a negative impact on existing treeline areas (see photos 5 and 6 within Exhibits), and that this removal would run counter to the goals of the Environmentally Sensitive Areas overlay of the Comprehensive Plan. Additionally, the current location of the residence on the lot and the irregular lot shape would create practical difficulties in placing the spa and deck in areas not already designated as a front yard (over 55% of the site is within the front yard).

The front yard setback averaging stipulation for D-S is primarily intended to prevent homes breaking up the visual pattern of the block or that would appear abnormally close to the street compared to neighbors. In this instance, Old Orchard is a highly curvilinear street, and the home with a deeper front setback (6335 Old Orchard Road, photo 8 within Exhibits) is situated to the southeast. The home to the west constituting a clearer precedent for the subject site (6315 Old Orchard Road, photo 7 within Exhibits) has a setback of only 64 feet, which is closer than the proposed 70-foot separation for the subject site. Staff feels that this would be an acceptable deviation from the Ordinance requirement informed by a site-specific practical difficulty, and would also note the placement of some level of existing visual buffering along Old Orchard Drive that would limit the visual impact of having a front-yard accessory hot tub and deck installed within the required front setback area.



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

To further limit any visual impact, the petitioner also agreed to install additional landscaping around the spa itself, per the landscape plan within Exhibits below. Based on the above analysis, and given this commitment, staff recommends **approval** of the requested variances, with the caveat that this approval recommendation is not based on the fact that construction has already begun (should not be viewed as precedent for favorable recommendations when “asking forgiveness, not permission”).

GENERAL INFORMATION

Existing Zoning	D-S (W-5)	
Existing Land Use	Residential	
Comprehensive Plan	0 – 1.75 Residential Units per Acre	
Surrounding Context	<u>Zoning</u>	Surrounding Context
	North: D-S	North: Residential
	South: D-S	South: Residential
	East: D-S	East: Residential
	West: D-S	West: Residential
Thoroughfare Plan		
Old Orchard Road	Private Drive	40-foot existing right-of-way
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	Yes ; Environmentally Sensitive	
Wellfield Protection Area	Yes	
Site Plan	07/02/2026	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	07/13/2026	
Findings of Fact	07/02/2026	
Findings of Fact (Amended)	07/13/2026	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Millersville at Fall Creek Valley Village and Corridor Plan (2015)

Pattern Book / Land Use Plan

- Not Applicable to the Site. See “Neighborhood / Area Specific Plan” below.



Department of Metropolitan Development
Division of Planning
Current Planning

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- **Land Use Category:** Residential Development greater than 0.00 and equal to or less than 1.75 units per acre. This density is consistent with rural development patterns and could also limit the impact of development on property with extreme topography or other significant environmental considerations such as floodplains, wetlands and old-growth woodlands. Additionally, this density would be conducive to agricultural and estate development.
- **Environmentally Sensitive Areas:** Environmental factors should be taken into consideration and have a modifying effect on any development or redevelopment of a site with those conditions. This plan includes an Environmentally Sensitive Areas map that depicts five environmental factors: wetlands, floodplains, steep slopes, woodlands and wellfields.

Infill Housing Guidelines

- Not Applicable to the Project.

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

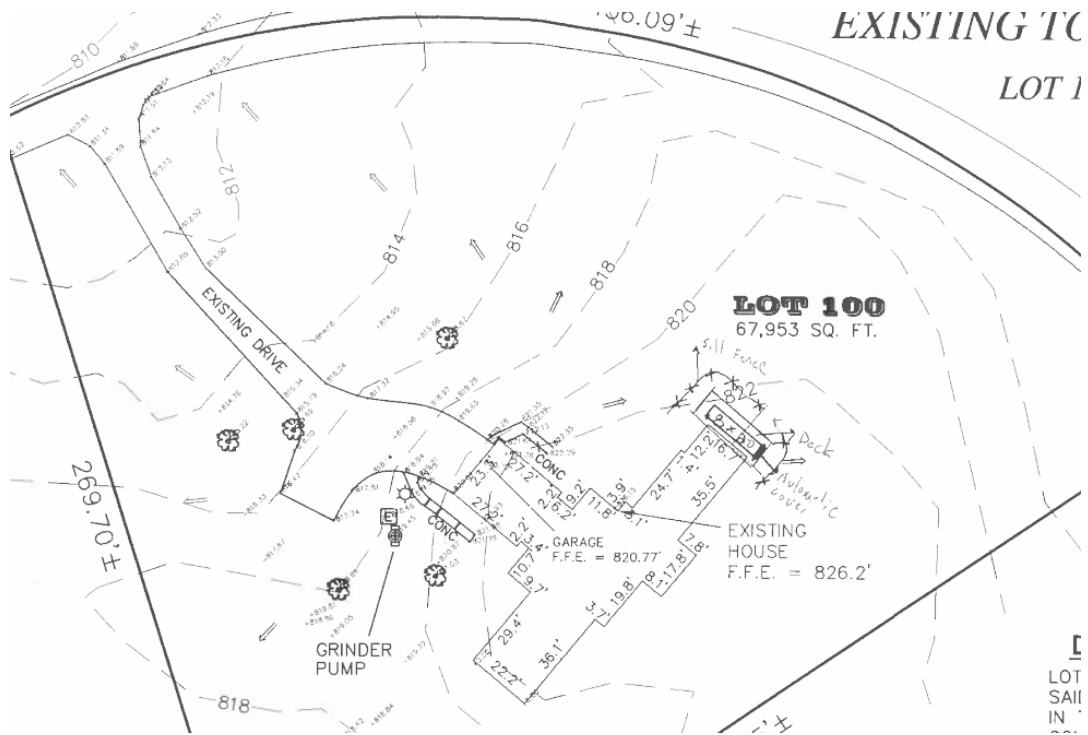
2001UV2016 ; 6220 Lawrence Drive (southwest of site), Variance of use of the Dwelling Districts Zoning Ordinance to legally establish a commercial use, consisting of the storing of medical-related patient charts, a telephone answering service, patient scheduling activities, and medical billing (not permitted) in a detached, 20 by 48-foot guesthouse, **withdrawn.**

EXHIBITS

2026DV3028 ; Aerial Map



2026DV3028 ; Site Plan



2026DV3028 ; Proposed Landscape Buffering





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

2026DV3028 ; Findings of Fact (Front Yard)

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

The proposed spa/hot tub will be located over 70 ft. from the adjacent Old Orchard road and will be heavily screened with landscaping.

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

The proposed spa/hot tub will be located over 70 ft. from the adjacent Old Orchard road and will be heavily screened with landscaping.

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

of the configuration of the lot, which is trapezoidal in shape with a front yard that, based upon the ordinance, spans the entire front and north side of the house.

2026DV3028 ; Findings of Fact (Front Setback)

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

The proposed pool/spa is setback at least 70' from the front property line of this uniquely shaped lot and will be substantially screened from view from the adjacent roadway.

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

The proposed pool/spa is setback at least 70' from the front property line of this uniquely shaped corner lot and will be substantially screened from view from the adjacent roadway.

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

The subject property is a corner lot, trapezoidal in shape, and the adjacent homes are setback a considerable distance from the road, which means that, based upon the manner in which the setback is calculated (average of adjacent front setbacks), the setback for the subject lot is approximately 100', which is a significant distance from the adjacent roadway.

2026DV3028 ; Photographs



Photo 1: Subject Spa Area Viewed from Northwest

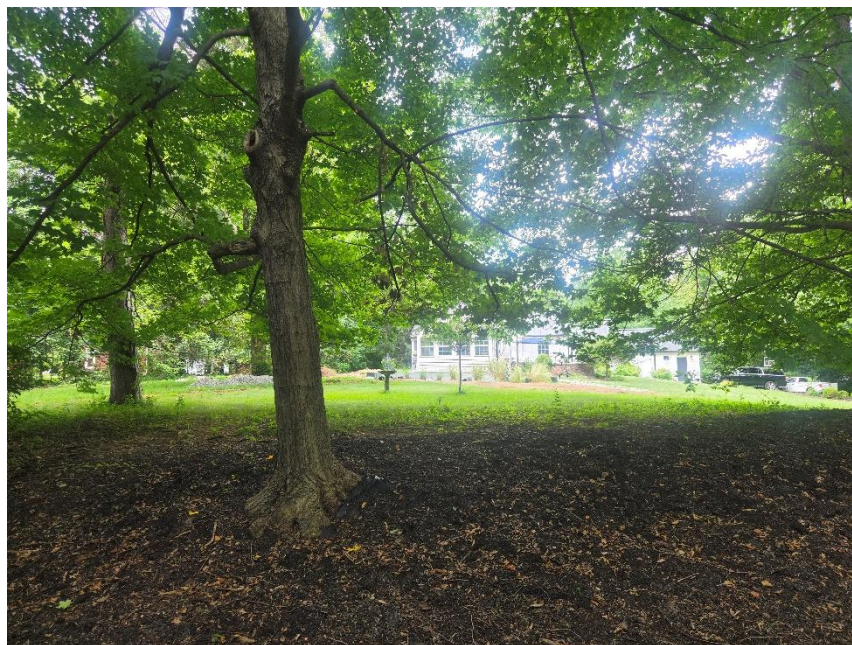


Photo 2: Subject Site Viewed from North

2026DV3028 ; Photographs (continued)



Photo 3: Subject Site Viewed from Northwest

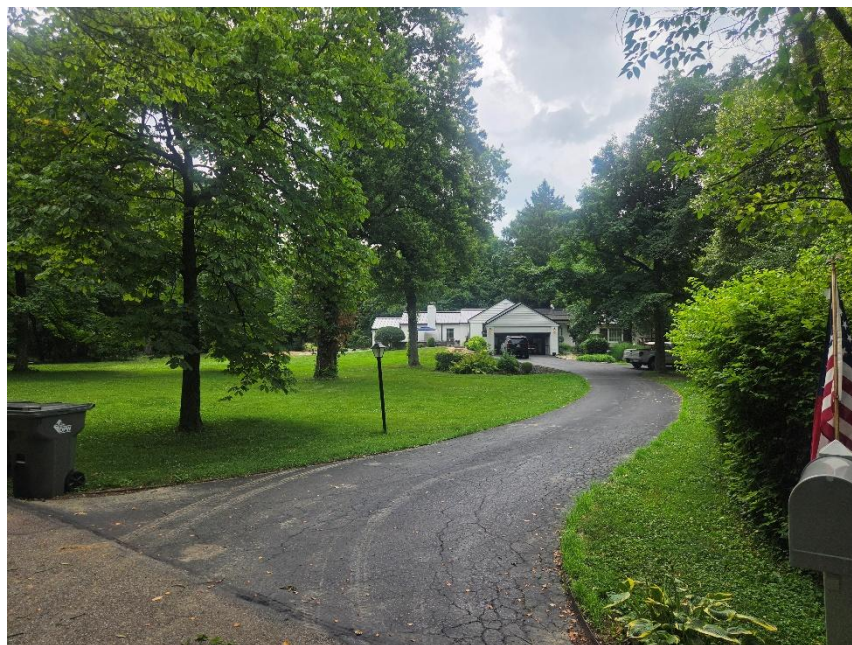


Photo 4: Subject Site Viewed from West

2026DV3028 ; Photographs (continued)



Photo 5: Area to East of Existing Residence



Photo 6: Area to West of Existing Residence

2026DV3028 ; Photographs (continued)



Photo 7: Adjacent Property to West



Photo 8: Adjacent Property to Southeast

2026DV3028 ; Photographs (continued)



Photo 9: Adjacent Property to Northeast



Photo 10: Adjacent Property to East



Department of Metropolitan Development
Division of Planning
Current Planning

BOARD OF ZONING APPEALS DIVISION III

AUGUST 18, 2026

Case Number:	2026-UV3-014
Property Address:	4038 & 4040 Otterbein Avenue (approximate address)
Location:	Perry Township, Council District #23
Petitioner:	Roberta Lopez, by Anthony S. Ridolfo
Current Zoning:	D-4 (TOD)
Request:	Variance of Use of the Consolidated Zoning and Subdivision Ordinance to allow for a secondary dwelling unit with a size of 727 square feet (maximum 720 feet permitted) and to allow for a primary and secondary dwelling unit without permanent occupancy by the owner (occupancy of either the primary or secondary dwelling unit by the owner required).
Current Land Use:	Residential
Staff Recommendations:	Staff recommends approval of this petition.
Staff Reviewer:	Drew Haynes, Senior Planner

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff recommends **approval** of this petition.

PETITION OVERVIEW

- **The Request:** The petitioner is requesting a variance of use to allow for the permitted residential use of a secondary dwelling be over 720 square feet and allow for the permitted residential use of a secondary dwelling unit to not be the owner's permanent residence.
- **Context:** 4038 & 4040 Otterbein Ave is a residential site at the corner of Windermire St. and Otterbein Ave. The site is in a transit-oriented development (TOD) corridor, right on the southwestern edge of the University of Indianapolis.
- **Zoning:** This site is technically two (2) parcels and contains two (2) primary buildings that are zoned D-4. D-4 district calls for low to medium intensity of single-family and two-family residential development. According to the property card, the original primary building to the east was built in approximately 1923. This structure was built on top of the lot line separating the parcels, according to the original plat and available Sanborn and Baist maps. The primary building to the west was built around 1953, according to imagery, and is located entirely on 4040 Otterbein Avenue.

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

- **History:** A previous variance of use was granted, last year (2025-UV3-021), that allowed for a second primary residence with a 3.5-foot western side yard setback and a six-foot rear yard setback (one primary building permitted per lot, four-foot side, 20-foot rear yard setback required). At the time of approval, this created both residences to be viewed as primary dwellings.
- **Recommendation:** Staff recommends approval of both requests in this petition. Staff consider the request to allow a secondary dwelling unit of 727 square feet reasonable, given that the dimensions extend only 7 feet beyond the maximum square feet permitted in the zoning ordinance.
- Although the classification of the dwelling units proposed by this petition would differ from the previous petition, the resulting housing configuration requested by this permit would be identical to the configuration previously approved by 2025UV3021 (no changes to the square footage of either residence are proposed). The previously considered classification of two primary buildings would not have a requirement related to owner-occupancy of either unit. Therefore, staff would consider this deviation to be minor in nature and would recommend approval of the variance related to owner-occupancy.

GENERAL INFORMATION

Existing Zoning	D-4 (TOD)	
Existing Land Use	Residential	
Comprehensive Plan	Traditional Neighborhood	
Surrounding Context	<u>Zoning</u>	Surrounding Context
North:	UQ-1	North: University
South:	D-4	South: Residential
East:	UQ-1	East: University
West:	D-4	West: Residential
Thoroughfare Plan		
Otterbein Avenue	Local Street	50 feet of right of way existing and 48 feet proposed.
Windermire Street	Local Street	50 feet of right-of-way existing and 48 feet proposed.
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	Yes, Transit Oriented Development	
Wellfield Protection Area	No	
Site Plan	7/10/2026	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	7/10/2026	



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

**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

- Marion County Land Use Plan Pattern Book recommends the Traditional Neighborhood typology for this site. This typology includes a wide array of housing types from single family homes to multi-family housing. The building form should promote the social connectivity of the neighborhood with clearly defined public, semi-public, and private spaces.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- This site sits in a Regional Office Park or Campus (REG) TOD typology. This typology has infill development with increased walkability and varied land uses is desired. Off-street parking is discouraged and should be limited to garages.

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

- IHG recommends:
 - Do not overshadow primary buildings.
 - Reinforce existing spacing on the block.

Indy Moves

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

- Not Applicable to the Site.



Department of Metropolitan Development
Division of Planning
Current Planning

ZONING HISTORY

ZONING HISTORY – SITE

2025-UV3-021, Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 1,172 square foot second primary building with a 3.5-foot western side yard setback and a six-foot rear yard setback (one primary building permitted per lot, four-foot side, 20-foot rear yard setbacks required), **approved**.

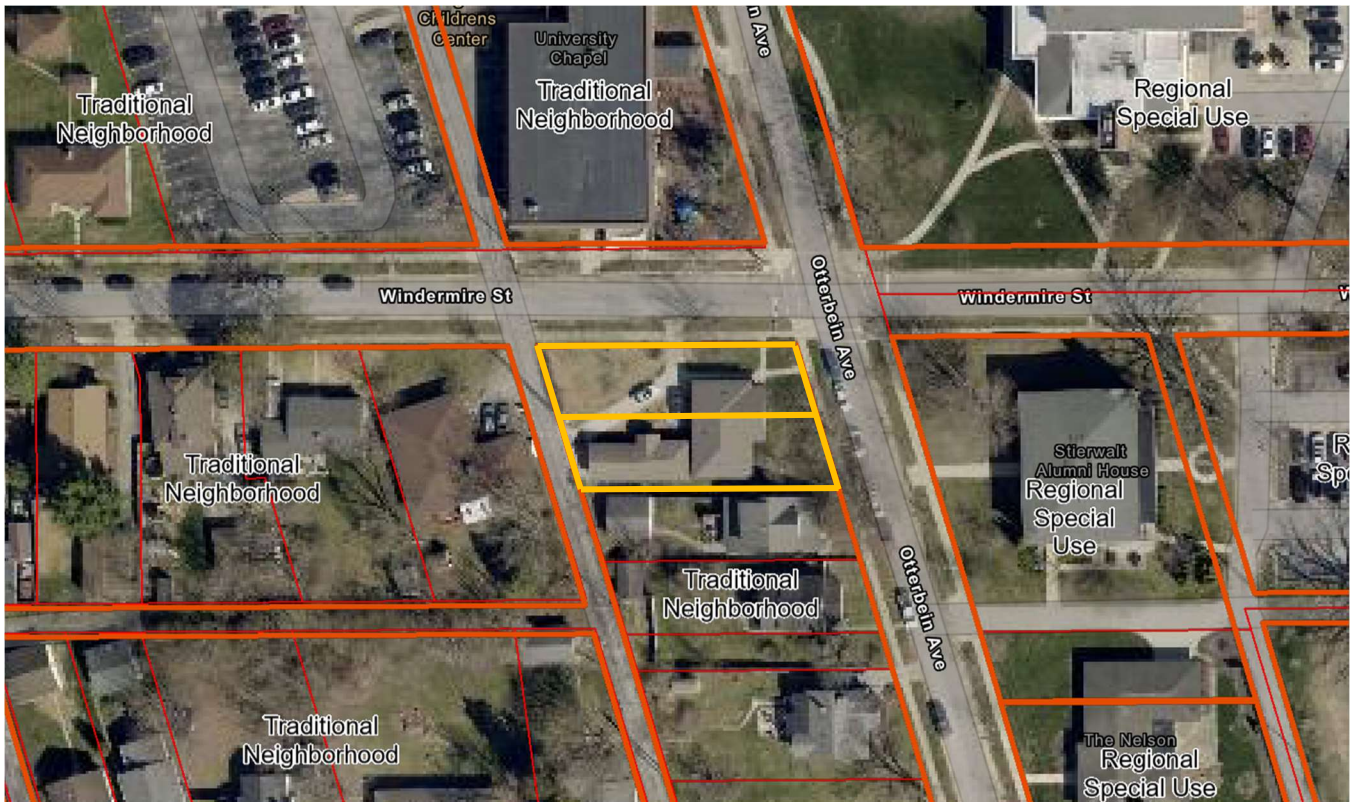
ZONING HISTORY – VICINITY

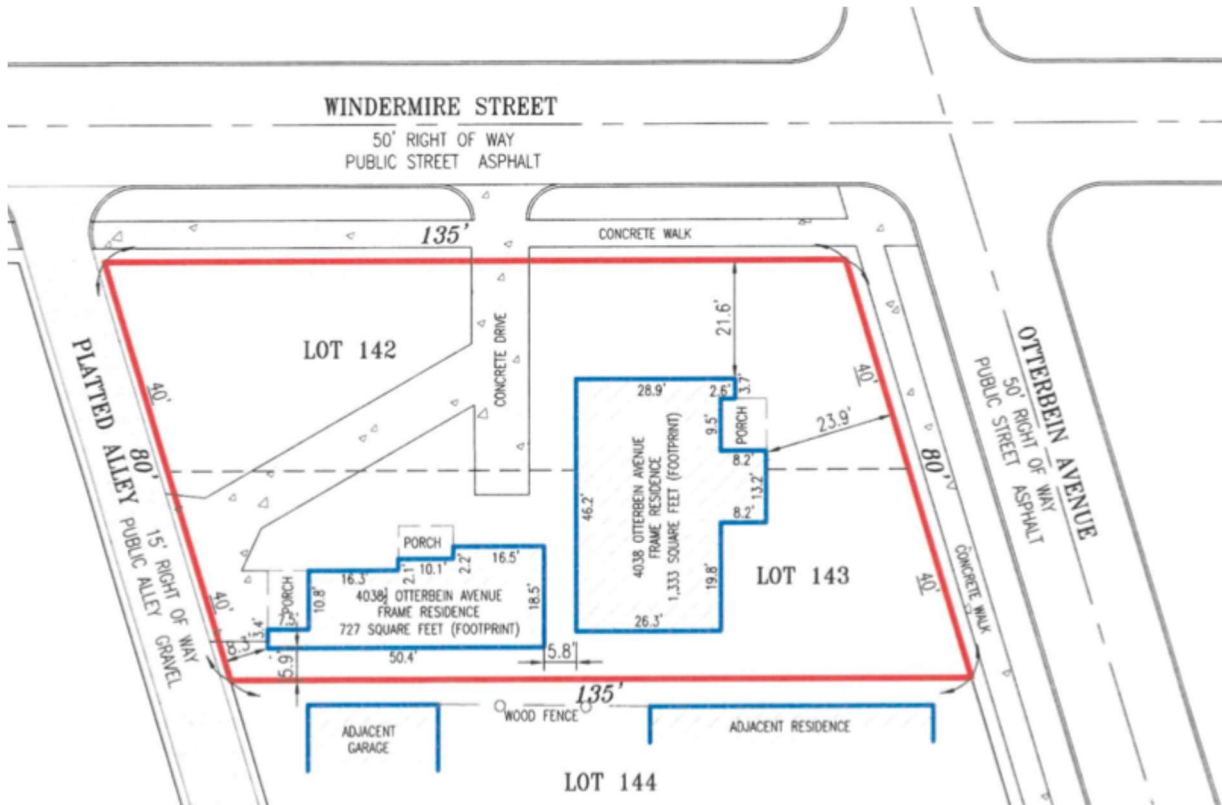
2017-UV3-002; 4021 Otterbein Avenue (east of site), Variance of Use and Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for offices and training rooms for the Indianapolis Neighborhood Housing Partnership in the existing Stierwalt Alumni House (not permitted), and to allow the grant of this variance to satisfy the requirement of filing an Approval petition for review and approval by the Metropolitan Development Commission, **approved**.

2017-CZN-CAP-CVR-CVC-838; 4018 Bowman Avenue, 1227 and 1233 East Hanna Drive, 4002 Otterbein Avenue, 1218 and 1224 Windermire Street, 1402 1406, 1412, 1414, 1420, 1428, 1432, 1502, 1508, 1514, 1526 East Castle Avenue, Rezoning of 4.7 acres from the D-4 and SU-1 districts to the UQ-1 classification. University Quarter-One Approval to provide for an academic training laboratory, with two wall signs at 4018 Bowman Avenue, and to provide for office, classroom, gathering places, collaboration space, meeting space, signs and a chapel for university departments and the SU-1 religious uses at 4002 Otterbein Avenue, and to provide for the expansion of an existing parking lot, with landscaping and illumination. Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the shared use by the Criminal Justice Education Lab of the University of Indianapolis and the Indianapolis-Marion County Forensic Services Agency to allow for combined training, simulation and testing purposes (non-university uses not permitted). Vacation of the first north-south alley west of Otterbein Avenue, being 15 feet wide, from the south right-of-way line of Hanna Avenue, 281.22 feet south to the north right-of-way line of Windermire Street. Vacation of the first east-west alley south of Hanna Avenue and north of Windermire Street, being 15 feet wide, from the west right-of-way line of the first north-south alley west of Otterbein Avenue, 320.25 feet west to the east right-of-way line of the first north-south alley east of Bowman Avenue. Vacation of the first east-west alley south of Windermire Street and north of Castle Avenue, being 15 feet wide, from the west right-of-way line of Matthews Avenue, 772.59 feet to the east right-of-way line of the first north-south alley east of Otterbein Avenue. Vacation of the first north-south alley east of Otterbein Avenue, being 15 feet wide, from the north right-of-way line of Castle Avenue, 156.71 feet to the north to the north line extended of the first east-west alley south of Windermire Street and north of Castle Avenue, **approved**.

EXHIBITS

Aerial Map







Department of Metropolitan Development
Division of Planning
Current Planning

Findings of Fact

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

PETITION FOR VARIANCE OF USE

FINDINGS OF FACT

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

it involves no construction and no physical change to the property. Both dwellings have existed for decades and this Board approved both as primary dwellings in 2025-UV3-021.

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 nothing visible changes. The surrounding neighborhood already includes a mix of owner-occupied and rental homes, many of which are rented for purposes of student housing.

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

the original 1923 residence was built on the lot line between two platted lots, and both homes predate the zoning ordinance. The owner-occupancy standard was written for a different situation than this property presents.

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 owner would need to live in one of the homes to rent the other. This relief was requested in 2025-UV3-021, and this filing completes what was started in the original petition.

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

the comprehensive plan recommends the Traditional Neighborhood typology for this area. The grant simply keeps two existing homes in use.

Site Photos







Department of Metropolitan Development
Division of Planning
Current Planning

BOARD OF ZONING APPEALS DIVISION III

July 21, 2026

Case Number:	2026-DV3-014
Property Address:	4202 Carson Avenue (approximate address)
Location:	Perry Township, Council District #19
Petitioner:	Kevin and Heather Davis
Current Zoning:	D-A (FW) (FF) / D-6II
Request:	Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a six-foot tall fence within the front yard of Carson Avenue (maximum 3.5-foot tall fence permitted) and encroaching within the required clear-sight triangle (not permitted).
Current Land Use:	Residential
Staff Recommendations:	Staff recommends denial of the requested variances.
Staff Reviewer:	Michael Weigel, Principal Planner I

PETITION HISTORY

7/21/26: The petitioner indicated their need for an additional continuance due to a last-minute work obligation impacting their ability to have childcare secured on the afternoon of the hearing. Staff made this request on their behalf, with support for additional continuance unlikely.

6/16/26: The petitioner indicated their need for an additional continuance to allow time for legal notice to be posted and mailed. Staff made this request on their behalf.

5/26/26: The petitioner had a conflict on this hearing date and had indicated their desire to have this petition continued to the June 16, 2026 hearing of Division III. Staff made this request on their behalf.

STAFF RECOMMENDATION

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

PETITION OVERVIEW

4202 Carson Avenue is a 2.69-acre parcel currently improved with a single-family residence and associated accessory building accessed by private driveway from Carson Avenue to the north. The property has around 517 linear feet of frontage along Carson Avenue, where there are also overhead power lines and a change in grade from the roadway to the interior of the site. The southern portion of the property is partially floodway due to its proximity to the Lick Creek; the fence that is the subject of this variance petition does not fall within that floodway or within any easement related to the power lines.

Surrounding land uses include single-family residences to the west and north, an apartment complex to the south, undeveloped floodway and additional apartments to the east, and the I-465 highway further to



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

the south. Carson Avenue crosses over the interstate via a bridge, and there is no exit ramp or access from the interstate to Carson directly for vehicles.

Prior to November of 2024, the front yard of the property to the southeast of the existing access drive contained a chain link fence in addition to trees and bushes, running parallel to the property line (visible within Photo 2 of the Exhibits). At that point in time, the existing fence was removed and replaced with a taller opaque wooden fence with a height of 6 feet per measurement by an inspector (see photos 1, 3 and 4). This fence appears to be around 250 linear feet in length placed atop the existing grade change between the road and the house.

In December of 2025, a complaint was filed with the Mayor's Action Center related to the opaque wooden fence, which led to the opening of the violation case VIO26-000584 in January of 2026. That violation cited the property for placing a fence in the front yard with a height of over 42 inches (Ordinance requires a height of 3.5 feet for fences with 30% or greater opacity). Grant of this variance would allow for this fence to remain in place, as well as for the fence to remain partially within the required clear-sight triangle formed between the private access drive and the street edge of Carson Avenue. A diagram within the Exhibits shows that clear-sight triangular area (20 feet from the street edge and 200 feet along Carson).

The property is primarily zoned D-A to allow for agricultural uses as well as for large estate development of single-family dwellings. A small portion to the east overlaps with the D-6II zoning used for apartments on adjacent property. The Comprehensive Plan recommends the developed portions of the site to the Suburban Neighborhood typology and areas to the south near Lick Creek to the Floodway and Environmentally Sensitive Areas designation (information in Comprehensive Plan Analysis below). Additionally, the Infill Housing Guidelines (a component of the Comprehensive Plan) indicate that front-yard fences for residential areas should be ornamental in nature, with privacy fences discouraged.

Findings of Fact provided by the applicant indicate that grant of the variance would be justified due to the proximity of the property to multifamily development and the interstate, and that the new fence is merely a replacement of previous chain-link fence along the northern property line. Staff would note that the new fence is both taller and more opaque than the previous fence, that the natural grade change and landscaping near the property line would already provide a level of visual buffering and separation, and that at the time of installation, no similar front-yard fences existed near the subject property (an adjacent fence to the north was installed within the past year per photos 7-8 in Exhibits).

Alternate options exist to either (a) lower the height of the fence to a compliant front-yard level between 3.5 and 4 feet in height depending on materials used or (b) place the fence outside of the front-yard area (shown within Exhibits below) along the front building line to offer similar levels of security and prevent unwanted access without the need for variance relief. These changes might also remove the small portion of the fence that is currently within the required clear-sight triangular area and more closely comport with applicable Infill Housing Guidelines. For these reasons, staff recommends **denial** of the requested variances related to front-yard fence height and for encroachment into the clear-sight triangle.



Department of Metropolitan Development
Division of Planning
Current Planning

GENERAL INFORMATION

Existing Zoning	D-A	
Existing Land Use	Residential	
Comprehensive Plan	Suburban Neighborhood / Floodway	
Surrounding Context	Zoning	Surrounding Context
North:	D-3	North: Single-Family Residential
South:	D-6II	South: Apartments
East:	D-6II	East: Floodway
West:	D-2	West: Single-Family Residential
Thoroughfare Plan		
Carson Avenue	Secondary Arterial	60-foot existing right-of-way and 80-foot proposed right-of-way
Context Area	Metro	
Floodway / Floodway Fringe	Yes	
Overlay	Yes	
Wellfield Protection Area	No	
Site Plan	04/15/2026	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	03/24/2026	
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, but is interspersed with attached and multifamily housing where appropriate. This typology should be supported by a variety of neighborhood-serving businesses, institutions, and amenities. Natural Corridors and natural features such as stream corridors, wetlands, and woodlands should be treated as focal points or organizing systems for development. This typology generally has a residential density of 1 to 5 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.



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

- The Floodway category delineates areas that exhibit a great potential for property loss and damage from severe flooding, or for water quality degradation. No development should occur within the floodway. Nonconforming uses currently within a floodway should not be expanded or altered.
- The Environmentally Sensitive Areas (ES) Overlay is intended for areas containing high quality woodlands, wetlands, or other natural resources that should be protected. The purpose of this overlay is to prevent or mitigate potential damage to these resources caused by development. This overlay is also appropriate for areas that present an opportunity to create a new environmental asset. This overlay is not intended for the preservation of open space.

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

- Fences around dwellings should be carefully placed. See-through fencing is safest. In the front, fences should be ornamental in style. Do not install privacy fences in front yards.

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

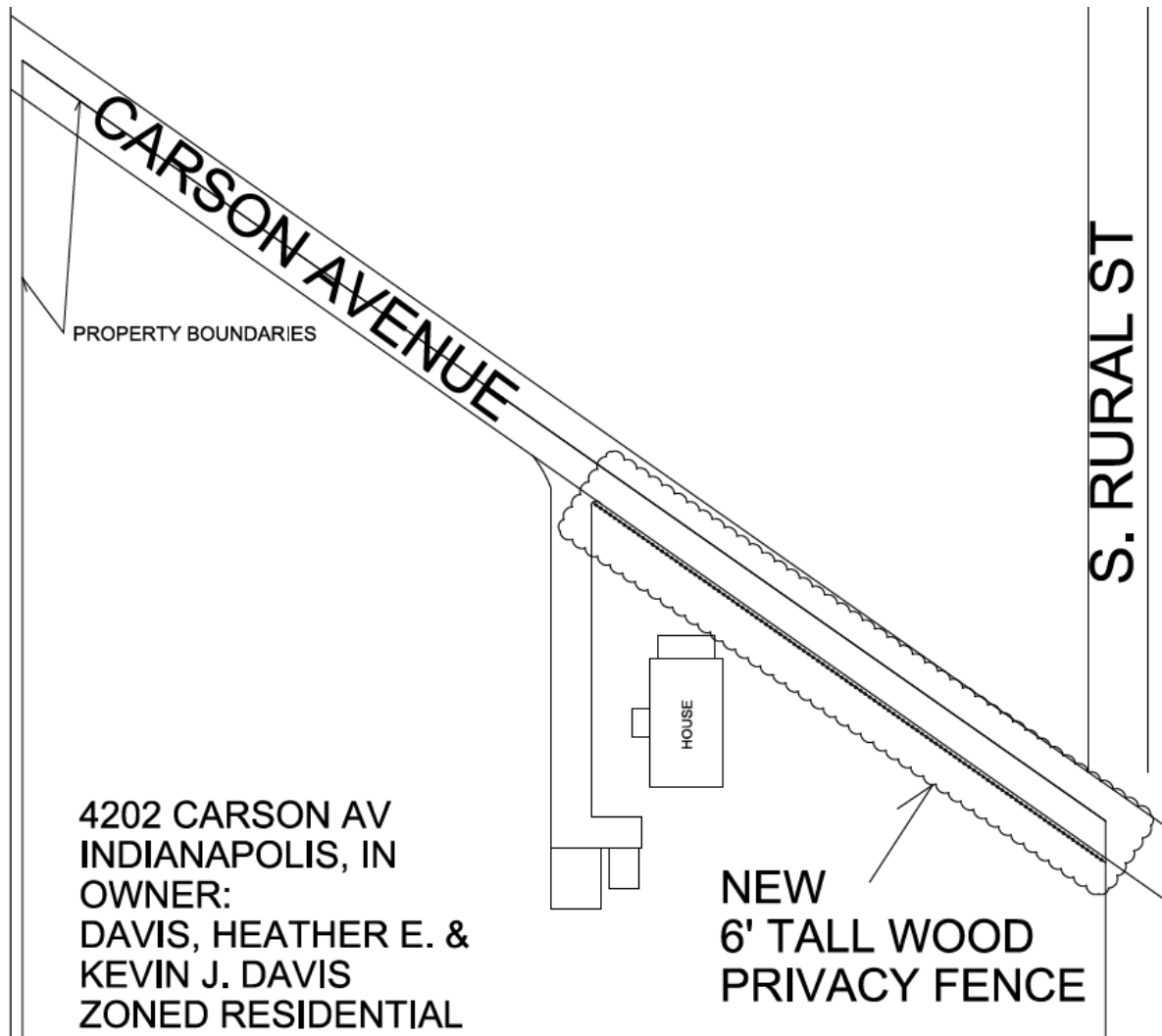
86-UV1-126 ; 4032 South Rural Street (north of site), Variance of Use of the Dwelling Districts Zoning Ordinance to provide for the outside storage of a 60 foot tractor-trailer in the yard of an existing single-family residence, **denied**.

EXHIBITS

2026DV3014 ; Aerial Map



2026DV3014 ; Site Plan



2026DV3014 ; Notice of Violation (VIO26-000584)

RE: 4202 CARSON AVE

Dear DAVIS, HEATHER E & KEVIN J DAVIS:

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-A district; (Table 744-510-2: - Fence height exceeding 42 inches in the front yard with more than 30% opacity...privacy fence along Carson Ave).

2026DV3014 ; Clear-Sight Triangle Diagram



2026DV3014 ; Front Yard Location





Department of Metropolitan Development
Division of Planning
Current Planning

2026DV3014 ; Findings of Fact (Height)

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because:
the fence only impacts one side of the residence. Emergency responder personnel has full, unobstructed access to the primary entrance and the existence of this fence has no bearing on the public safety of nearby residents or passing vehicles. On the contrary, the erection of this fence increases the safety and welfare of household residents due to increase in gun violence and shootings at adjacent apartments (Stone Lake Apartments), increased foot traffic of individuals living in houseless community nearby in which drug and firearm use is abundant, and increasing number of accidents at adjacent intersection.

The location of the fence does not impact view of oncoming traffic; a clear sight triangle is maintained.

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

this fence or adjacent area does not serve as the primary entrance to the residence and has an increase of value impact on the property without a decrease of value to the surrounding area. As this fence is in the same location as the previous fence, there is still substantial space between the fence and the roadway for emergency vehicles and other various uses such as electrical line repair.

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

it will be exponentially more challenging to protect the safety and welfare of the residents - to include young children and pets - from the increasing dangers and disturbances imposed by nearby traffic accidents, drive by gunfire, and trespassing. Record of 9-1-1 calls made to report said safety hazards can be acquired from local dispatch upon request.

2026DV3014 ; Findings of Fact (Clear-Sight Triangular Area)

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

The location of the fence does not impact view of oncoming traffic; despite minor encroachment on the clear-sight triangle. Due to the legal requirement to come to a complete stop at the end of the driveway or heed someone exiting the driveway, there is no scenario in which any slight encroachment is a safety concern. Rather, the curve in Carson Ave. and the infrequent weed mowing by the City are legitimate safety concerns and are of significantly greater impact to the safety of passers by than the location of this fence.

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

This fence or adjacent area does not serve as the primary entrance to the residence and has an increase of value impact on the property without a decrease of value to the surrounding area. As this fence is in the same location as the previous fence, there is still substantial space between the fence and the roadway for emergency vehicles and other various uses such as electrical line repair. The fence is a high quality design & construction.

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

It will be exponentially more challenging to protect the safety and welfare of the residents - to include young children and pets - from the increasing dangers and disturbances imposed by nearby traffic accidents, drive by gunfire, and trespassing. Record of 9-1-1 calls made to report said safety hazards can be acquired from local dispatch upon request.

2026DV3014 ; Photographs



Photo 1: Subject Site Viewed from North



Photo 2: Subject Site Viewed from North (August 2022)

2026DV3014 ; Photographs (continued)



Photo 3: Subject Driveway Looking Southeast Along Property Line

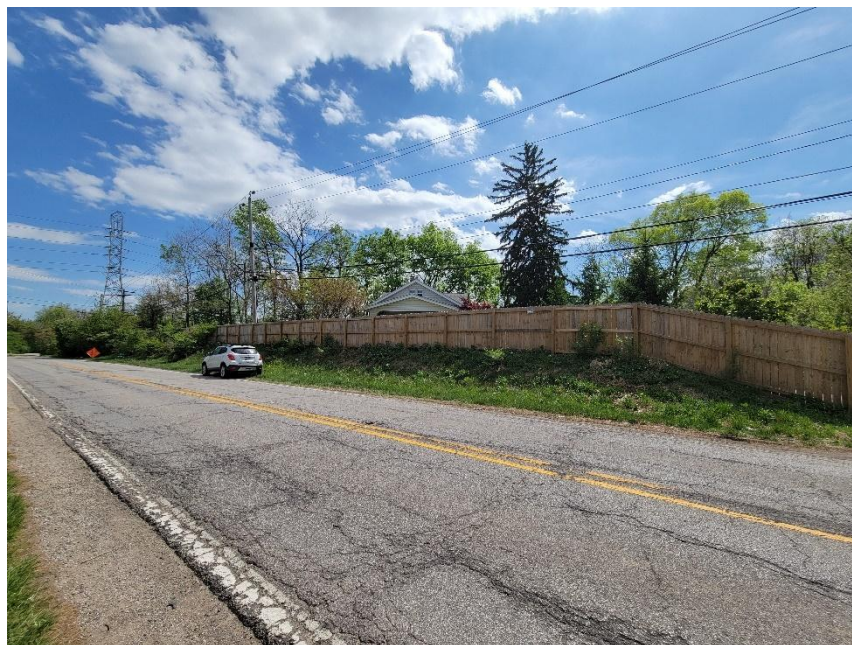


Photo 4: Subject Site Viewed from Northwest

2026DV3014 ; Photographs (continued)



Photo 5: Subject Site Viewed from Northeast

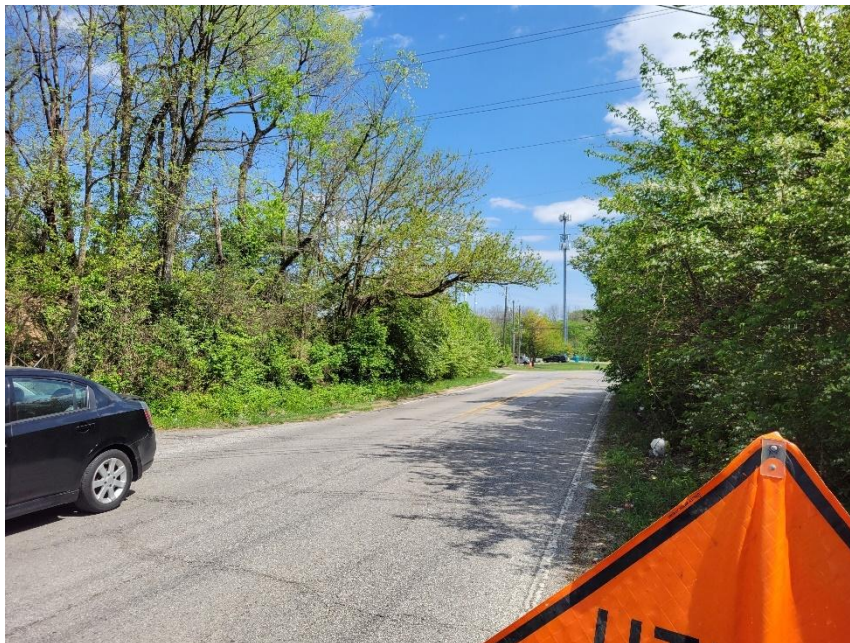


Photo 6: Carson Frontage + Adjacent Property to Northeast

2026DV3014 ; Photographs (continued)



Photo 7: Adjacent Property to North



Photo 8: Adjacent Property to North (May 2025)

2026DV3014 ; Photographs (continued)



Photo 9: Adjacent Property to Northwest



Photo 10: Apartment Complex to East of Subject Site



Department of Metropolitan Development
Division of Planning
Current Planning

Board of Zoning Appeals Division III

August 18, 2026

Case Number:	2026-DV3-016A
Property Address:	10220 East Washington Street (<i>approximate address</i>)
Location:	Warren Township, Council District #20
Petitioner:	Indy WS40 LLC, by Barnes & Thornburg LLP (Joseph Calderon)
Current Zoning:	C-4 (TOD)
Request:	Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a drive through with access provided by Ring Road instead of an alley (drive throughs prohibited within 600 feet of a transit station except where located behind the building and all access is provided by alleys).
Current Land Use:	Under development
Staff Recommendations:	Staff recommends approval of this petition, subject to substantial compliance with the site plan, file-dated August 7, 2026, with drive-through access limited to the Ring Road/internal drive configuration shown on the plan and a bypass aisle being included.
Staff Reviewer:	Josh Levesque, Senior Planner

PETITION HISTORY

This was originally part of a larger petition. On May 26, 2026, 2026DV3016 was split into 2026DV3016A and 2026DV3016B. 2026DV3016B pertained to a variance request to allow for a monument sign within 250 feet of another freestanding sign. 2026DV3016B was granted on May 26, 2026. 2026DV3016A, this petition, was continued from the May 26, 2026, BZA III hearing to the June 16th, 2026, BZA III hearing. This petition was subsequently continued from the June 16th, 2026, BZA III hearing to the July 21st, 2026, BZA III hearing. A timely automatic continuance was subsequently filed ahead of the July 21st hearing to automatically continue this case to the August 18th, 2026, BZA III hearing. The petitioner provided updated site plans on August 7th, 2026, showing the inclusion of bypass aisle, thus eliminating the need for the variance request related to the lack of a bypass aisle. As the petition currently stands, the only variance being requested is in regard to the access being provided by a private drive instead of an alley.

STAFF RECOMMENDATION

Staff recommends **approval** of this petition, subject to substantial compliance with the site plan, file-dated August 7, 2026, with drive-through access limited to the Ring Road/internal drive configuration shown on the plan and a bypass aisle being included.

PETITION OVERVIEW



Department of Metropolitan Development
Division of Planning
Current Planning

- 10220 East Washington Street is a parcel totaling roughly 1.326 acres and is part of a larger integrated center just east of the intersection of Washington Street and Mitthoefer Road. This site was previously home to a Golden Corral restaurant. The property is zoned C-4 and is part of the Transit-Oriented Development (TOD) overlay district. Surrounding properties are also zoned C-4 within the TOD overlay. Site plans indicate that a proposed bus rapid transit (BRT) line, is proposed directly south of this site.
 - The petitioner is requesting a variance of development standards to allow a drive-thru with access provided by an interior road (Ring Road) in lieu of a rear alley
- The C-4 (Community-Regional District) is “designed to provide 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. These centers may feature a number of large traffic generators such as home improvement stores, department stores, and theatres. Even the smallest of such freestanding uses in this district, as well as commercial centers, require excellent access from major thoroughfares. While these centers are usually characterized by indoor operations, certain permitted uses may have limited outdoor activities, as specified.”
- Along with a base zoning district, sites can have secondary zoning districts. Secondary districts regulate development in certain geographies “and are intended to protect a natural resource (Wellfield and Gravel-Sand-Borrow), to enhance the value of existing development (Regional Center), or to assure the public safety (Flood Control and Airspace).” In other words, secondary districts add an extra layer of standards to the existing base district to enhance development in certain geographic areas. TOD is one of these secondary districts.
- According to the Ordinance, “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.” The Metropolitan Development Commission adopted the TOD changes to the Ordinance in 2021 to provide staff, developers, and the board with guidelines for development in specific areas along transit lines. This has continued to remain a part of the Ordinance for the past five years and remains in full force.
- While certain elements of the Ordinance adopt a more conventional approach to zoning, the TOD aspect of the Ordinance is a form-based code. Rather than focusing on a separation of uses, form-based code regulates the physical form to produce predictable results. Form-based code can be used to steer the shape of the built environment and promote more compact, walkable neighborhoods. Because TOD is a form-based code, it lays out a number of specific guidelines that must be met for development to occur within the district. These guidelines are intended to work in unison to promote more compact, walkable neighborhoods. A deviation from one guideline

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

can undermine the larger goal TOD is trying to achieve. Therefore, any request to deviate from the guidelines must be carefully considered. Each case should be considered on its merits and approval of one petition at one site should not determine the outcome of another.

- This is the 5th (if one includes the splitting of this case) variance petition related to this project that has come before the board in the past 3 years. The petitioner has gone back to the drawing board more than once to adjust things like pedestrian street access, window transparency, setbacks, orientation, and more to try and fit this into a TOD model. The remaining matters revolve around the lack of a bypass aisle and the lack of alley access.
- Under TOD regulations, drive through uses within 600 feet of a transit station (as this one will be) are “prohibited, except where located behind the building and all access provided by alleys.” The subject site is in the Metro Context and was originally developed without alleys. The intent of the Ordinance requiring that TOD drive-throughs be accessed via an alley is to help mitigate traffic conflicts in TOD. If automobiles were to access the site directly off of Washington Street, traffic could spill over into the street and either disrupt traffic or cause conflict with pedestrians. Providing rear access via an internal drive can meet the same goal. When an internal drive can handle the traffic capacity, it can help to meet the intent of reducing traffic conflict.
- To be clear, not all private or internal drives will be able to meet the intent of the Ordinance. This drive does have the capacity due to its size and relatively low existing traffic patterns. While the internal drive will be accessed via a curb cut off of Washington Street, automobiles will then have to drive into the integrated center and access the drive-through from the rear. Additionally, the petitioner has added additional stacking spaces to mitigate overflow into the rest of the development. Staff will note that the curb cut off of Washington Street is pre-existing and was previously an entrance for Washington Square Mall among other business.
- A previous variance (2023-DV3-004) granted access for an accessory drive-through via a private drive for the bank. Staff does not treat 2023-DV3-004 as controlling precedent because the prior approval involved an accessory bank drive-through which is different from a drive-through as a primary function. However, this is relevant site-specific history as it reflects prior BZA consideration of this same internal drive as a potential substitute for alley access within this integrated center.
- TOD requires drive-throughs to be accessed from a rear alley, yet the Metro Context area was largely developed without alleys. This constitutes a site-specific practical difficulty and staff must analyze whether a private/internal drive can carry out the same function while also keeping the spirit of the TOD aspect of the Ordinance. In this case, the internal drive functions more similarly to service/rear access than a conventional front drive, as it is internal to the integrated commercial center, does not require drive-through vehicles to queue directly from East Washington Street, provides rear-oriented access to the drive-through, and separates drive-through circulation from the primary pedestrian frontage to the extent shown on the site plan. As such, staff recommends approval this petition.



Department of Metropolitan Development
Division of Planning
Current Planning

- Staff will emphasize that the TOD guidelines are intended to work in unison to promote more compact, walkable neighborhoods. A deviation from one guideline can undermine the larger goal TOD is trying to achieve. Therefore, any request to deviate from the guidelines must be carefully considered. Each case should be considered on its merits and approval of one petition at one site should not determine the outcome of another. This specific drive and the layout of the development allowed for a situation where the intent of the Ordinance was met. Not every private road and design will be able to meet this intent and neither petitioners, nor the Board, nor the public should construe this as an automatic recommendation of approval on future projects.

GENERAL INFORMATION

Existing Zoning	C-4 (TOD)	
Existing Land Use	Undergoing development	
Comprehensive Plan	Regional Commercial	
Surrounding Context	<u>Zoning</u>	Surrounding Context
North:	C-4	North: Commercial
South:	C-4	South: Commercial
East:	C-4	East: Commercial
West:	C-4	West: Commercial
Thoroughfare Plan		
Washington Street	Primary Arterial	170-foot existing right-of-way and 124-foot proposed right-of-way
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	3/09/2026	
Site Plan (Amended)	6/16/2026	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	3/10/2026	
Findings of Fact (Amended)	N/A	
C-S/D-P Statement	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan



Department of Metropolitan Development
Division of Planning
Current Planning

- Marion County Land Use Plan Pattern Book (2019)

Pattern Book / Land Use Plan

- The Regional Commercial typology provides for general commercial and office uses that serve a significant portion of the county rather than just the surrounding neighborhoods. Uses are usually in large freestanding buildings or integrated centers. Typical examples include shopping malls, strip shopping centers, department stores, and home improvement centers.

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

ZONING HISTORY – SITE

2023-DV3-004, Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the development of an integrated center with: a) an accessory drive through within 600 feet of a transit station with access provided by a private drive (alley access required); b) a surface parking area within the minimum 50-foot front yard setback (not permitted); c) all buildings maintaining a 20-foot front yard setback (maximum 10-foot setback permitted); d) and a 46% front building line (80% required), **approved**.

2024-DV3-013, Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a bank with one primary entry (two required), **approved**.

2024-DV3-024 (Amended), Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a drive-through without an exclusive bypass aisle (bypass aisle required) and the construction of freestanding buildings with front building line setbacks of up to 33 feet (maximum 20-feet permitted per 2023-DV3-004), a front building line width of 33.5 percent (46% required



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

per 2023-DV3-004), and deficient first-story transparency on the front façade of the westernmost building (60% transparency required), **denied**.

ZONING HISTORY – VICINITY

73-Z-176; 10029 East Washington Street, Rezoning of 2.517 acre parcel from the A-2 district to the C-4 classification to provide for commercial development, **approved**.

76-Z-105; 10025 East Washinton Street, Rezoning of a 0.694-acre parcel from the A-2 to the C-4 classification, **approved**.

80-Z-11; 10115 East Washington Street, Rezoning of unimproved land from the D-2 to the C-4 classification to allow for the construction of a retail sales facility with off-street parking, **approved**.

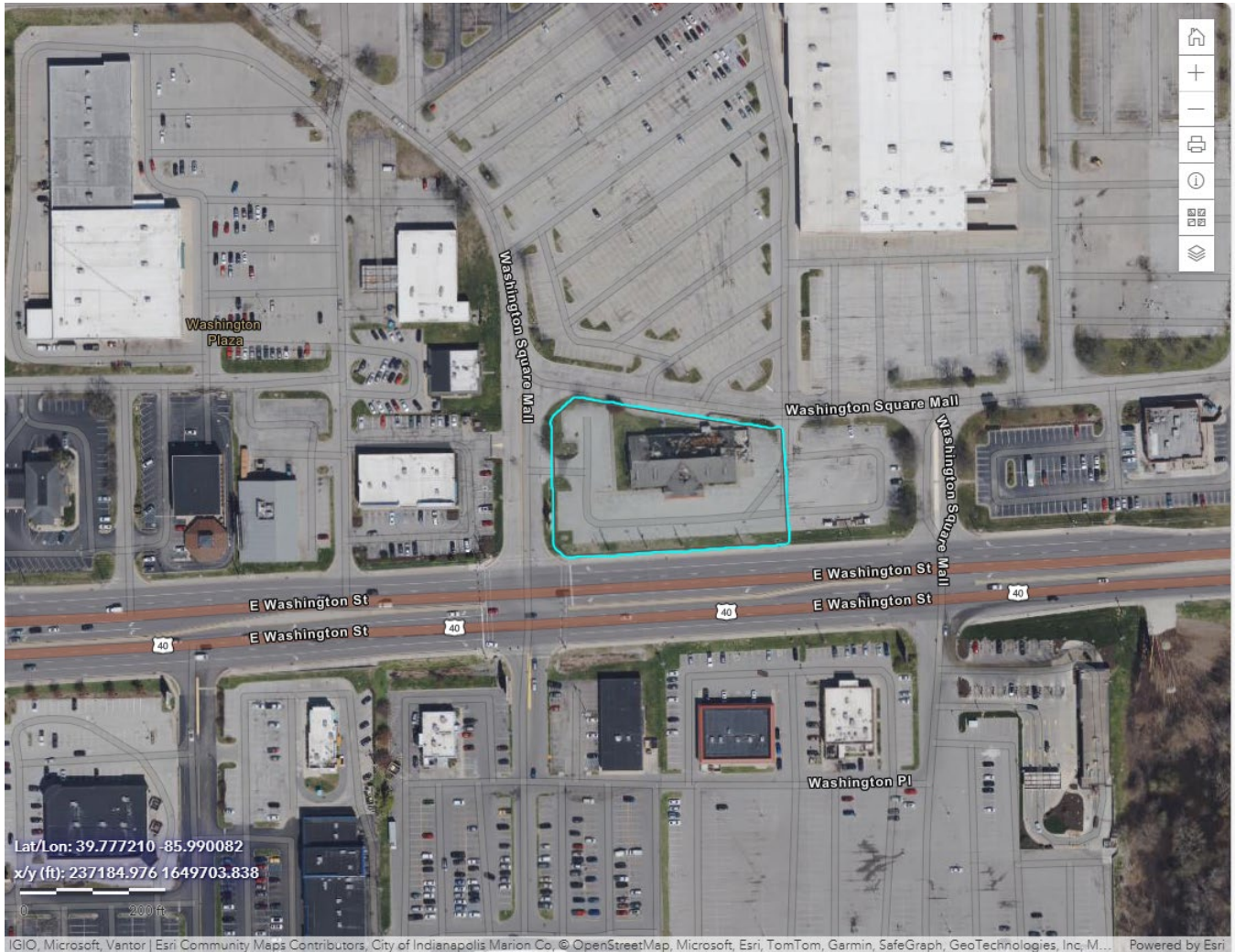
80-Z-12; 10117 East Washington Street, Rezoning of 3 acres from the D-2 to the C-4 classification to allow for the construction of a retail sales facility with off-street parking, **approved**.

84-Z-35; 10225 East Washington Street, Rezoning of 10.6 acres from the A-2 classification to the C-4 classification to permit development of the property for retail commercial use, **approved**.

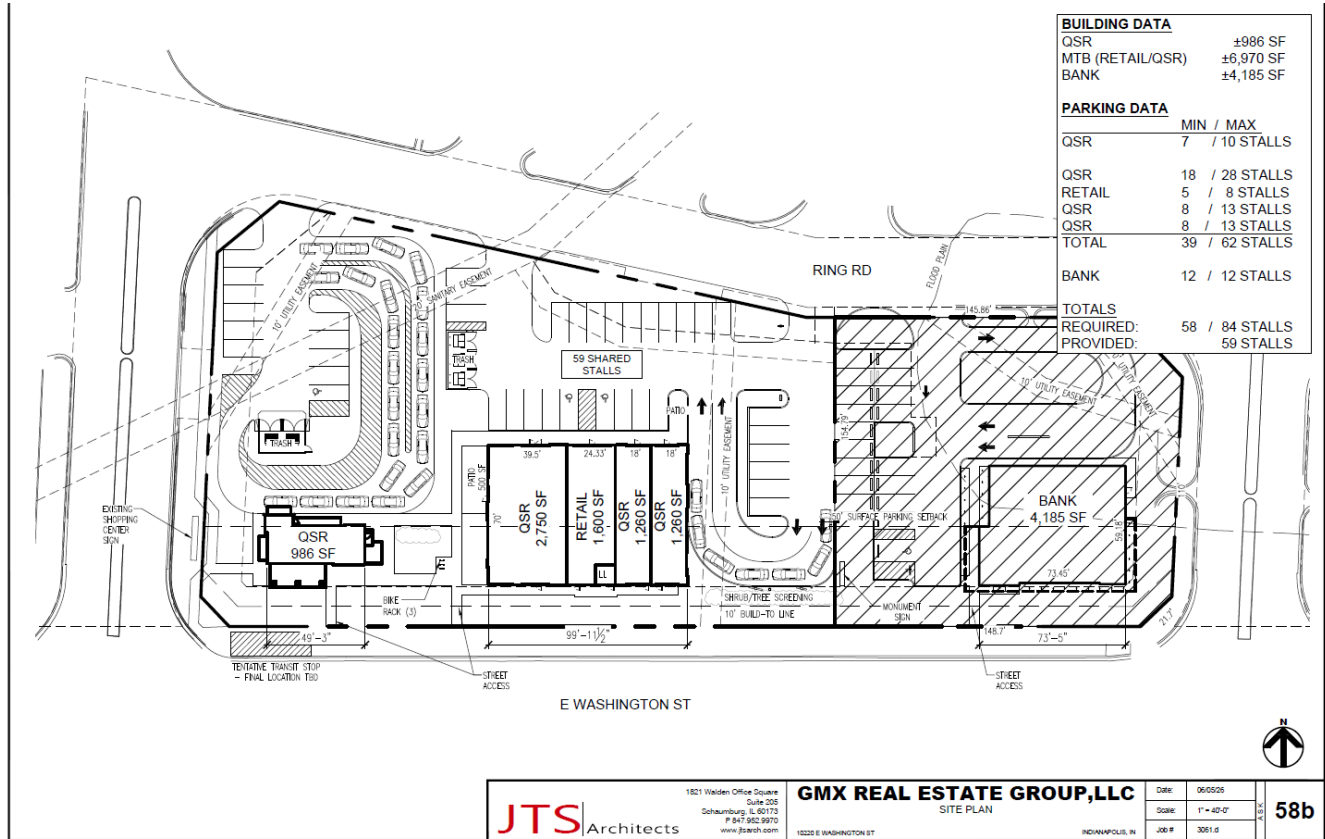
87-Z-24; 10229 East Washington Street, Rezoning of 4+ acres from the A-2 to the C-4 classification, **approved**.

EXHIBITS

2026DV3016; Aerial Map



2026DV3016; Site Plan



2026DV3016; Photographs



Photo 1: Subject site from mall parking lot

2026DV3016; Photographs (continued)



Photo 2: Framing of bank at subject site

2026DV3016; Photographs (continued)



Photo 3: Photo of subject site undergoing development and surrounding context in background



Department of Metropolitan Development
Division of Planning
Current Planning

BOARD OF ZONING APPEALS DIVISION III

August 18th, 2026

Case Number: 2026-UV3-015
Property Address: 3305 Pinetop Drive (approximate address)
Location: Perry Township, Council District #24
Petitioner: Min Sung Zi and Mang Hluan
Current Zoning: D-3

Request: Variance of Use and Development Standards of the Consolidated Zoning and Subdivision Ordinance to permit more than 12 chickens as personal livestock (maximum 12 permitted); to permit an accessory chicken coop with a 16-foot front-yard setback (25-foot minimum) in a front yard (not permitted); a 6-foot-tall fence within a front yard (maximum 3.5-feet permitted) and reduced side-yard setbacks (6-feet required) for all existing accessory structures.

Current Land Use: Single-Family Dwelling
Staff Recommendations: Staff recommends denial of this petition
Staff Reviewer: Adam Skrzyszewski, Senior Planner

PETITION HISTORY

This is the first public hearing for this petition

STAFF RECOMMENDATION

Staff recommends **denial** of this petition

PETITION OVERVIEW

- The petitioner is requesting to permit these existing non-conformities on-site:
 - The keeping of more than 12 chickens, exact number unknown.
 - A deficient front-yard setback of 16-feet, 25-feet required, from the constructed chicken coop to the front-yard lot-line on Maple Ridge Drive.
 - The accessory chicken coop within the front yard.
 - A 6-foot-tall fence within a front yard, 3.5-foot maximum fence height permitted within front yards.
 - All accessory structures with deficient side-yard setbacks to the southern side fence.
 - This petition is to permit all non-conformities still existing on-site after an inspection revealed all violations on March 25th, 2026. Inspection was carried out by the Department of Business and Neighborhood Services, violation case VIO-002449.



Department of Metropolitan Development
Division of Planning
Current Planning

- The petitioner has indicated that the chickens are not for commercial use, and the livestock is contained within the petitioner's fenced portion of the yard. Staff is concerned that the accessory agricultural use of the property will continue to create an adverse effect.
- The petitioner's fence and all accessory structures were erected in non-conforming locations, with the accessory structures not receiving the necessary Improvement Location Permits from the Department of Business and Neighborhood Services before construction. The fence could have been placed in-line or behind the front façade of the building to comply, and the accessory structures still could have met all setbacks with a compliant fence. Therefore, the non-conformities on-site were placed and created not from practical difficulty on-site, but from personal choice.
- In the Findings of Fact, the petitioner states that the use of the property already has infrastructure for adequate animal keeping. This does not permit nor necessitate the need for further chickens beyond the maximum of 12 permitted. There is no fact presented by the petitioner in the Findings of Fact to create a hardship that necessitates the need for more than 12 chickens.
- The amount of accessory structures and quantity of livestock on-site is out of context with the surrounding suburban neighborhood. No similar petition has been submitted nor approved for the neighborhood.
- The petitioner is asking to permit a use-intensity that would be more appropriate in the D-A zoning district. The D-A zoning district permits the keeping of more than 12 chickens only on lots 3 acres in size or more, similar to farmland.
- A potential compromise was proposed by staff to permit all non-conforming structures, including the fence; but lower the number of chickens on-site to 12 to potentially mitigate the effect of having to move and tear down the non-conforming structures. The fence provides necessary cover for the chicken coop, and agricultural uses, and moving or demolishing the structures that have been long-standing, creates extreme difficulty for the petitioner and their family. Staff proposed this compromise with the neighborhood and the effect of the petitioner in mind. The petitioner has not agreed to this compromise.
- It is true that if this petition is approved, that impact from the chickens and the accessory structures will not increase, but the same adverse effects will continue to persist. There is adequate space on-site to meet all relevant standards for setbacks, fence height, position, and chicken quantity. The petitioner is choosing to be non-compliant and is presenting self-inflicted hardships; Therefore, staff, after full review of case 2026-UV3-015, recommends denial.



Department of Metropolitan Development
Division of Planning
Current Planning

GENERAL INFORMATION

Existing Zoning	D-3	
Existing Land Use	Single-Family Dwelling	
Comprehensive Plan	Suburban Neighborhood	
Surrounding Context	<u>Zoning</u>	Surrounding Context
	North:	D-3
	South:	D-3
	East:	D-3
	West:	D-3
Thoroughfare Plan		
Enter Street(s)	Enter Thoroughfare	50-foot existing right-of-ways
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	June 9 th , 2026	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	April 4 th , 2026	
Findings of Fact (Amended)	N/A	



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

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- The Comprehensive Plan recommends Suburban Neighborhood.

Pattern Book / Land Use Plan

- Not Applicable to the Site.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

- The Infill Housing Guidelines state that additions to homes and improvements to homes should meet the Comprehensive Plan and surrounding impact should be mitigated. The additions of the chicken coop and two accessory sheds/mini-barns were erected without the necessary ILP's or any consideration for surrounding residences: Therefore, resulting in adverse effects to the surrounding properties, from an agricultural use of higher intensity than what is permitted.
- The Infill Housing Guidelines state that fences within front yards should be built thoughtfully in an ornamental style, not intended for privacy. The existing 6-foot-tall fence in the front yard of the home, fronting Maple Ridge Drive, is not ornamental in style, and is intended to ensure privacy for the petitioner's yard; thus, harming the character and consistency of design recommended for a Suburban Neighborhood per the Infill Housing Guidelines.

Indy Moves

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

- Not Applicable to the Site.



Department of Metropolitan Development
Division of Planning
Current Planning

ZONING HISTORY

99-V3-86 ; 7315 McFarland Road (West of petitioned site), Variance of Development Standards of the Dwelling District Zoning Ordinance to provide for construction of a 15 by 22.25-foot addition to an existing single-family residence, which extends 6-feet into a drainage easement.

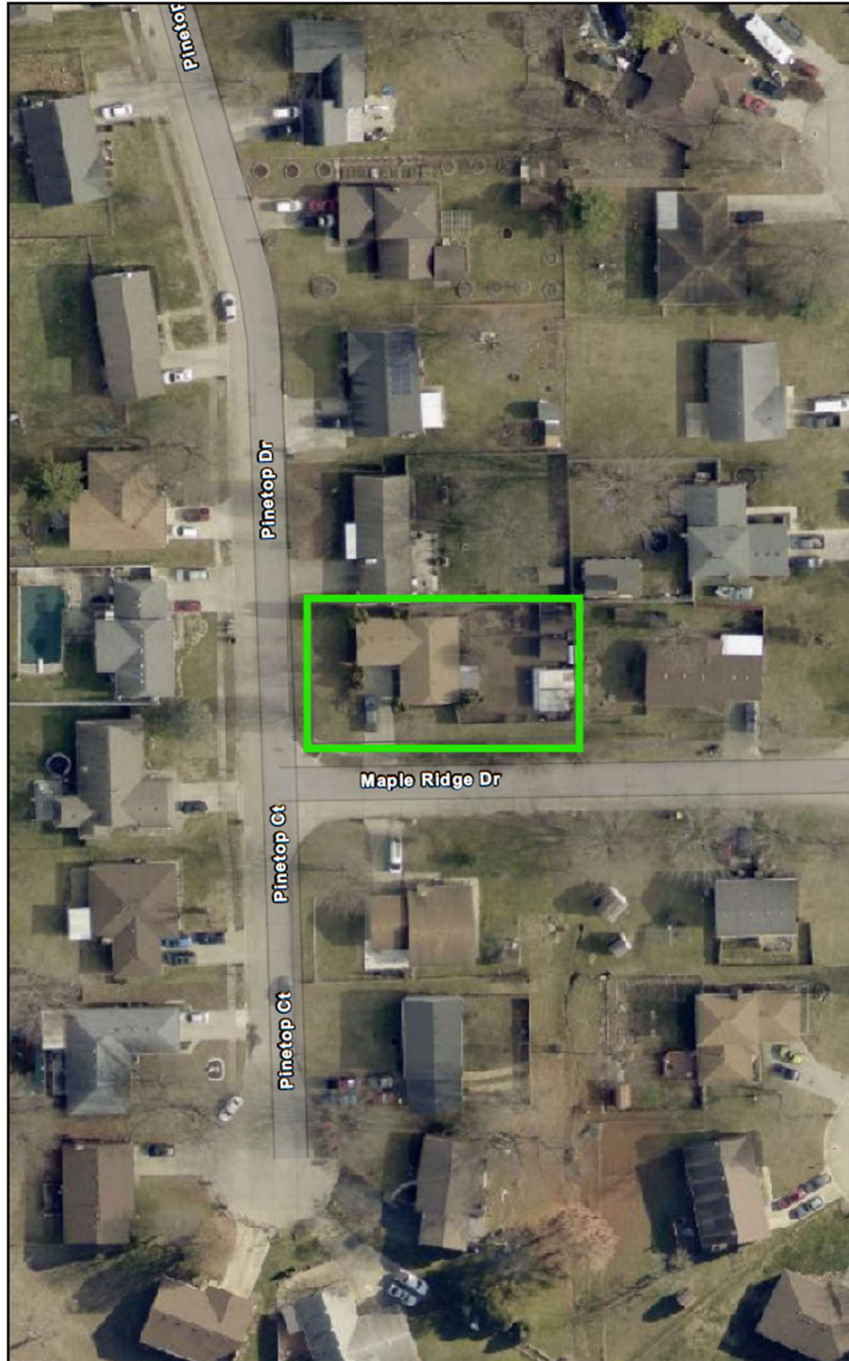
Approved

99-V2-116 ; 7525 McFarland Road (Southwest of petitioned site), Variance of Development Standards of the Dwelling District Zoning Ordinance to provide for construction of a detached garage, creating 1,104 square feet of detached accessory uses, or 118% of the size of the main floor area of the primary residence, with total accessory uses being 1,104 square feet, or 118% of the size of the total floor area of the primary residence, and to provide for the detached garage being 22 feet in height, with the primary structure being 19.5 feet in height. **Approved**

2016-DV3-013 ; 3420 Gravelie Drive (Northeast of petitioned site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance, to provide for a 1,728-square foot pole barn (any one accessory building or minor residential structure cannot have a footprint larger than the primary building). **Approved**

EXHIBITS

3305 Pinetop Drive Aerial 2026

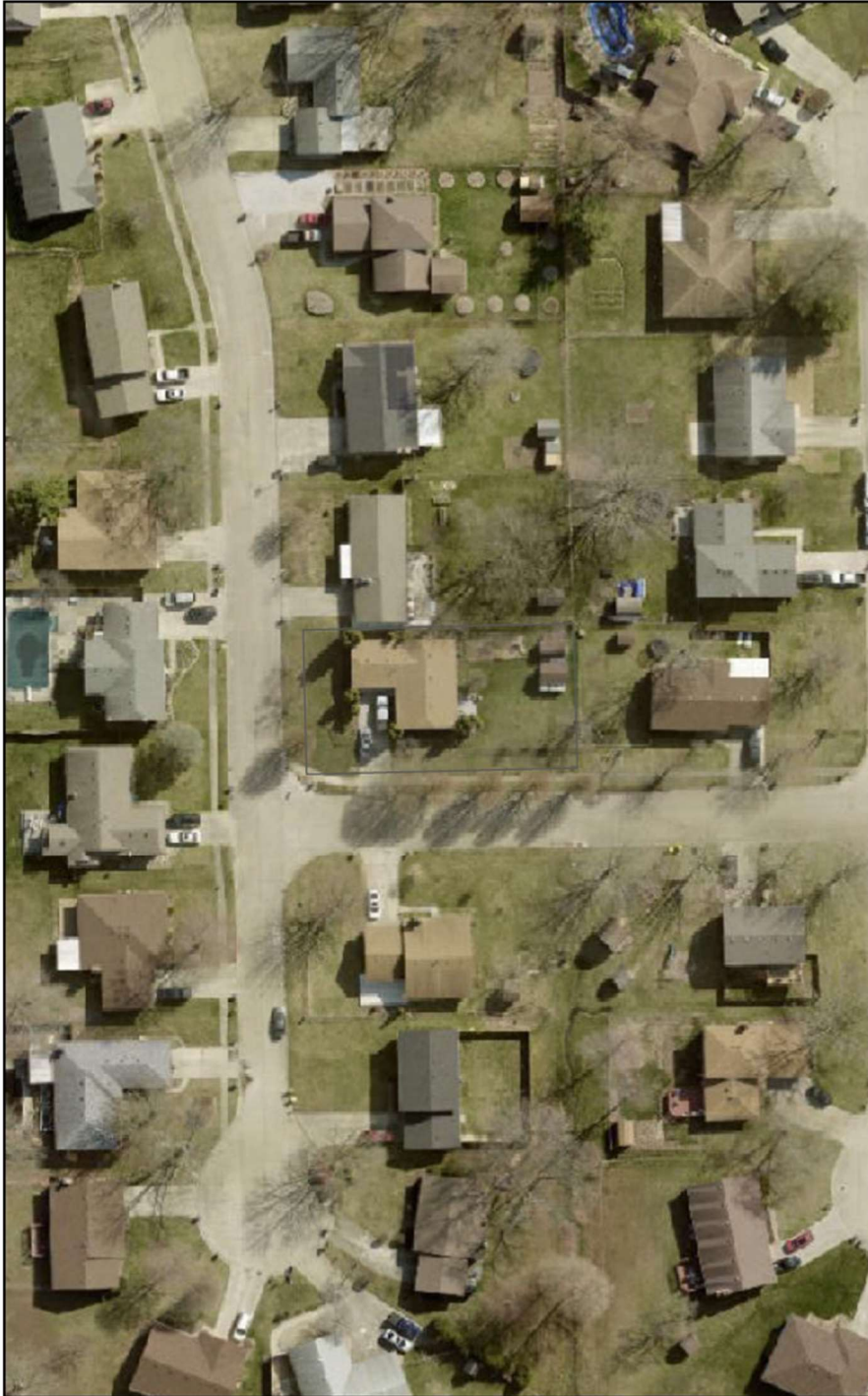


1:1,128
0 0.01 0.01 0.02 mi
0 0.01 0.02 0.04 km
IGIO, Microsoft, Vantor, Esri Community Maps Contributors, City of Indianapolis Maroon Co. © OpenStreetMap, Microsoft, Esri, TomTom, Garmin.

7/30/2026

Figure 1 - current aerial

3305 Pinetop Drive Aerial 2024

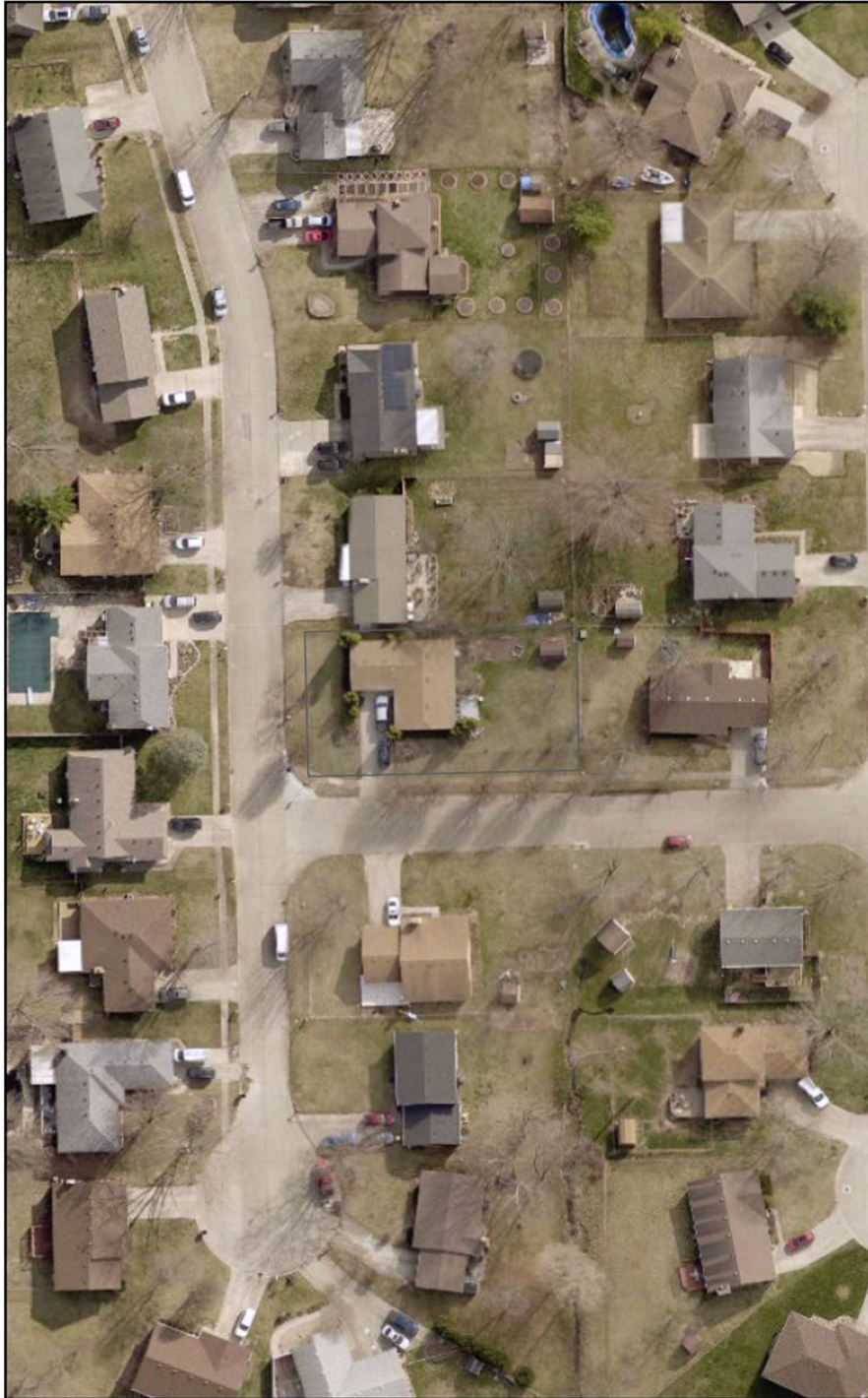


1:1,128
0 0.01 0.01 0.02 0.02 0.04 km
0 0.01 0.01 0.02 0.02 0.04 mi
IGIO, Microsoft, Vantor

7/30/2026

Figure 2 - before chicken coop erected

3305 Pinetop Drive Aerial 2023 Spring



1:1,128
0 0.01 0.01 0.02 0.02 mi
0 0.01 0.01 0.02 0.04 km
IGIO, Microsoft, Vantor, City of Indianapolis & Marion County, IN

7/30/2026

Figure 3 - before second shed erected

Site Visit July 27th, 2026



Figure 4 - Looking **South** at site



Figure 5 - Looking **North** from site



Figure 6 - looking **South** at site



Figure 7 - look **South** at fence

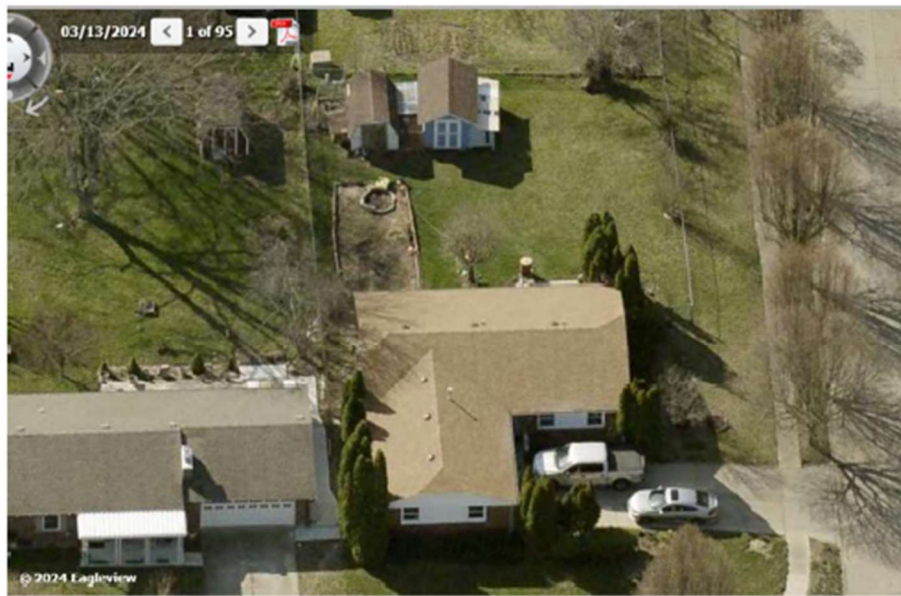
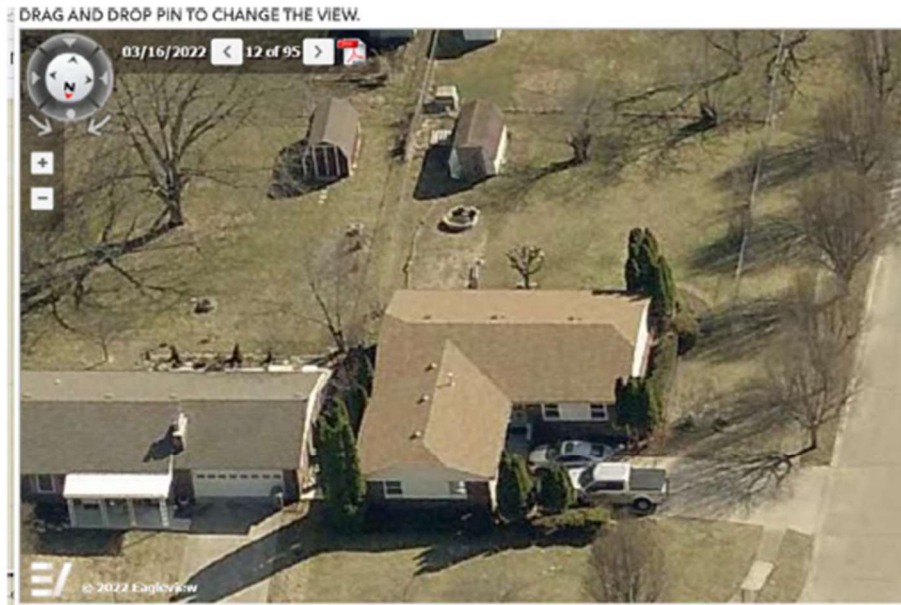


Figure 8 - looking **North** at fence



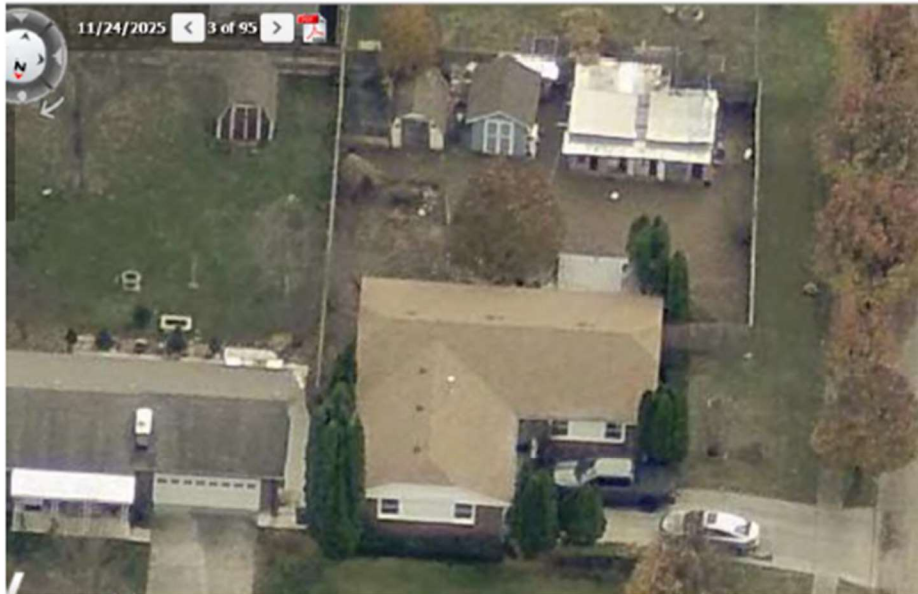
Figure 9 - through fence

VIO26-002449, 3305 PINETOP DR, 3/25/2026 @ 2:45 PM –BD



VIO26-002449, 3305 PINETOP DR, 3/25/2026 @ 2:45 PM –BD

AND DROP PIN TO CHANGE THE VIEW.



VIO26-002449, 3305 PINETOP DR, 6/30/2026 @ 1:20 PM –BD





Department of Metropolitan Development
Division of Planning
Current Planning

Violation on-site March 26th, 2026



March 26, 2026

Case #: VIO26-002449

HLUAN, MANG
3305 PINETOP DR
INDIANAPOLIS, IN 46227

RE: 3305 PINETOP DR

Dear HLUAN, MANG:

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.2. Civil Zoning Violation

Specific Violation: The failure to obtain an Improvement Location Permit when one is required by the terms and provisions of the Zoning Ordinance; (740-801.A.2. - Failure to obtain an Improvement Location Permit (ILP) for mini-barns or sheds exceeding 200sq. feet).

Section 740 -1005.A.3. Civil Zoning Violation

Specific Violation: The outdoor storage of junk, trash, or debris in any zoning district, the provisions of which do not specifically permit such a use; (Scrap wood, plywood, and other miscellaneous items throughout the property).

Section 740 -1005.A.7. Civil Zoning Violation

Specific Violation: The conduct of any activity in a zoning district, not specifically enumerated as a permitted primary or accessory use in that zoning district; (Table 743-1: - An agricultural enterprise is not a permitted use in a D-3 zoning district).

Section 740 -1005.A.7. Civil Zoning Violation

Specific Violation: The conduct of any activity in a zoning district, not specifically enumerated as a permitted primary or accessory use in that zoning district; (Table 743-1: - Outdoor storage and operations is not a permitted accessory use in a D-3 zoning district...lumber, chicken wire, shelving, buckets, construction materials).

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-3 district; (743-306.A.4.b - Detached accessory structures shall not be located closer to any front lot line than the established front yard setback....chicken coop).

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-3 district; (Table 743-306-3 - No more than 12 chickens are permitted per lot).

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

Department of Business & Neighborhood Services
200 E. Washington Street, Suite 107 | Indianapolis, IN 46204 | Phone: (317) 327-8700 | www.indy.gov/bns
Fax Numbers: Building - 327-8475 | Business Licensing - 327-0817 | Contractor Licensing - 327-8401
Crafts - 327-5387 | Infrastructure/Right of Way - 327-3125 | Permits - 327-5174 | Zoning - 327-8686



Department of Metropolitan Development
Division of Planning
Current Planning

VIO26-002449
03/26/2026

Specific Violation: Failure to comply with use-specific standards and zoning district development standards for the D-3 district; (Table 744-201-1: - Mini-barn/shed located in the 6 ft. side yard setback).

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-3 district; (Table 744-510-2: - Fence height exceeding 42 inches in the front yard with more than 30% opacity...privacy fence).

The City of Indianapolis requests your cooperation in correcting the violation(s). If the violation(s) have not been abated before April 27, 2026, this will result in further enforcement action, which could include:

- 1.) Issuance of a citation for each violation (Section 103-3) and / or
- 2.) Assessment of an administrative fee in the amount of two hundred fifteen dollars (\$215.00) for each scheduled visit to the property and the violation is not abated (Section 536-609) and / or
- 3.) Lawsuit with fines up to \$2,500 for each violation plus court costs (Section 103-3)

*** If you are the property owner and have leased / rented the property noted above, please notify the undersigned immediately with tenant information.**

To further research the Marion County code section mentioned above, please visit www.municode.com.

If you have any questions, please contact me at the number listed below.

Sincerely,

Basil Doll

Basil Doll
Zoning & Licensing Inspector
463-217-1413
Basil.Doll@indy.gov



Department of Metropolitan Development
Division of Planning
Current Planning

INV26-03196 correspondence March 17th, 2026

Description: Resident called to report numerous (unsure exactly how many) chickens and numerous coops along with commercial set up in the back of the property at this address. Resident stated that they are unsure if they are selling the chickens or what type of business is being ran, but it is beginning to look very much like a commercial set up. Please inspect.

Question: What is the nature of your request?

Answer: I would like to report unzoned business activity

Question: When is business operating?

Answer: All Day

Question: What type of business?

Answer: Other - provide details

Question: Please provide details here

Answer: chicken breeding or other (unsure what kind of business but it is starting to look very commercial)

Question: Is the business operating in a residential area?

Answer: Yes



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 chickens will be maintained in a secure, enclosed, and well-managed coop and fenced run.

The property will be kept in a sanitary condition with routine cleaning, proper waste management, and secure feed storage to prevent odors, pests, or other nuisances.

The proposed use will remain a small-scale residential backyard flock with no commercial component.

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 chickens will remain fully contained within the property at all times.

The existing 6-foot fence, which replaced a prior 4-foot fence, has been in place for more than two years and provides enhanced screening and separation from neighboring properties.

The increased fence height improves containment and reduces visibility and potential impacts to adjacent properties.

The proposed variance will not alter the residential character of the neighborhood or create additional adverse effects.

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

The property has existing site improvements, including a long-standing 6-foot fence and a designated enclosed area, which already support responsible chickens keeping.

These established conditions make the property uniquely suited to safely accommodate a small increase beyond the permitted number of chickens while maintaining proper containment and separation.

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 limits reasonable residential use of a property that already contains established infrastructure for animal keeping,

including a secure 6-foot fence that exceeds the standard 4-foot height restriction and has been in place for over two years.

Requiring strict compliance would force removal or reduction of existing improvements and prevent reasonable use of the property for a small backyard chickens,

despite the property's ability to safely and responsibly support the requested use without increasing impacts to neighboring properties.

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

the proposed use remains consistent with low-density residential development and does not introduce commercial activity or increased intensity of land use.

The property will continue to function as a residential use, and both the existing fencing and proposed backyard flock are compatible with surrounding residential properties and neighborhood character.