



**Board of Zoning Appeals
Board of Zoning Appeals Division II (May
21, 2024)
Meeting Agenda**

Meeting Details

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

Date: Tuesday, May 21, 2024

Time: 1:00 PM

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

Business:

Adoption of Meeting Minutes

Special Requests

PETITIONS REQUESTING TO BE CONTINUED:

Petitions for Public Hearing

PETITIONS TO BE EXPEDITED:

- 1. 2024-DV2-017 | 4361 East 75th Street**
Washington Township, Council District #3, Zoned D-A
Michael & Carly Dury, by Michael Mattingly

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a detached garage within the front yard (not permitted) and a second residential accessory structure with a height of 32 feet (maximum height of 24 feet permitted).

- 2. 2024-UV2-007 | 5314 West 38th Street**
Pike Township, Council District #5, Zoned C-4
Rama Inc., by Pat Rooney

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for a driveway with stacking spaces located within the front yard and a service unit facing 38th Street (not permitted).

PETITIONS FOR PUBLIC HEARING (Transferred Petitions):

PETITIONS FOR PUBLIC HEARING (Continued Petitions):

- 3. 2023-SE2-002 (Amended) | 3210 Chief Lane**
Decatur Township, Council District #22, Zoned I-3
Reagan Outdoor Advertising, by Jon Campbell

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

4. 2023-DV2-032 | 911 Sanders Street
Center Township, Council District #21, Zoned D-5 (TOD)
E&D Hopkins LLC, by Mark and Kim Crouch

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

A single-family dwelling:

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

5. 2024-DV2-002 (Amended) | 4645 Tempe Court
Decatur Township, Council District #21, Zoned D-5
Michael & Mary Morris, by Cindy Thrasher

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a 360-square-foot shed with a one-foot rear yard setback (20-foot rear yard setback required).

**** Petitioner to withdraw**

6. 2024-DV2-010 | 1105 South Harding Street
Center Township, Council District #18, Zoned C-4
Saini Brothers & Sons Inc., by Christian Badger

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an automobile fueling station with two single-loaded rows of parking between the building and right-of-way (limited to 1 single-loaded row of parking) and without the required frontage landscaping (10 trees and 45 shrubs required) or interior landscaping (minimum 8-foot wide landscaped area for a total area of 2,842 square feet and 15 trees required).

**** Petitioner to request withdrawal of request**

7. 2024-UV2-002 | 5102, 5111, 5117, 5122, 5127, 5139, 5143, 5210 and 5282 East 65th Street
Washington Township, Council District #3, Zoned I-2
Schmoll Development Company L.P. and Greg Schmoll, by S. Gregory Zubek

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

8. 2024-UV2-005 | 4925 Southport Road
Decatur Township, Council District #21, Zoned D-A
Estrada Siding LLC, by Dan Jackson

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a commercial contractor including the outdoor storage of commercial vehicles and supplies (not permitted).

PETITIONS FOR PUBLIC HEARING (New Petitions):

9. 2024-DV2-013 | 2801 South Illinois Street
Center Township, Council District #18, Zoned D-5
Phillip Padilla

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a duplex with vehicle access from Illinois and Gimber Streets (exclusive access from improved alleys required).

10. 2024-DV2-014 | 5113 Guilford Avenue

Washington Township, Council District #7, Zoned D-5 (TOD)
Jordan C. Williams

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for construction of a detached garage with a 4.58-foot south side yard setback (five feet required).

**** Petitioner to withdraw**

11. 2024-DV2-015 | 2366 Winthrop Avenue

Center Township, Council District #8, Zoned D-8
Angela and Kendrick Davis, by Sharmin Frye

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for construction of a 35-foot tall, three-story single-family dwelling (maximum 2.5-story dwelling permitted).

**** Staff to request a continuance to the July 9, 2024 hearing to further review the request for additional filing requirements**

12. 2024-DV2-016 | 921 East 24th Street

Center Township, Council District #8, Zoned D-8
Angela Davis, by Sharmin Frye

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a 34-foot tall, three-story single-family dwelling (maximum 2.5-story dwelling permitted), with a three-foot west side yard setback (five feet required) and a front-loaded garage (prohibited along terrace frontages) resulting in an open space of 24 percent (40 percent required).

**** Staff is request a continuance to the July 9, 2024 hearing in order to further review the request for additional filing requirements**

13. 2024-DV2-018 | 4032 Crooked Creek Overlook

Washington Township, Council District #6, Zoned D-2
Onward Estates LLC, by Tyler Ochs

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the erection of a six-foot tall perimeter fence (maximum 3.5-foot tall permitted within front yards).

14. 2024-DV2-019 | 6176 Carrollton Avenue

Washington Township, Council District #7, Zoned D-5 (TOD)
JLILY LLC, by Ted Darnall

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a single-family dwelling and attached carport with a 3-foot southern side yard setback (five-feet required).

**** Petitioner to request continuance to the June 11, 2024 hearing of Division II in order to amend the request**

Additional Business:

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



BOARD OF ZONING APPEALS DIVISION II

May 21, 2024

Case Number: 2024-DV2-017
Address: 4361 East 75th Street (approximate address)
Location: Washington Township, Council District #3
Zoning: D-A
Petitioner: Michael & Carly Dury, by Michael Mattingly
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a detached garage within the front yard (not permitted) and a second residential accessory structure with a height of 32 feet (maximum height of 24 feet permitted).

Current Land Use: Single-family dwelling

Staff Recommendation: Staff recommends approval of this petition.

Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff recommends **approval** of this petition.

PETITION OVERVIEW

- ◇ The request would provide for the construction of a detached garage within the front yard and a second residential accessory structure with a height of 32 feet
- ◇ Development Standards of the Consolidated Zoning and Subdivision Zoning Ordinance, specifically those relating to accessory building use, are intended to ensure the dwelling remains the primary use of the property. Additionally, limiting the location of accessory structures preserves open space and limiting the height regulates the building mass impact to surrounding property owners.
- ◇ The proposed detached garage location would be located approximately 890 feet south of East 75th Street, behind another primary dwelling on an adjacent parcel to the north, further limiting any negative impacts to adjacent properties.
- ◇ This request would permit the second residential accessory structure to have a height of 32 feet. The proposed structure would be developed in a similar style to match the primary dwelling and appear as an extension of the dwelling. This would be appropriate for a large lot zoned D-A that has rural characteristics and a significant separation from adjacent dwellings.



GENERAL INFORMATION

Existing Zoning	D-A	
Existing Land Use	Single-Family Dwelling	
Comprehensive Plan	Suburban Neighborhood uses	
Surrounding Context	Zoning	Surrounding Context
North:	D-A	Single-Family dwelling
South:	D-2	Single-Family dwellings
East:	D-2	Single-Family dwellings
West:	D-S	Single-Family dwelling

Thoroughfare Plan		
East 75 th Street	Primary Collector	40-foot existing right-of-way and an 80-foot proposed right-of-way.
Context Area	Metro area	
Floodway / Floodway Fringe	No	
Overlay	N/A	
Wellfield Protection Area	No	
Site Plan	April 4, 2024	
Elevations	N/A	
Landscape Plan	N/A	
Findings of Fact	April 4, 2024	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

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

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends the Suburban Neighborhood typology, which 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. Streets should be well-connected, and amenities should be treated as landmarks that enhance navigability of the 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.

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

2023-CZN-821/2023-CVR-821/2023-CPL-821; 4359 and 4361 East 75th Street (west of site), requested the rezoning of 7.194 acres from the D-A district to the D-S district, **approved**; requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to legally establish two existing parcels with zero-feet of street frontage and to provide for a subdivision creating a third lot, also without street frontage, **approved**; requested approval of a subdivision plan to be know as Mattingly Subdivision, dividing 3.884 acres into two lots, **approved**.

2020-DV1-026; 4421 East 75th Street (northeast of site), requested a variance of development standards to provide for a detached garage in the front yard of the single-family dwelling, **granted**.

2018-DV2-025; 4635 East 75th Street (northeast of site), requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for an in-ground pool, pool equipment and spa / hot tub in the front yard of 75th Street, **granted**.

2015-DV3-046; 4357 East 75th Street (north of site), requested a variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a 24.5 by 40.5-foot, 33-foot tall storage barn and chicken coop, with a three-foot west side setback, **granted**.

2015-UV3-010; 4355 East 75th Street (west of site), requested a variance of use and development standards of the Dwelling Districts Zoning Ordinance to provide for a 28.7-foot tall, two-story, 24 by 38-foot detached accessory building, with a second-floor dwelling unit, with a 10-foot side setback, **granted**.

2007-DV2-027; 5035 East 76th Street (northeast of site), requested a variance of development standards to provide for the construction of an 830-square foot cabana and in-ground swimming pool in front of the established front building lines along East 75th Street and Allisonville Road, **granted**.

RU



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:

- The existing property under D-S allows for the maximum primary residence height of 35'.
- The proposed primary residence structure height is 32'.
- The proposed accessory structure is directly adjacent to the primary residence.
- The proximity of the accessory structure to the primary residence creates visible alignment.

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 existing 3.364 acre property will contain a custom built new home, replacing the prior home, which will benefit the value of the area adjacent to the property.

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

- The existing property under D-S does not allow the accessory structure height to match or mirror the primary residence structure height;

Photographs



Photo of driveway entrance form East 75th Street, looking south.



Photo of the subject site, with existing garage to be demolished, looking south.



Photo of adjacent dwelling, from proposed dwelling location, looking west.



Photo of proposed dwelling and accessory structure area, looking towards East 75th Street, at approximately 890 feet to the north.



BOARD OF ZONING APPEALS DIVISION II

May 21, 2024

Case Number: 2024-UV2-007
Address: 5314 West 38th Street (approximate address)
Location: Pike Township, Council District #5
Zoning: C-4
Petitioner: Rama Inc., by Pat Rooney
Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for a driveway with stacking spaces located within the front yard and a service unit facing 38th Street (not permitted).

Current Land Use: Vacant Commercial land

Staff Recommendation: Staff recommends approval of this petition.

Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff recommends **approval** of this petition.

PETITION OVERVIEW

- ◇ The request would provide for the construction of a car wash having a driveway with stacking spaces located within the front yard and a service unit facing 38th Street
- ◇ The Ordinance notes that “no off-street stacking space shall be located in a front yard that is along a public right-of-way that exceeds 30 feet in width regardless of proximity”. Due to use of the site, the required stacking spaces at the exit of the units would not be used for additional services and would simply be used to maneuver in and out of the site. Therefore, staff has no objection to the requested stacking spaces.
- ◇ The proposed development is oriented to the length of the lot, with the service unit exit facing West 38th Street. This standard was originally intended for fast food drive through operations. The service unit exit façade for the proposed car wash is minimal in scale and size, limiting any negative impacts to adjacent properties.
- ◇ For the reasons detailed above, Staff would regard these variance requests as minor and acceptable deviations from the requirements of the Ordinance.



GENERAL INFORMATION

Existing Zoning	C-4	
Existing Land Use	Undeveloped	
Comprehensive Plan	Commercial Retail and Service	
Surrounding Context	Zoning	Surrounding Context
North:	C-4	Community Commercial use
South:	C-5	Automotive Repair
East:	C-5	Automobile Sales
West:	C-4	Community Commercial uses

Thoroughfare Plan		
West 38th Street	Primary Arterial	134-foot existing and proposed right-of-way.
Context Area	Metro area	
Floodway / Floodway Fringe	No	
Overlay	N/A	
Wellfield Protection Area	No	
Site Plan	April 2, 2024	
Elevations	N/A	
Landscape Plan	April 2, 2024	
Findings of Fact	April 2, 2024	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- The Comprehensive Plan recommends Commercial Retail and Service uses for the site.

Pattern Book / Land Use Plan

- The purpose of the Commercial Retail and Service uses is to provide for low-intensity commercial and office uses that serve nearby neighborhoods. These uses are usually in freestanding buildings or small, integrated centers. Examples include small-scale shops, personal services, professional and business services, grocery stores, drug stores, restaurants, and public gathering spaces.

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

94-HOV-10; 5318 West 38th Street (west of site), requested a variance of development standards to provide for the placement of an illuminated awning on an existing building, **granted**.

83-Z-141; 5252 West 38th Street (east of site), requested the rezoning of 6.18 acres, being in the C-4 district, to the C-5 classification, **approved**.

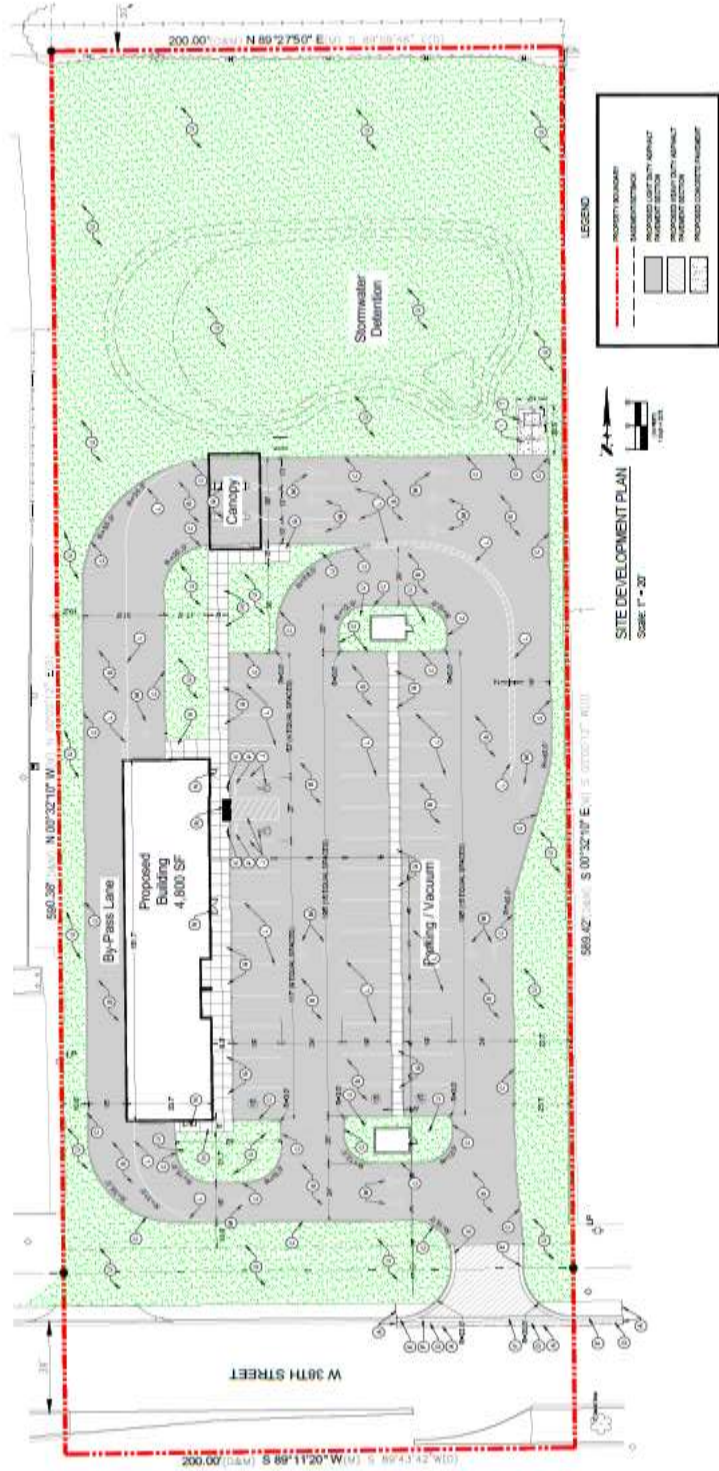
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EXHIBITS

Location Map



Site Plan





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
this grant will not drastically change the use of the property, but will only result in a drive-through component to the car wash facility, allowing for a more efficient business strategy.

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
this grant will increase the value of the property and the adjacent properties by making the subject property functional.

3. THE NEED FOR THE VARIANCE ARISES FROM SOME CONDITION PECULIAR TO THE PROPERTY INVOLVED BECAUSE
the property is a deep skinny property and there is no other way to have a car wash facility without the drive-through component set up as planned and depicted in the site plan.

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
otherwise the property will not be useable as a car wash facility with Petitioner having already purchased the property and had a full set of construction plans made based upon Petitioner's engineers and contractors informing Petitioner that no variances would be necessary to construct the car wash facility as depicted in the site plan.

5. THE GRANT DOES NOT INTERFERE SUBSTANTIALLY WITH THE COMPREHENSIVE PLAN BECAUSE
this grant would allow the subject property to be used for commercial retail and service.

Photographs



Photo of subject site from West 38th Street frontage, looking north.



Photo of rear of subject site looking northeast.



Photo of adjacent automotive sales facility to the east, looking northeast.



Photo of adjacent community commercial shopping center to the west, looking northwest.

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

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

ADDENDUM MAY 21, 2024

At the March 12, 2024, hearing, the petition was split into Part A for the Special Exception, and Part B for the Variance of Development Standards.

The Part A request for a Special Exception of the Consolidated Zoning and Subdivision Control Ordinance to provide for the relocation of a legally established Outdoor Advertising Sign due to a highway widening and improvement of I-69 by a state agency, along a freeway within I-465, resulted in a split vote of 2-2, which automatically continued the Part A portion of the petition. Due to a conflict, **Part A was continued for two months to the May 21, 2024, hearing.**

The Part B request for a Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the relocation of an existing 40-foot tall off-premise advertising sign, of which the relocated off-premise sign will have a height of no greater than 65-feet tall, a setback of five feet from Rand Road, being located within 400 feet of the centerline of an Interstate Ramp and being located within no less than 148 feet from protected districts, **was denied by a vote of 0-4.**

ADDENDUM MARCH 12, 2024

This petition was continued from the February 13, 2024, hearing, to the March 12, 2024 hearing, at the request of the Board President.

February 13, 2024

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

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

(Continued)

STAFF REPORT 2023-SE2-002 (Continued)

RECOMMENDATIONS

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

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

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

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

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

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

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

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

Sec. 25.6.

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

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

(Continued)

STAFF REPORT 2023-SE2-002 (Continued)

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

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

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

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

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

- (1) to elevate the sign to make the entire advertising content of the sign visible; and*
- (2) to an angle to make the entire advertising content of the sign visible; and*
- (3) in size or material type, at the expense of:*
 - (A) the owner, if the modification in size or material type of the outdoor advertising sign is by choice of the owner; or*
 - (B) the department, if the modification in size or material type of the outdoor advertising sign is required for the outdoor advertising sign to comply with IC 22-13.*

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

(Continued)

STAFF REPORT 2023-SE2-002 (Continued)

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

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

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

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The subject site parcel is addressed as 3210 Chief Lane, but also has frontage on the 3200 block of Rand Road, which the proposed outdoor advertising sign would be located and oriented.
- ◇ The petitioner has requested variances of development standards to allow for the relocated sign to have an increase in permitted sign height from 40 feet to 65 feet in height, to have a five-foot setback from Rand Road where a 20-foot front setback is required, to be within 400 feet of the centerline of an Interstate Ramp where a 500-foot separation is required and being located within 148 feet from protected districts where a 300-foot separation is required.
- ◇ The site is relatively level with the Interstate I-70 road deck and has no visible structural obstructions. With the sign being permitted at 40 feet tall, the request would provide for an additional 25 feet, resulting in a request to provide for a sign 65 feet above the road surface of Interstate I-70. No practical difficulty has been presented as to why the additional 30 feet in sign height is needed. Therefore, Staff recommends denial of the request as proposed to increase the sign height from 40 feet to 70 feet, as any increase in height, would decrease road safety by negatively impacting motorists that would be distracted.

(Continued)

STAFF REPORT 2023-SE2-002 (Continued)

- ◇ The petitioner has requested a variance to allow for a five-foot setback from the subject site frontage along Rand Road, where a 20-foot setback is required. Providing for a reduced setback from Rand Road would increase the intensity of the off-premise advertising sign by locating it closer to motorists on nearby Interstate I-70 that maybe distracted. Additionally, it would bring the activities on the site closer to adjacent properties, without adequate buffering.
- ◇ The site, at approximately 290 feet at its widest from Rand Road, is wide enough to accommodate the required 20-foot setback. Therefore, no peculiar condition exists on site for staff to be supportive of these requests. The strict application of the Ordinance would not constitute an unnecessary hardship. Instead, this is a self-imposed difficulty since the newly constructed/installed signs could be developed to meet the Ordinance standards by right without the need for variances.
- ◇ The petitioner has requested a variance to allow for the outdoor advertising sign location to be reduced from the required 500-foot separation to a 400-foot separation from the centerline of an interstate exit roadway for eastbound I-70 to northbound I-465. Outdoor advertising signs are not permitted within 500 feet from entrance or exit roadways, as they would cause those signs that are permitted and legal to become less effective and reduces their value.
- ◇ The Ordinance has been constructed to limit these signs near protected districts, because of their brightness and aesthetic impact. In this case, a D-A District is located approximately 148 feet to the southeast, with no visible obstructions or change in elevations. Due to the width and size of the lot, the sign could be located approximately 120 feet to the northwest to meet the required 300-foot separation from the adjacent protected districts.
- ◇ The requested decreased separation from the protected districts would degrade the quality of life in the area. The proposed sign has no physical barriers that limit the view of the sign from the nearby protected districts. There is no reason that a sign that meets the Sign Ordinance could not be used, along with alternative communication methods.
- ◇ No peculiar condition exists on site for staff to be supportive of these variance of development standards requests. The strict application of the Ordinance would not constitute an unnecessary hardship, as the site is already zoning compliant for I-3 uses by right without the need for the requested variance of development standards. Instead, the requested variances of development standards are a self-imposed difficulty needed for the specific proposed use of an off-premise advertising sign, that would intensify the use on the subject site that would increase the amount of driver distractions and negative impacts on adjacent properties. Therefore, Staff makes no recommendation for the variance of development standards request.

(Continued)

GENERAL INFORMATION

THOROUGHFARE PLAN

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

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

SITE PLAN

File-dated October 25, 2023.

FINDINGS OF FACT

File-dated October 25, 2023.

ZONING HISTORY

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

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

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

RU







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



Adjacent manufacturing facility to the north of the site.



Adjacent manufacturing facility to the west of the site.



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

STAFF REPORT

Item 4.

Department of Metropolitan Development Division of Planning Current Planning Section

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

A single-family dwelling:

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

ADDENDUM FOR MAY 21, 2024

This petition was continued from the April 11, 2024 hearing to the May 21, 2024 hearing of Division II, at the request of Staff, in order to evaluate potential site plan changes. Subsequently, Staff met with the petitioner and reached an agreement on amendments to the site plan that Staff could support. At the time of publication, this plan had not been submitted to Staff. Therefore, Staff requests that this petition either be continued or transferred to a different division of the Board of Zoning Appeals.

ADDENDUM FOR APRIL 11, 2024

At the February 13, 2024, hearing, the petitioner amended the request by withdrawing the portion of the request for a two-unit multi-unit home.

Staff requested the petition be continued as the petitioner had not provided any updates, or revised Findings of Fact to Staff. The petition was continued again for cause, to the April 9, 2024, hearing.

The petitioner and Staff have since communicated regarding clarification of the requested variances, with the last communication from Staff on February 29, 2024. No new information has been submitted to the file by the petitioner for staff to consider.

Therefore, as amended, **Staff does recommend denial** of the petition.

(Continued)

However, on a recent site visit, Staff observed that the orange legal notice signs that are required to remain posted on site until a decision has been made by the Board, were removed or have been missing for some time. As this petition has not been resolved, this petition has become deficient on legal notice.

Therefore, if this petition is to be heard, **then it will need to be continued one more month, with new public notice signs re-posted on site immediately**, in order to comply with the legal notice rules.

Staff acknowledges the site has some difficulty due to its three frontages. However, the lot is undeveloped, and the requested number of variances is reflective of the type of development the petition is requesting and not the lot itself.

Staff has requested that the petitioner withdraw or reduce a number of variances. Specifically:

- Increase the Sanders front setback to 10 or 12 feet.
- Increase the Hartford front setback to 8 feet
- Eliminate the rear setback variance by reducing the garage width for one car with a car stacking system or detach the garage to allow for the accessory structure 5-foot rear setback.
- Eliminate 100% garage façade along Hartford variance by moving the courtyard and putting the dwelling east side façade along Hartford lining up with the garage façade with the 8-foot setback.

This will allow for the remaining reduced variances that Staff will support to provide for the construction of a single-family dwelling:

1. A medium lot typology with an area of 2,817 square feet (minimum lot area of 7,200 square feet required);
2. A ten-foot front yard setback from Sanders Street (20-feet required);
3. An eight-foot front yard setback from Hartford Street (20-feet required);
4. A five-foot front yard setback from I-65;
5. An open space of 50% or more (60 percent required).

If the petitioner is in agreement with Staff's five recommended variances above, **then Staff will recommend the petition be continued one more time for one month, with new public notice signs re-posted on the site immediately**. At the next hearing, then Staff will recommend approval for the five requested variances as indicated above.

ADDENDUM FOR FEBRUARY 13, 2024

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

ADDENDUM FOR DECEMBER 12, 2023

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

(Continued)

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

November 21, 2023

RECOMMENDATIONS

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

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

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

Compact D-5 Undeveloped

SURROUNDING ZONING AND LAND USE

North - D-5 Single-family dwellings

South - D-5 Undeveloped

East - D-5 Single-family dwellings

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

COMPREHENSIVE PLAN

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

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

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ Staff believes that any proposed new construction should adequately align with modern development standards in order to better preserve the intent of each development standard. Given the size of the proposed structure and attached garage, along with the number of requested variances, in Staff’s opinion, this site would be overdeveloped.
- ◇ Staff feels the requested two-unit multi-unit home would be out of character for the area, as no other multi-unit dwellings are located nearby. In addition, with the number of variances requested for an undeveloped site, the proposed two-unit multi-unit home would be an overdevelopment of the small site.

(Continued)

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

GENERAL INFORMATION

THOROUGHFARE PLAN	This portion of Sanders Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 49-foot existing and proposed right-of-way. This portion of Hartford Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 40-foot existing right-of-way and a 48-foot proposed right-of-way.
SITE PLAN (Amended)	File-dated October 4, 2023 / December 12, 2023
FINDINGS OF FACT	File-dated October 4, 2023

ZONING HISTORY

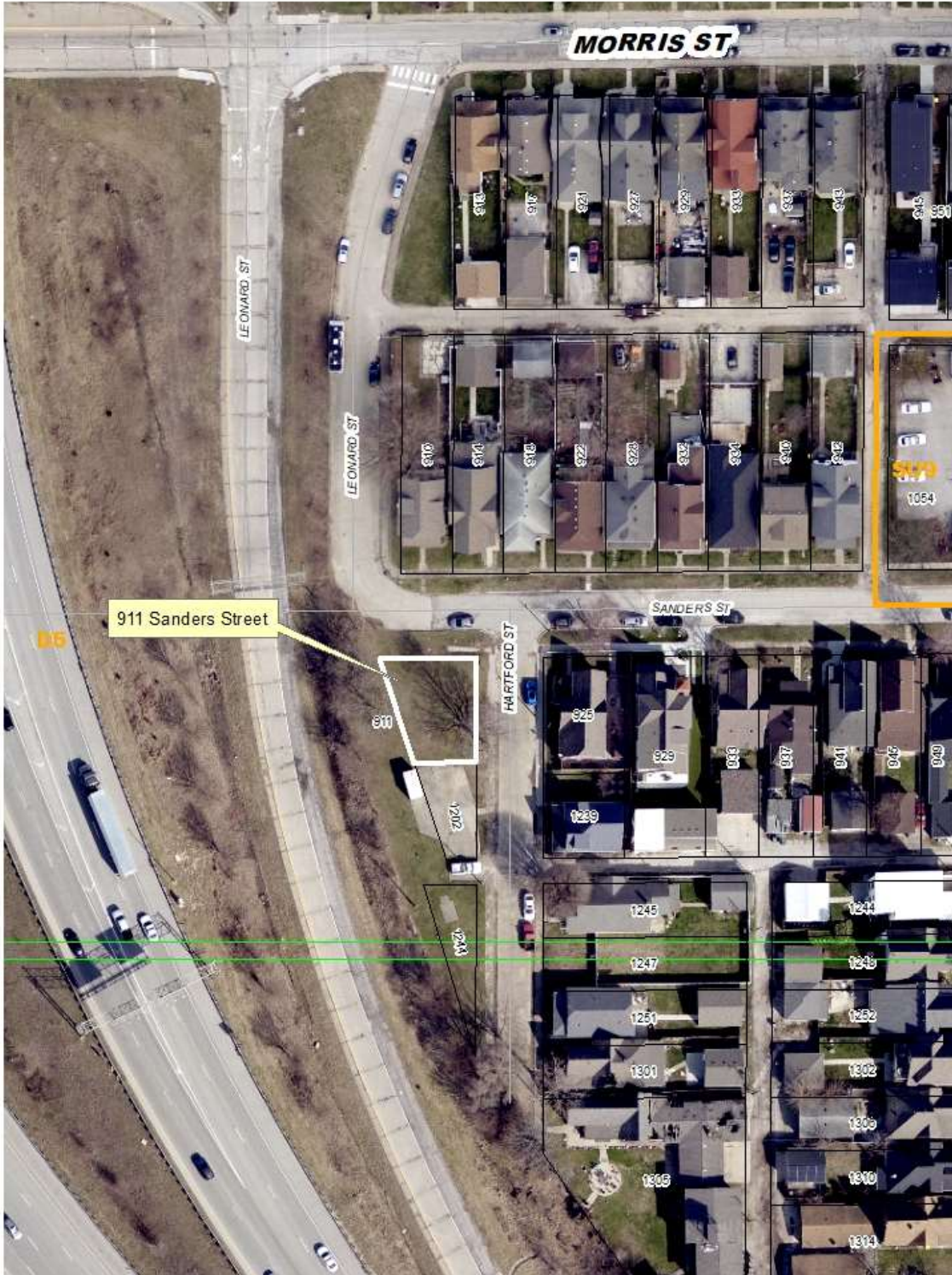
2021-UV1-021; 929 Sanders Street (east of site), requested a variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the renovation of existing buildings for a community center with light hosting capabilities, to provide for community meetings, artist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

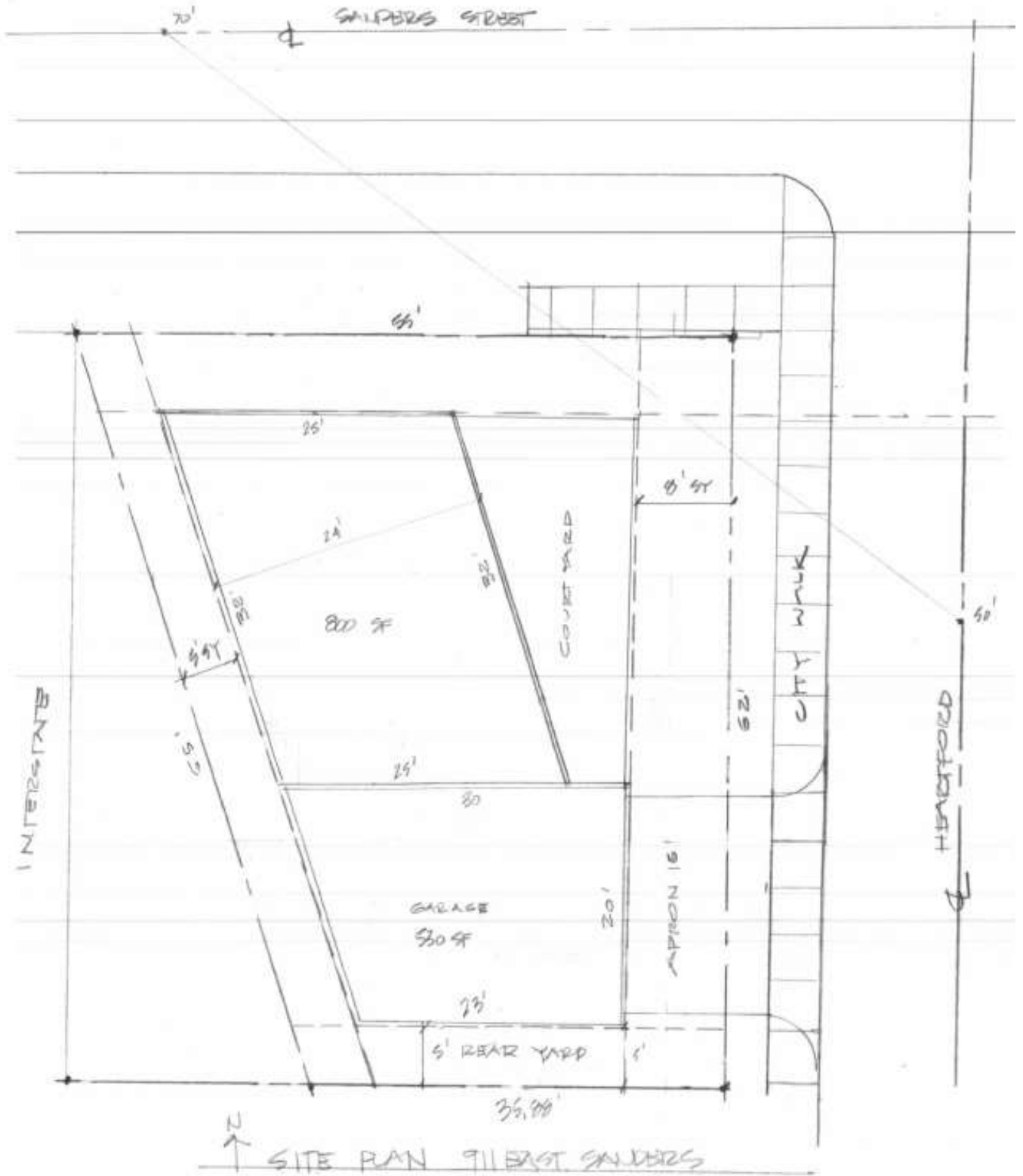
2017-DV3-015; 1015 Orange Street (south of site), requested a variance of development standards to provide for three lots, with 3,325 square feet, 4,728 square feet, and 3,268 square feet, with two lots having 35 feet of lot width, containing dwellings, with five-foot front setbacks, with setbacks along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

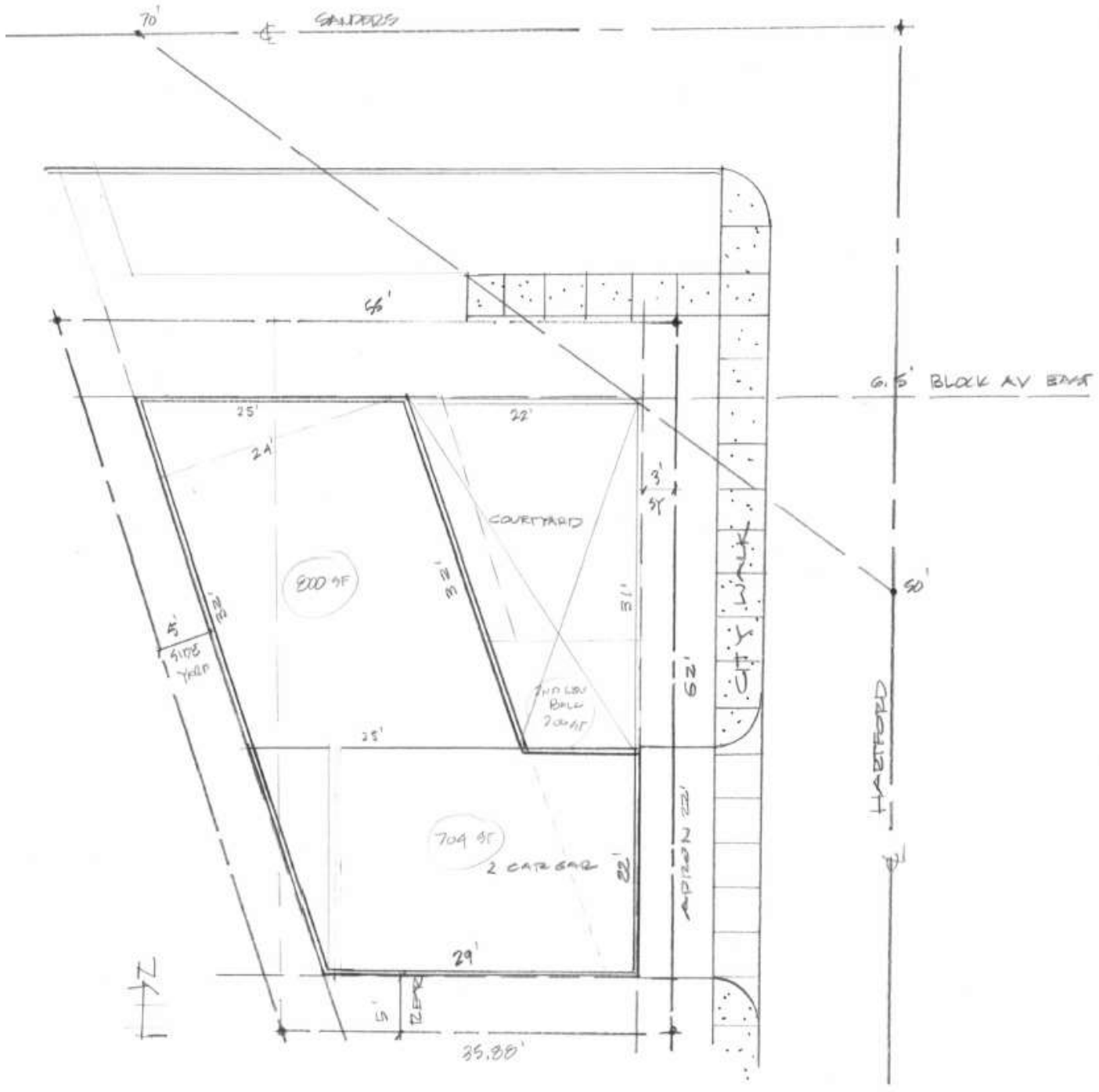
RU *****

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

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









Undeveloped subject site, looking south.



Undeveloped subject site, looking west.



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



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



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



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



BOARD OF ZONING APPEALS DIVISION II

May 21, 2024

Case Number: 2024-DV2-002

Property Address: 4645 Tempe Court (approximate address)

Location: Decatur Township, Council District #21

Petitioner: Michael and Mary Morris, by Cindy Thrasher

Current Zoning: D-5

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

Current Land Use: Residential

Staff Recommendations: Staff has no recommendation for this request

Staff Reviewer: Noah Stern, Senior Planner

PETITION HISTORY

ADDENDUM FOR THE MAY 21, 2024 BZA DIVISION I HEARING

- Staff requested a continuance from the February 13, 2024 hearing to the March 12, 2024 hearing.
- The petition was continued at the request of the petitioner to the May 21, 2024 BZA Division II hearing to allow for further review.
- The petitioner is now requesting to withdraw this petition.

STAFF RECOMMENDATION

- Staff has no recommendation for this request.

PETITION OVERVIEW

- This petition is to be withdrawn.



BOARD OF ZONING APPEALS DIVISION II **May 21, 2024**

Case Number: 2024DV2010
Property Address: 1105 S Harding Street (approximate address)
Location: Center Township, Council District #18
Petitioner: Saini Brothers & Sons Inc., by Christian Badger
Current Zoning: C-4

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an automobile fueling station with two single-loaded rows of parking between the building and right-of-way (limited to 1 single-loaded row of parking) and without the required frontage landscaping (10 trees and 45 shrubs required) or interior landscaping (minimum 8-foot wide landscaped area for a total area of 2,842 square feet and 15 trees required).

Current Land Use: Undeveloped
Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

A timely automatic continuance request was filed by a registered neighborhood organization in advance of the April 9, 2024 hearing. This petition was then scheduled for the May 21, 2024 hearing. In the intervening time, an updated landscape plan was provided that indicated compliance with the zoning non-conformities included in the variance request. Therefore, this petition could be withdrawn.

STAFF REPORT

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

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

The petitioner and Staff have reached an agreement regarding the rezoning of the subject property. Therefore, the petitioner intends to request a transfer of fees to accommodate the refiling of the request, which Staff is in support of. The petitioner will the withdraw the variance petition, which merely requires acknowledgement by the Board.

EDH



BOARD OF ZONING APPEALS DIVISION II

May 21, 2024

Case Number: 2024-UV2-005
Address: 4925 West Southport Road (approximate address)
Location: Decatur Township, Council District #21
Zoning: D-A
Petitioner: Estrada Siding LLC, by Dan Jackson
Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a commercial contractor including the outdoor storage of commercial vehicles and supplies (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 continued from the April 9, 2024, hearing to the May 21, 2024, hearing, in order to meet the legal notice requirements.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

- ◇ The request would provide for the operation of a commercial contractor including the outdoor storage of commercial vehicles and supplies
- ◇ The Comprehensive Plan recommends rural, or estate neighborhood uses for the subject site. The proposed use would be permitted in the C-7, High Intensity Commercial Zoning District. The C-7 district is designed to provide for specific areas for retail commercial uses which have unusually incompatible features relative to other commercial uses such as major outdoor storage or display of sizeable merchandise and the outdoor parking and maintenance of trucks or equipment essential to the operation of these uses. Because of the character and intensity of these uses, this district should be appropriately located on major commercial arterial thoroughfares where the gradual and reasonable transition from lesser commercial uses exist. Due to the intensity of the uses, the location of this district adjacent to protected districts should be avoided.
- ◇ The purpose of the D-A district is to provide for a variety of agricultural enterprises, with a secondary intent for the development of large estate or rural single-family dwellings. Because no agricultural enterprise exists on the subject site, development of the site would be considered for a rural single-family dwelling.



- ◇ Given the increase in intensity between the existing zoning and the proposed use, including the number of commercial vehicles as outdoor storage, approval of this request would over-develop the site and facilitate the intrusion of heavy commercial uses into an established residential rural neighborhood. The request would encourage additional encroachment, in a manner violating the development norms and residential aesthetics of the street, and squarely deviating from the recommendations of the Comprehensive Plan.
- ◇ 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-A and could be used by any number of uses permitted, by right, in the D-A zoning classification. Any practical difficulty is self-imposed by the desire to use the site for operation of a construction contractor, including the on-site storage of commercial vehicles and supplies associated with the use.
- ◇ The subject site is similar in size to other nearby properties, that are able to follow the comprehensive plan and zoning ordinance without the need for variances. Therefore, the Comprehensive Plan recommendation should not be disregarded, nor of the clearly residential nature of the surrounding area. For these reasons, staff recommends its denial.

GENERAL INFORMATION

Existing Zoning	D-A	
Existing Land Use	Single-Family Dwelling	
Comprehensive Plan	Rural or Estate Neighborhood uses	
Surrounding Context	Zoning	Surrounding Context
	North: D-3	Single-Family dwellings
	South: D-A	Single-Family dwelling
	East: PK-1	Southwestway Park
	West: D-A	Single-Family dwellings

Thoroughfare Plan		
West Southport Road	Primary Arterial	45-foot existing right-of-way and a 119-foot proposed right-of-way.
Context Area	Metro area	
Floodway / Floodway Fringe	No	
Overlay	N/A	
Wellfield Protection Area	No	
Site Plan	March 11, 2024	
Elevations	N/A	
Landscape Plan	N/A	
Findings of Fact	January 30, 2024	



COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- The Comprehensive Plan recommends rural, or estate uses for the site.

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends the Rural or Estate Neighborhood typology applies to both rural or agricultural areas and historic, urban areas with estate-style homes on large lots. In both forms, this typology prioritizes the exceptional natural features – such as rolling hills, high quality woodlands, and wetlands – that make these areas unique. Development in this typology should work with the existing topography as much as possible. Typically, this typology has a residential density of less than one dwelling unit per acre unless housing is clustered to preserve 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

- Not Applicable to the Site.

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

- Not Applicable to the Site.

ZONING HISTORY

2008-DV1-056; 7041 Mann Road (south of site), requested a variance of Development Standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a 128-square foot deck, resulting in an accessory use area of 3,104 square feet or 105.76 percent of the total living area of the primary structure, **granted**.

2000-ZON-146; 7010-7016 Mann Road (west of site), requested the rezoning of 4.5 acres from D-A to C-4 to provide for commercial uses, **withdrawn**.

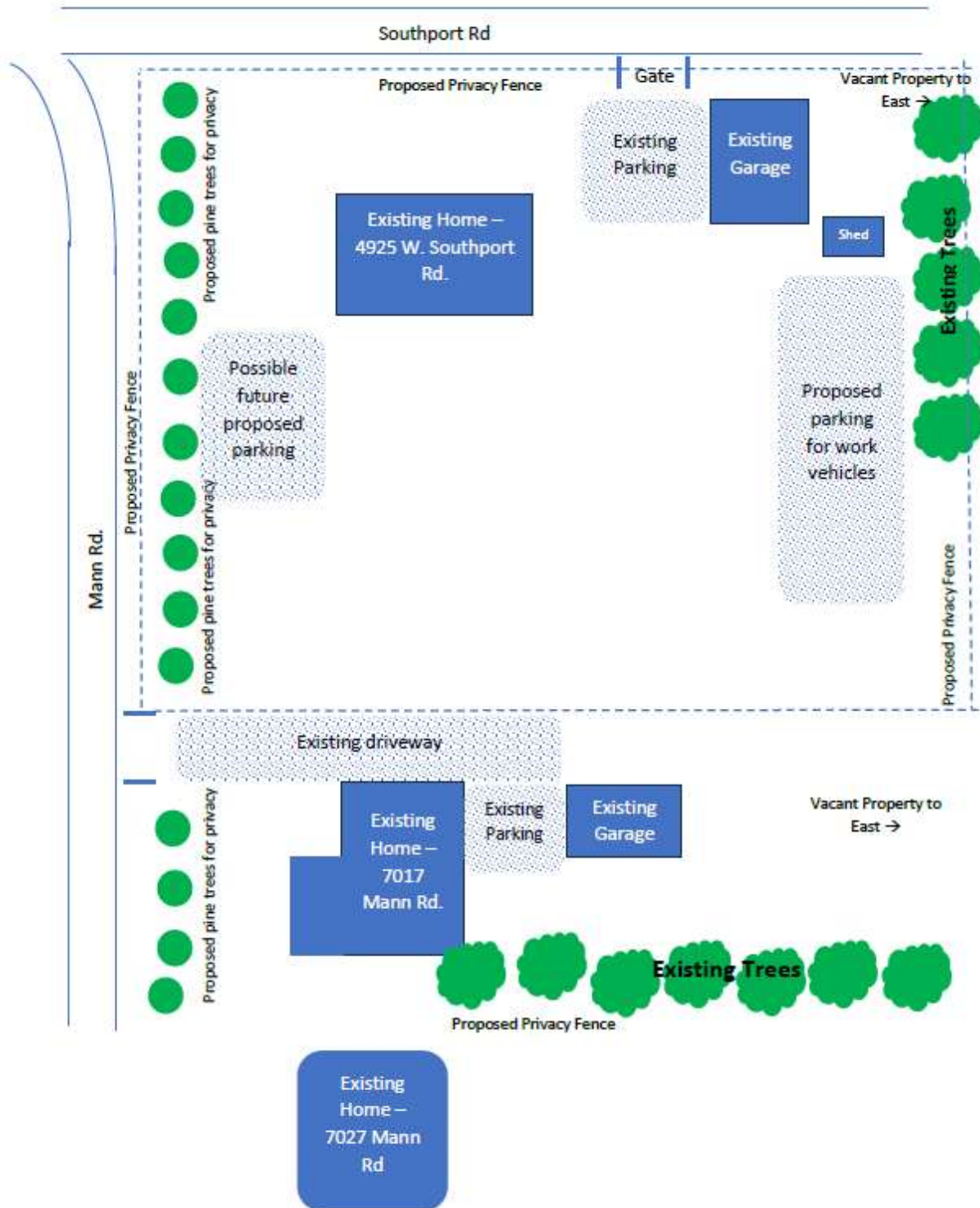
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EXHIBITS

Location Map



Site Plan





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

There will be no commercial business activities which involve manufacturing, hazardous waste, or any industrial waste.
The parking of commercial vehicles and storage of limited amounts of non-hazardous, standard siding material poses no public health or safety issue.

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 land will be beautified with additional trees and a large privacy fence keeping commercial vehicles and materials out of sight of any neighbors. There is one house directly to the south of this property, but there is a vacant field to the east. The area nearby is not crowded with many homes, making any negative impact very minimal.

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

The property is currently zoned residential and the parking of commercial vehicles and limited storage is not allowed under current zoning.

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 parking of a few commercial vehicles limited storage of siding supplies when combined with additional privacy shrubs and a large privacy fence around the perimeter of the property poses no significant detriment to the limited number of property owners who live nearby.

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

Petitioner is not aware of the Comprehensive Plan and therefore cannot speak to this point.



Plan of Operation

Plan of Operation

For the property on 4925 W. Southport Road, the owner is proposing the following plan of operation.

The primary activities to be carried out on this property are as follows:

1. Overnight parking of commercial vehicles, mostly cargo vans that are used for the purposes of carrying out a siding business.
2. Limited staging of siding supplies needed for the next day's work.
3. The schedule for such parking activities would be overnight and over the weekend, mostly Sunday.
4. The traffic of the trucks would be heaviest to coincide with the morning rush hour traffic as they depart for jobs and then return around the end of daylight each day. Jobs are such that in the trucks would likely not come in all at the same time, but rather, in a staggered manner which would minimize traffic.
5. The plan is to keep all existing vegetation, especially the large, mature trees on-site. In addition, plan would be to add a large wooden privacy fence and additional privacy shrubs or evergreen type trees (such as Arborvitae) to add natural beauty and minimize the visibility of the trucks and limited supplies that will be on-site.
6. All waste from siding jobs will be disposed of at the site of each particular job. There will be no waste disposed of or kept at the site.
7. Due to the nature of each job, there will likely be very little to no customer traffic to this site as all estimates and inspections are done with the customer at each individual project site.

In summary, the primary intent is to have parking for commercial trucks (mainly cargo vans) and limited storage or staging of supplies needed for jobs that will be carried out in short order.

Photographs



Photo of the Subject Property existign single-family dwelling, looking east



Photo of the existing garage and proposed parking for truck vehicles on gravel. Looking northeast.



Photo of adjacent single-family dwelling to the north.



Photo of adjacent single-family dwelling to the west.



BOARD OF ZONING APPEALS DIVISION II **May 21, 2024**

Case Number: 2024DV2013

Property Address: 2801 South Illinois Street (approximate address)

Location: Center Township, Council District #18

Petitioner: Phillip Padilla

Current Zoning: D-5

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a duplex with vehicle access from Illinois and Gimber Streets (exclusive access from improved alleys required).

Current Land Use: Undeveloped

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

Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

- This property historically housed a single-family residence and is currently vacant after approval of a wrecking permit in 2022. It is surrounded by residential zoning and uses and is close to Meridian Street and Concordia Cemetery to the east. Although the property to the north does have two driveways opening onto Illinois and Gimber, other homes along the block to the south either utilize street parking or detached accessory garages opening onto the eastern alley as required by ordinance.
- Permit applications were made earlier this year for construction of a duplex with two driveway accesses within the front yard and corner side yard. A hold was placed since 744-301.A of the ordinance indicates that vehicle access to the lot would need to come exclusively from an improved alley when applicable. Approval of this variance would legalize two 2-car garages on the property with new driveway accesses onto both Illinois Street and Gimber Street.



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

- The site is zoned D-5 to allow for walkable neighborhood development either in new suburban neighborhoods or infill situations in established urban areas. The Marion County Land Use Plan Pattern Book recommends this site to the Traditional Neighborhood living typology for residential uses ranging from single-family residences to attached multifamily development. Both the Pattern Book and Infill Housing Guidelines recommend against the placement of front-loaded garages when alleys are available and encourage pedestrian connections from the front door instead of driveway placement.
- The Indianapolis Zoning Ordinance disallows for placement of front-loaded garages when access to improved alleys to help create residential communities with visually attractive and pedestrian-scale front yards, and all relevant guidance from comprehensive plans and recent ordinance amendments in 2021 reinforce this walkable development as a design priority. The findings of fact provided indicate that some neighboring properties have driveways opening to named streets, but (a) any redevelopment of those neighboring parcels would also be subject to current ordinance rules and (b) other homes along their same block utilize rear detached garages opening to the improved alley.
- The placement of two separate 2-car garages opening onto local streets instead of the improved alley runs counter to the spirit of new walkable neighborhood rules within ordinance as well as comprehensive plan recommendations. The garages would each constitute around 25% of the total unit square footage, and staff was unable to identify any site-specific difficulty that would prevent development of a compliant duplex or other residential use. Staff would therefore recommend denial of the petition.

GENERAL INFORMATION

Existing Zoning	D-5	
Existing Land Use	Undeveloped	
Comprehensive Plan	Traditional Neighborhood	
Surrounding Context	Zoning	Surrounding Context
	North:	North: Traditional Neighborhood
	South:	South: Traditional Neighborhood
	East:	East: Traditional Neighborhood
	West:	West: Traditional Neighborhood
Thoroughfare Plan		
Illinois Street	Local Street	50-foot right-of-way existing and 48-foot right-of-way proposed
Gimber Street	Local Street	40-foot right-of-way existing and 48-foot right-of-way proposed
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	No	



Wellfield Protection Area	No
Site Plan	03/28/2024
Site Plan (Amended)	N/A
Elevations	02/09/2024
Elevations (Amended)	N/A
Landscape Plan	N/A
Findings of Fact	03/28/2024
Findings of Fact (Amended)	N/A

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

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

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book contemplates this site for compact and well-connected Traditional Neighborhood uses ranging from single-family homes to large-scale multifamily housing. Infill development should continue the existing visual pattern, rhythm, or orientation of surrounding buildings when possible.
- Within this land use type, duplexes are encouraged to be placed on corner lots with entrances located on different sides of the house. However, access to individual parcels should be granted by an alley when practical and pedestrian connections from the front door should be provided (driveways and parking areas do not qualify as pedestrian connection).

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 indicates that garages should be oriented toward alleys and that front-loading garages and driveways should be avoided when alleys are available.



Department of Metropolitan Development
Division of Planning
Current Planning

Indy Moves

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

- Not Applicable to the Site.



ZONING HISTORY

ZONING HISTORY – SITE

N/A

ZONING HISTORY – VICINITY

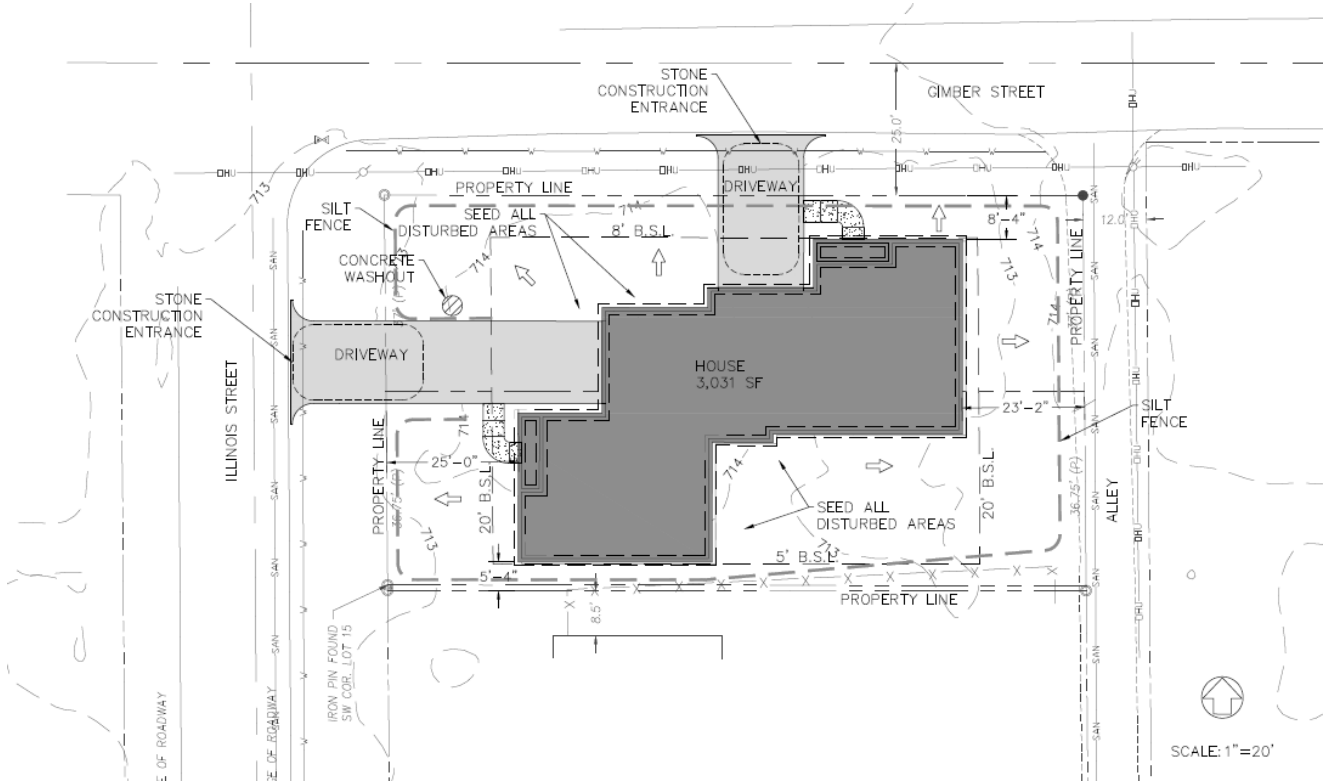
2019UV1003 ; 2750 S Meridian Street (northeast of site), Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for a beauty salon and barber shop in an accessory building (not permitted), **approved**.

EXHIBITS

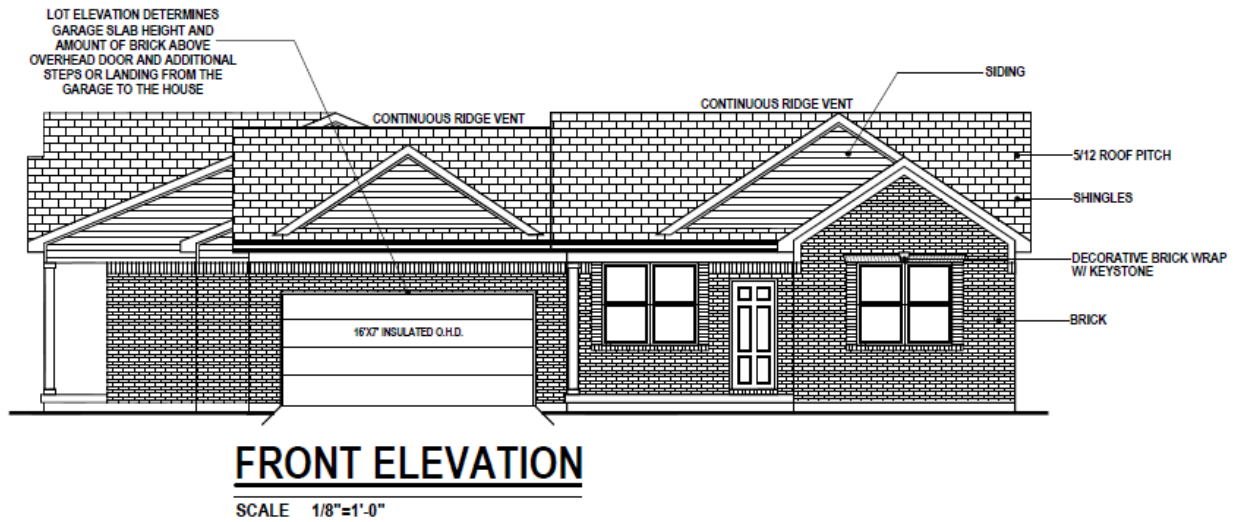
2024DV2013 ; Aerial Map



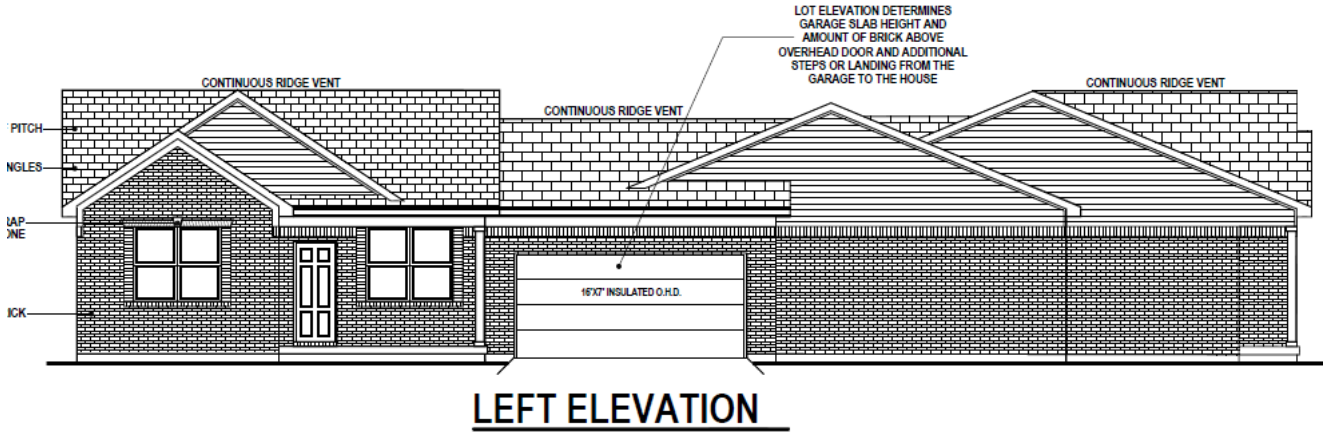
2024DV2013 ; Site Plan



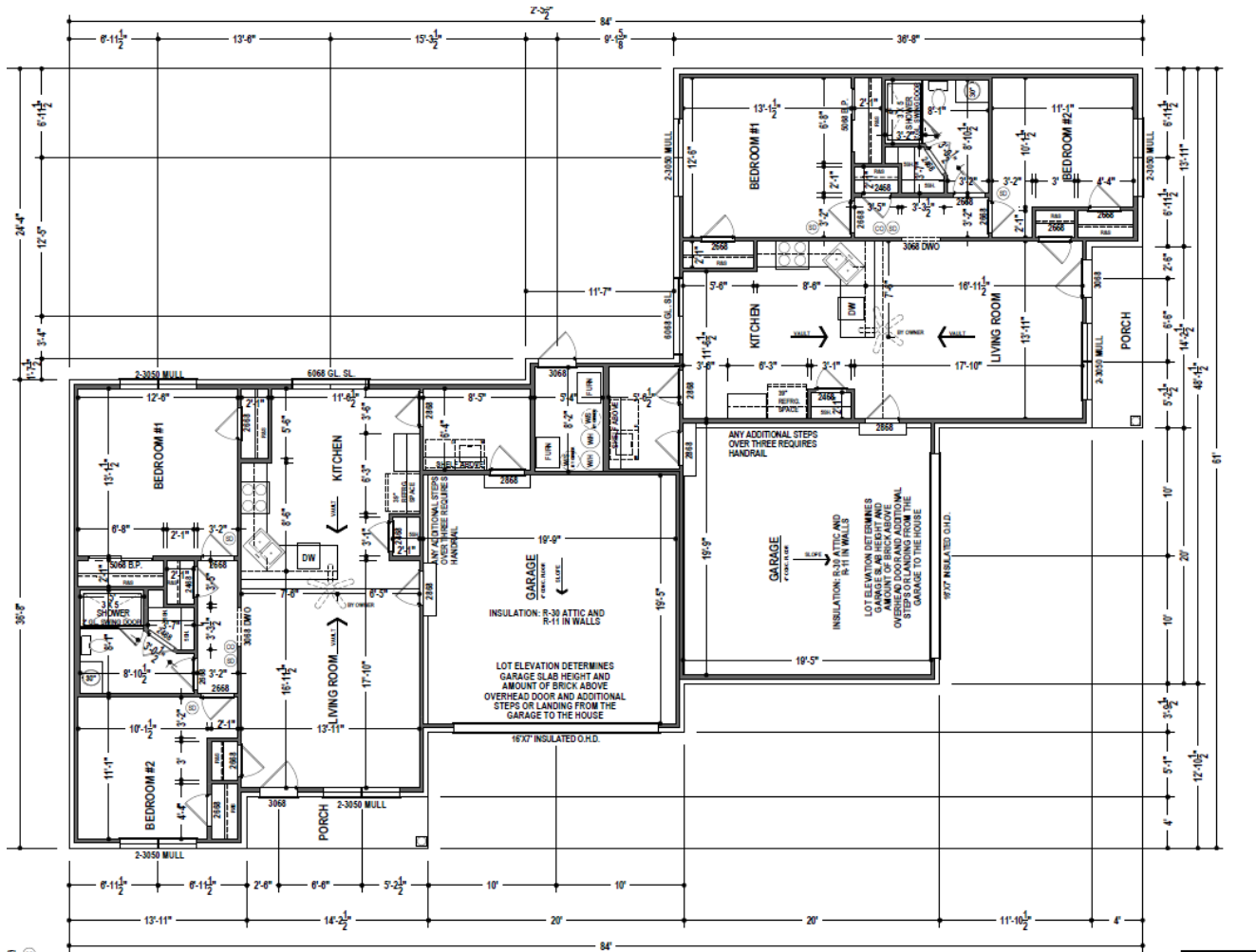
2024DV2013 ; Front Elevation (west)



2024DV2013 ; Side Elevation (north)



2024DV2013 ; Floor Plan





2024DV2013 ; Findings of Fact

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

The proposed design is consistent with overall use, character and design of surrounding properties, and the structure adheres to rigorous rules of the Consolidated City of Indianapolis and the municipal code.

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 use of the building is for dwelling purposes; which is consistent with the surrounding buildings.
The proposed design also follows the configuration of the existing neighborhood properties. A total of 80% of the adjacent properties (within one block) on Illinois St currently have driveway access from Illinois St, Gimber St and Bakemeyer St. In addition, the property at the opposing corner lot, currently has the same dual driveway access requested in this petition.

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 eliminate the open backyard designed for each unit, since the area will need to be used as a common driveway. This defeats the intent of creating isolation between the two units. This duplex property was designed considering the conveniences of building on a corner lot. Backyards, entryways, and driveways, were all designed to be separate from each other. The proposed design maximizes the available space while conforming to code requirements and city regulations.

2024DV2013 ; Photographs



Photo 1: Subject Site from West (Illinois Street)



Photo 2: Subject Site from North (Gimber Street)

2024DV2013 ; Photographs (continued)



Photo 3: View of Eastern Alley from Subject Site



Photo 4: View of Rear Accessory Structures Along Eastern Alley

2024DV2013 ; Photographs (continued)



Photo 5: Adjacent Property to the Northwest



Photo 6: Adjacent Property to the Northeast

2024DV2013 ; Photographs (continued)



Photo 7: Adjacent Property to West

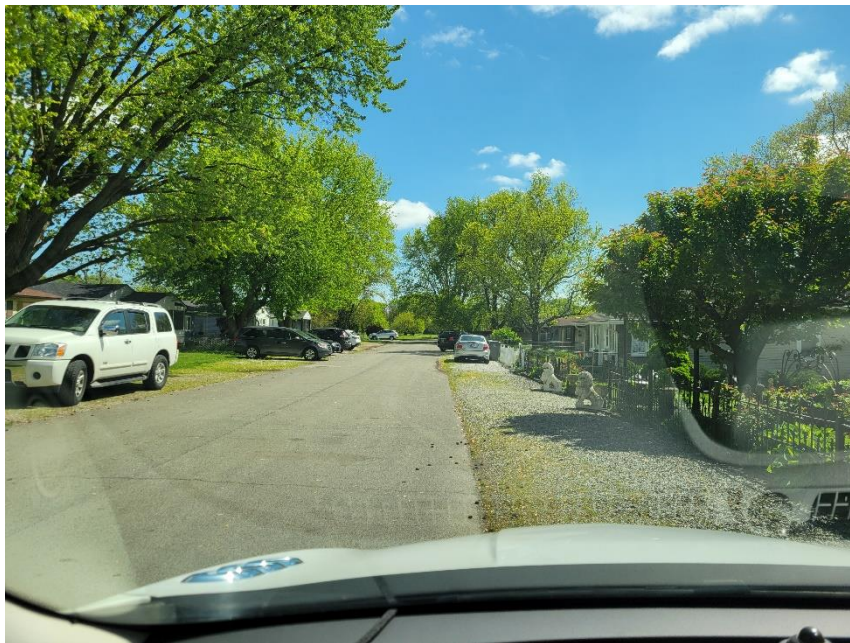


Photo 8: Street Parking along Illinois Street (south of Subject Site)



BOARD OF ZONING APPEALS DIVISION II **May 21, 2024**

Case Number: 2024-DV2-014
Property Address: 5113 Guilford Avenue (approximate address)
Location: Washington Township, Council District #7
Petitioner: Jordan C. Williams
Current Zoning: D-5 (TOD)
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for construction of a detached garage with a 4.58-foot south side yard setback (five feet required).
Current Land Use: Residential
Staff Recommendations: Staff has no recommendation for this petition
Staff Reviewer: Noah Stern, Senior Planner

PETITION HISTORY

- This petition is to be formally withdrawn by the petitioner.



STAFF RECOMMENDATION

- Staff recommends of this petition

PETITION OVERVIEW

- This petition would ---

GENERAL INFORMATION

Existing Zoning	--	
Existing Land Use	--	
Comprehensive Plan	--	
Surrounding Context	Zoning	Surrounding Context
North:		North:
South:		South:
East:		East:
West:		West:
Thoroughfare Plan		
Enter Street(s)	Enter Thoroughfare	___ feet of right-of-way existing and ___ feet proposed
Context Area	Compact or Metro	
Floodway / Floodway Fringe	Yes or No	
Overlay	Yes or No	
Wellfield Protection Area	Yes or No	
Site Plan		
Site Plan (Amended)		
Elevations		
Elevations (Amended)		
Landscape Plan		
Findings of Fact		
Findings of Fact (Amended)		

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book
-



Pattern Book / Land Use Plan

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

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Enter Recommendation by TOD Plans or “Not Applicable to the Site.”

Neighborhood / Area Specific Plan

- Enter Recommendation by Pattern Book or “Not Applicable to the Site.”

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)

- Enter Recommendation by Indy Moves Plans or “Not Applicable to the Site.”



ZONING HISTORY

ZONING HISTORY – SITE

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ZONING HISTORY – VICINITY

--

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Department of Metropolitan Development
Division of Planning
Current Planning

EXHIBITS

Enter any photographs or site plans



BOARD OF ZONING APPEALS DIVISION II **May 21, 2024**

Case Number: 2024-DV2-015

Property Address: 2366 Winthrop Avenue (approximate address)

Location: Center Township, Council District #8

Petitioner: Angela and Kendrick Davis, by Sharmin Frye

Current Zoning: D-8

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for construction of a 35-foot tall, three-story single-family dwelling (maximum 2.5-story dwelling permitted).

Current Land Use: Vacant

Staff Recommendations: Staff has no recommendation for this petition

Staff Reviewer: Noah Stern, Senior Planner

PETITION HISTORY

- Staff is requesting a continuance to the July 9, 2024 BZA Division II hearing to allow for additional review. If any new variances are requested new notice would be required.



BOARD OF ZONING APPEALS DIVISION II **May 21, 2024**

Case Number: 2024-DV2-016

Property Address: 921 East 24th Street (approximate address)

Location: Center Township, Council District #8

Petitioner: Angela Davis, by Sharmin Frye

Current Zoning: D-8

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a 34-foot tall, three-story single-family dwelling (maximum 2.5-story dwelling permitted), with a three-foot west side yard setback (five feet required) and a front-loaded garage (prohibited along terrace frontages) resulting in an open space of 24 percent (40 percent required).

Current Land Use: Vacant

Staff Recommendations: Staff has no recommendation for this petition

Staff Reviewer: Noah Stern, Senior Planner

PETITION HISTORY

- Staff is requesting a continuance to the July 9, 2024 BZA Division II hearing to allow for additional review. If any new variances are requested new notice would be required.



BOARD OF ZONING APPEALS DIVISION II **May 21, 2024**

Case Number: 2024-DV2-018
Address: 4032 Crooked Creek Overlook (approximate address)
Location: Washington Township, Council District #6
Zoning: D-2
Petitioner: Onward Estates LLC, by Tyler Ochs
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the erection of a six-foot tall perimeter fence (maximum 3.5-foot tall permitted within front yards).

Current Land Use: Single-family dwelling

Staff Recommendation: Staff recommends denial of this petition.

Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

- ◇ The Consolidated Zoning and Subdivision Ordinance permits a maximum fence height of 42 inches within the front yard of a residential district. The purpose of the front yard fence height limitation is to create an open appearance along public right-of-ways, to prevent blocking views at intersections, limit the negative visual impacts on adjacent properties, and prevent a canyonized effect of the streetscape. Fences taller than what the Ordinance allows, tend to be commercial or industrial in nature, and create a compound aesthetic within residential neighborhoods.
- ◇ This property currently houses a single-family dwelling. In January of 2024, a violation case was opened related to the installation of a fence with height exceeding 3.5' in the front yard (disallowed per Table 744-510-2 of the Indianapolis Zoning Ordinance).
- ◇ This petition would seek to provide for and legalize the portion of the six-foot tall perimeter fence already installed in the front yard of the site.
- ◇ Fencing is allowed by right in the front yard, as long as it does not exceed 3.5 feet, or four feet if the fence has 30% opacity or less.

- ◇ The Indianapolis Zoning Ordinance prescribes height limitations for fences to maintain visibility, orderly development, and the appearance of open space while also allowing for reasonable privacy. No neighboring properties have fences in front yards that exceed the height limitation and are able to comply with the current Ordinance standards.
- ◇ It is unclear what inherent practical difficulties exist that would be remedied by a 6-foot fence, but not by an ordinance-compliant 4-foot fence. Typical ornamental fencing, at lower compliant heights, are harder to cut through and climb, than the proposed six-foot fence constructed from chicken wire and wooden posts.
- ◇ If security is an issue necessitating the increased fence heights, staff believes that the issues could be appropriately mitigated with other measures, such as environmental design and landscape plantings to supplement height compliant fences.
- ◇ As such, staff does not believe a practical difficulty has been demonstrated that necessitates a six-foot tall fence in the front yard, therefore, Staff recommends denial of this request.

GENERAL INFORMATION

Existing Zoning	D-2	
Existing Land Use	Single-Family Dwelling	
Comprehensive Plan	Suburban Neighborhood uses	
Surrounding Context	Zoning	Surrounding Context
	North: D-2	Single-Family dwelling
	South: D-A	Single-Family dwelling
	East: D-2	Single-Family dwelling
	West: D-A	Undeveloped
Thoroughfare Plan		
Crooked Creek Overlook	Local Street	50-foot existing and proposed right-of-way.
Context Area	Metro area	
Floodway / Floodway Fringe	No	
Overlay	N/A	
Wellfield Protection Area	No	
Site Plan	April 5, 2024	
Elevations	N/A	
Landscape Plan	N/A	
Findings of Fact	April 5, 2024	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

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

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends the Suburban Neighborhood typology, which 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. Streets should be well-connected, and amenities should be treated as landmarks that enhance navigability of the 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.

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

2009-DV2-050; 2405 West 42nd Street and 3925 Cooper Road (west of site), requested a variance of development standards of the Flood Control Districts Zoning Ordinance to provide for the construction of two single-family dwellings on separate lots with wall openings of one square inch for every one square foot of enclosed area, **granted**.

2003-DV2-002; 4040 Knollton Road (east of site), requested a variance of development standards to legally establish a shed located in front of the established front building line of the primary dwelling, **denied**.

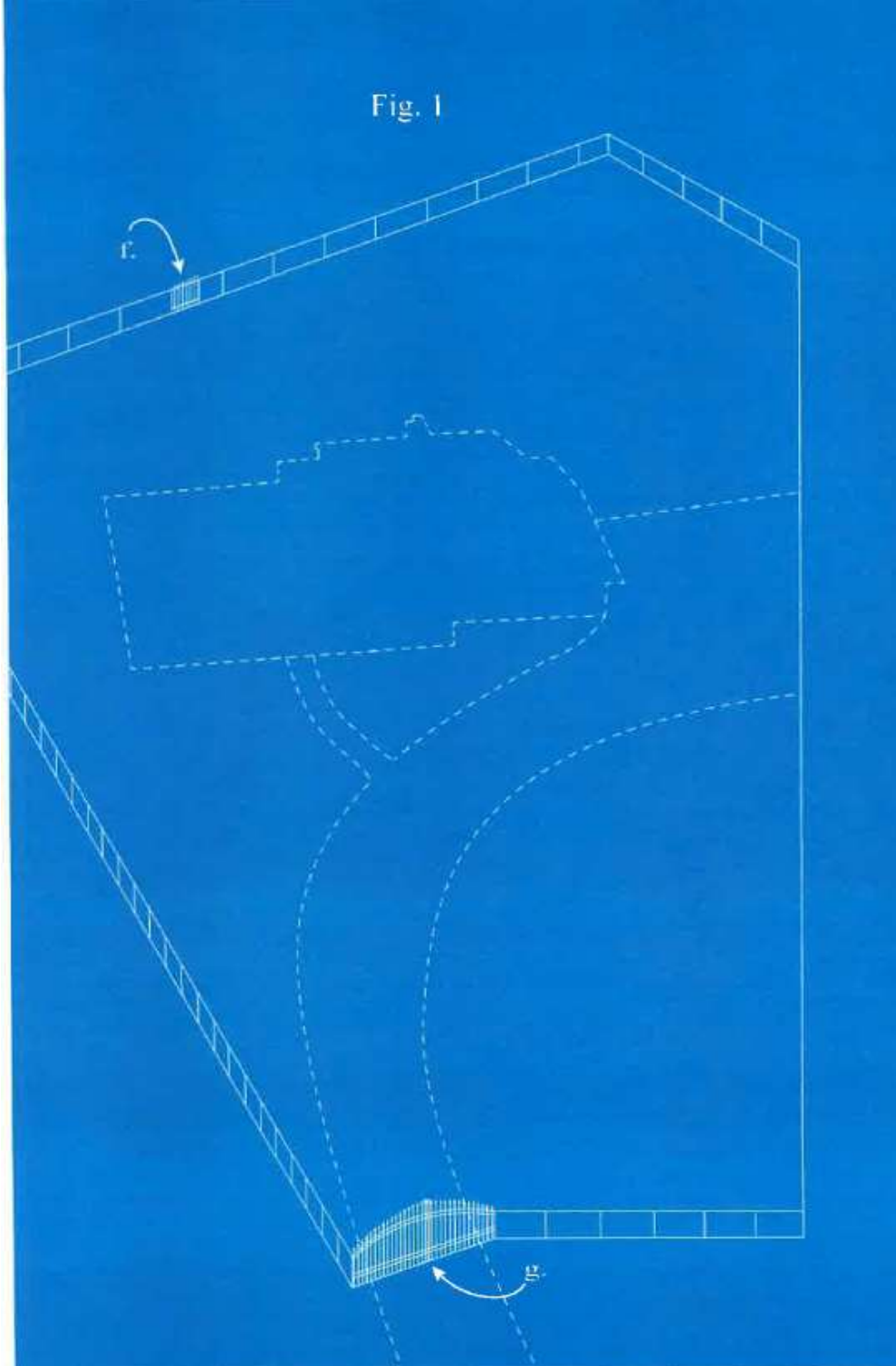
RU

EXHIBITS

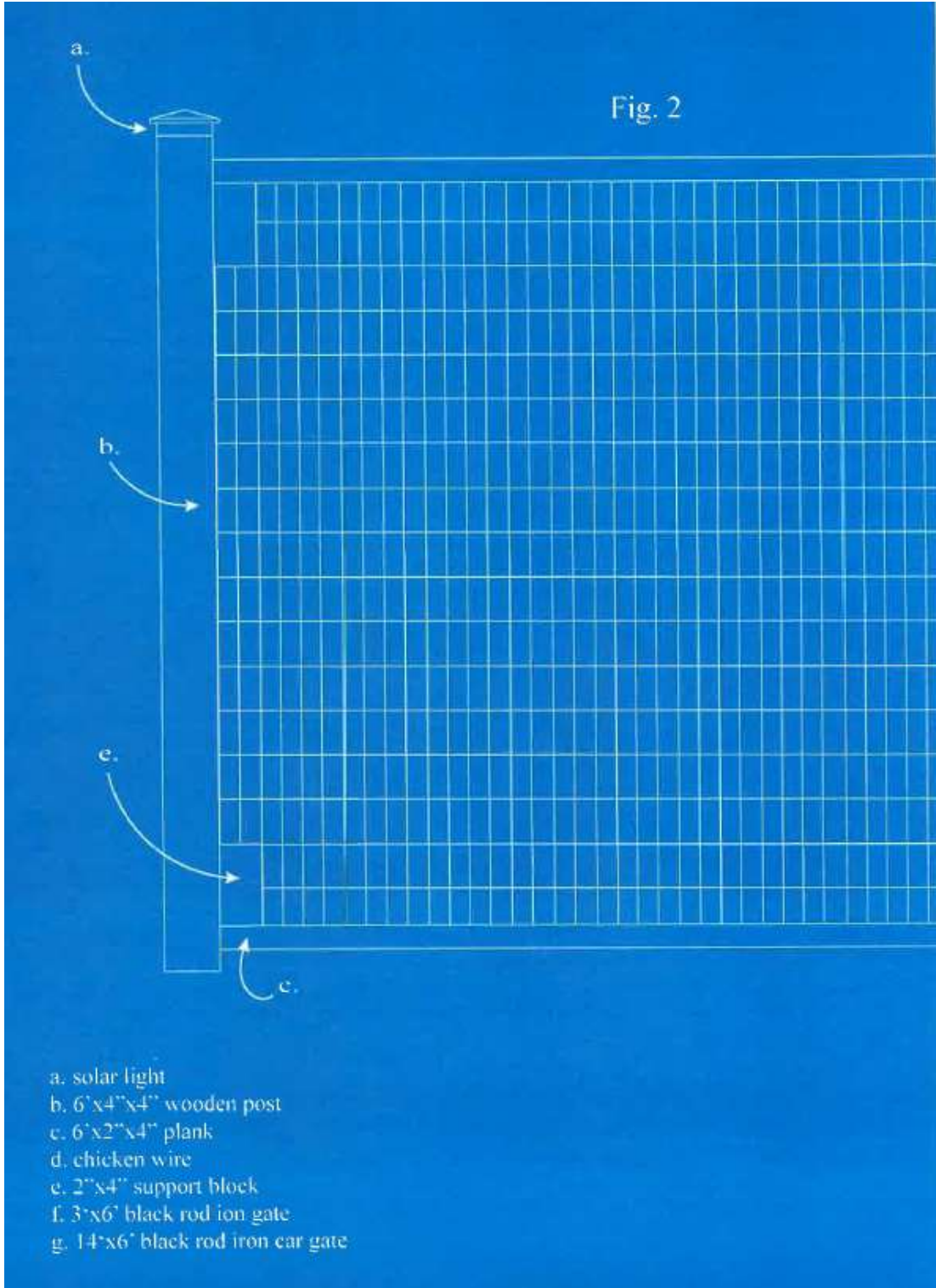
Location Map



Site Plan



Fence Elevation





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:

This fence is to ensure the safety and privacy of the home owner. The fence is being professionally built and installed and as such, will help increase safety for the homeowner and the neighborhood as a whole.

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 fence is professionally built and specifically chosen to accompany the aesthetic of the home. The quality of the fence will only help to boost property values in the area. Due to the layout of the lot, the fence is designed to not impede the sightline of the abutting neighbors, while still providing the needed security, safety, and privacy for the resident.

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

The resident is a professional athlete which entails a public schedule of when the resident is out of town or away from the home. Therefore, the six foot fence is adequate to help provide the resident with enough safety so the resident may enjoy use of the property. The strict application, and therefore, a four foot fence, would subject the resident to safety and privacy concerns that would severely limit the ability to use the property as a safe residence.

Photographs



Photo of the Subject Property, looking southwest



Photo of the east side parcel line with a six foot fence in the front yard. Looking south.



Photo of the west side parcel line with a six foot fence in the front yard. Looking southeast.



Photo fo adjacent neighbor to the west with complaint fencing, looking south.



Photo fo adjacent neighbor to the east with complaint fencing, looking south.



Photo fo adjacent neighbor to the north with complaint fencing.



BOARD OF ZONING APPEALS DIVISION II **May 21, 2024**

Case Number: 2024DV2019
Property Address: 6176 Carrollton Avenue (approximate address)
Location: Washington Township, Council District #7
Petitioner: JLILY LLC, by Ted Darnall
Current Zoning: D-5 (TOD)
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a single-family dwelling and attached carport with a 3-foot southern side yard setback (five-foot required).
Current Land Use: Residential
Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

During staff's review of this petition, the scope was altered by the petitioner to remove requests for northern side and rear setbacks but also to ask for a narrower southern side yard setback. In order to allow time for adequate notice to be sent for the more intense setback request, the petitioner will request to continue this case to the June 11, 2024 hearing. Full staff report will be available in advance of that hearing.