



Board of Zoning Appeals
Board of Zoning Appeals Division I
(February 4th, 2025)
Meeting Agenda

Meeting Details

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

Date: Tuesday, February 04, 2025 **Time:** 1:00 PM

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

Business:

Adoption of Meeting Minutes

Special Requests

PETITIONS REQUESTING TO BE CONTINUED:

- 1. 2024-DV1-045 | 4496 Saguaro Trail**
Pike Township, Council District #6, zoned I-2
Shear Saguaro LLC, by Justin W. Leverton, Esq.

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a building addition resulting in an 11-foot rear yard setback (30 feet required).

****Petitioner requesting a continuance to the March 4, 2025 hearing of Division I in order to submit additional information to the file**

- 2. 2024-UV1-030 | 2927 West Washington Street**
Warren Township, Council District #18, zoned C-4 (TOD)
Teklit Fecadu

Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for a five-unit multi-family building(not permitted).

****Staff requesting a continuance to the March 4, 2025 hearing of Division I in order to allow for an amendment requiring notice**

Petitions for Public Hearing

PETITIONS TO BE EXPEDITED:

PETITIONS FOR PUBLIC HEARING (Transferred Petitions):

PETITIONS FOR PUBLIC HEARING (Continued Petitions):

- 3. 2024-DV1-037 | 2402 East 38th Street (Amended)**
Washington Township, Council District #8, zoned C-5 (TOD)
Popeyes Louisiana Kitchen Inc., by Gilligan Company

Variance of Use and Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a drive-thru accessory use within 600 feet of a Transit Station (not permitted), and an additional drive-thru lane within the front yard of Keystone Avenue (not permitted).

4. 2024-DV1-046 | 8654 West 86th Street

Pike Township, Council District #1, zoned D-2 / D-S (FF)
Gary A. & Mickey K. James

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the installation of a six-foot tall decorative fence within the front yard of 86th Street (maximum height of 3.5-feet permitted).

5. 2024-DV1-047 | 1919 Mansfield Street

Center Township, Council District #12, zoned D-5 (W-1)
James & Mary Holman

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a driveway accessing Mansfield Street (exclusive vehicular access of improved alleys required).

PETITIONS FOR PUBLIC HEARING (New Petitions):

6. 2025-DV1-001 | 4235 East 46th Street

Washington Township, Council District #8, zoned D-1
Tamara Brown Living Trust 8/13/2024, by Krieg DeVault LLP & Kevin G. Buchheit

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the installation of a six-foot tall ornamental fence within the front yard of East 46th Street (maximum 3.5-foot tall fence permitted).

7. 2025-DV1-002 | 8751 Michigan Road

Pike Township, Council District #1, zoned C-4
Drive-In of Evansville Inc., by Joseph D. Calderon

Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an eating establishment with 43 parking spaces (maximum 23 spaces permitted) and a drive-through with a service unit facing Bethany Road, stacking spaces within the front yards of Bethany and Founders Road (not permitted) and without an exclusive bypass aisle (required).

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.



BOARD OF ZONING APPEALS DIVISION I

February 4, 2025

Case Number: 2024-DV1-045

Property Address: 4496 Saguaro Trail (approximate address)

Location: Pike Township, Council District #6

Petitioner: Shear Saguaro LLC, by Justin W. Leverton, Esq.

Current Zoning: I-2

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a building addition resulting in an 11-foot rear yard setback (30 feet required).

Current Land Use: Light Industrial

Staff Recommendations: Staff has no recommendation for this petition

Staff Reviewer: Noah Stern, Senior Planner

PETITION HISTORY

ADDENDUM FOR FEBRUARY 4, 2025 BZA DIVISION I HEARING

- This petition was automatically continued by the petitioner from the January 7, 2025 hearing to February 4, 2025.
- The petitioner is requesting an additional continuance without notice to the March 4, 2025 hearing to allow for time to acquire new information.



BOARD OF ZONING APPEALS DIVISION I **February 4th, 2025**

Case Number: 2024-UV1-030
Property Address: 2927 West Washington Street
Location: Warren Township, Council District #18
Petitioner: Teklit Fecadu
Zoning: C-4 (TOD)
Request: Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for a five-unit multi-family building (not permitted).
Current Land Use: Commercial
Staff Reviewer: Kiya Mullins, Associate Planner

PETITION HISTORY

To allow for changes to the petition request and legal notice, this petition should be continued to the **March 4th, 2025**, hearing at the staff's request. A full staff report will be available in advance of that hearing.



BOARD OF ZONING APPEALS DIVISION I

January 7, 2025

Case Number: 2024-DV1-037 (Amended)
Address: 2402 East 38th Street (approximate address)
Location: Washington Township, Council District #8
Zoning: C-5 (TOD) (W-5)
Petitioner: Popeyes Louisiana Kitchen Inc., by Gilligan Company
Request: Variance of Use and Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a drive-thru accessory use within 600 feet of a Transit Station (not permitted), and an additional drive-thru lane within the front yard of Keystone Avenue (not permitted).

Current Land Use: Commercial Restaurant

Staff Recommendation: Staff recommends Denial of this petition.

Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

This petition was heard on November 7, 2024, and had an indecisive vote of 2-1 from the Board. Therefore, it was continued to the December 3, 2024, hearing.

At the November 7 hearing, the request for the deficient primary entry transparencies along the east and west facades was withdrawn, after it was determined the existing transparencies were legally non-conforming and would not be altered or changed.

This petition was continued with notice from the December 3, 2024, hearing, to the January 7, 2025, hearing, to provide for an additional variance request.

This petition was continued for cause at the request of the petitioner, to the February 4, 2025, hearing.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

Drive-thru accessory use within 600 feet of a Transit Station (not permitted),

- ◇ The subject site consists of an existing fast-food restaurant. This portion of East 38th Street is a segment along the Purple Line bus rapid transit system. Therefore, the property is also located within the Transit Oriented Development Overlay district, which is more restrictive on automotive uses. The surrounding neighborhood consists of previously developed commercial uses.



Department of Metropolitan Development
Division of Planning
Current Planning

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

Drive-thru Lane within the front yard.

- ◇ The site currently contains a commercial eating establishment with an existing drive-thru lane. The menu board and beginning of the service unit is located within the side yard to the north, while the rest of the drive-thru lane and pick-up windows constituting the end of the service unit are along the western side of the building in the front yard of North Keystone Avenue. The current building was constructed in 2015 under a previous version of the ordinance and is considered legally non-conforming, requiring any expansion of the building or site features to be subject to the current version of the zoning ordinance.
- ◇ In 2024, permit applications were made to allow for an interior and exterior remodeling of the property. These plans included a partial addition to the drive-thru lane (see site plan below). This reconfiguration of the site would require the full drive-thru lane to comply with current ordinance standards for stacking spaces within front yards, and for the primary entry transparencies to be compliant as well.
- ◇ Current ordinance standards prohibit stacking spaces within front yards along rights-of-way greater than 30 feet wide, and would require exclusive bypass aisles, as well as the compliance with the screening requirements per 743-306.I.3. The grant of this variance request would allow for an additional drive-thru lane and legalize the non-conforming existing drive-thru lane within the front yard of Keystone Avenue and expand it further.
- ◇ Limitations on the placement of stacking spaces within front yards exist to reduce congestion and vehicular conflict with patrons of the restaurant and pedestrians as well as to allow for attractive, pedestrian-oriented storefronts facing rights-of-way (screening requirements also contribute to these goals).



- ◇ As this site lies within the Transit Oriented Development (TOD) Overlay for the Bus Rapid Transit (BRT) Purple Line, proposed uses, and the redevelopment of existing uses as for this property, should be oriented towards supporting the Overlay district design and establishing greater walkability in the district. The proposed request for the additional drive-thru lane within the front yard of Keystone Avenue would expand a non-compliant auto-centric use that is non-contributing in the Overlay which would be counterproductive to the intent of establishing greater walkability and connectivity in the area, therefore Staff does recommend denial of this request.

WELLFIELD PROTECTION DISTRICTS

- ◇ There are two wellfield district designations. An area identified as W-1 is a one-year time-of-travel protection area. The W-5 is a five-year time-of-travel protection area. Certain land uses within these districts, which are identified in Section 735-801 of the Wellfield Protection Ordinance require the filing and approval of a development plan on behalf of the Metropolitan Development Commission by the technically qualified person in the Department of Metropolitan Development.
- ◇ A wellfield is an area where the surface water seeps into the ground to the aquifer and recharges the wells that are the source of our drinking water. This secondary zoning district places closer scrutiny on uses and activities that might contaminate the underground drinking water supply.
- ◇ The subject site is located in a W-5 protection area. Pursuant to the Wellfield Protection Ordinance, a development plan may be required when application is made for an Improvement Location Permit (ILP). Contaminants that would have an adverse effect would include chemicals that are used in the home, business, industry, and agriculture. Chemicals such as furniture strippers, lawn and garden chemicals, cleaning chemical and solvents, gasoline, oil, and road salt can all contaminate groundwater supplies if poured on the ground or improperly used or stored.

GENERAL INFORMATION

Existing Zoning	C-5		
Existing Land Use	Commercial Restaurant		
Comprehensive Plan	Community Commercial uses		
Surrounding Context	Zoning	Surrounding Context	
	North:	C-5	Commercial Restaurant
	South:	C-4	Commercial Retail
	East:	C-5	Commercial Retail
	West:	C-5	Commercial Restaurant
Thoroughfare Plan			
East 38 th Street	Primary Arterial	110-foot existing and proposed right-of-way	
North Keystone Avenue	Primary Arterial	122-foot existing and proposed right-of-way	
Context Area	Compact area		
Floodway / Floodway Fringe	No		
Overlay	Purple Line Transit-Oriented Development		
Wellfield Protection Area	5-year		
Site Plan	August 19, 2024		
Window Elevations	September 13, 2024		
Landscape Plan	N/A		
Findings of Fact	August 27, 2024		



COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- The Comprehensive Plan recommends Community Commercial uses for the site.

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends the Community Commercial typology that provides 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

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

Neighborhood / Area Specific Plan

- 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

2014-DV1-015; 3817 N. Keystone Avenue (subject site); Requesting a Variance of development standards of the Commercial Zoning Ordinance to provide for a three-foot front yard along Keystone Avenue, **granted.**

2011-DV1-012, 3817 North Keystone Avenue (subject site); Requesting a variance of development standards of the Commercial Zoning Ordinance and the sign Regulations to legally establish a zero-foot front setback for parking and maneuvering area, without landscaping, and a free-standing sign, **granted.**



Department of Metropolitan Development
Division of Planning
Current Planning

2007-ZON-066, 2302 East 38th Street (west of site); Requesting rezoning of 0.22 acre, from the D-5 (W-1) District to the C-5 (W-1) classification to provide for general commercial uses, **approved**.

2006-DV2-054; 2335 East 38th Street (southwest of site); Requesting a Variance of Development Standards of the Sign Regulations to provide for the construction of a 30-foot tall, 100-square foot pole sign with a zero-foot setback from the intersection of 38th Street and Keystone Avenue, in C-4, **granted**.

2002-ZON-830; 2244-2248 East 38th Street (west of site); Requesting a rezoning of 0.95 acre, being in the D-5 District, to the C-4 classification to provide for an automobile detailing facility, **withdrawn**.

98-Z-227 / 98-CV-25; 2231-2235 East 38th Street (west of site); Requested a rezoning of 0.14 acre, being in the D-5 District, to the C-3 classification to provide for neighborhood commercial uses and a parking lot with a zero-foot west transitional yard, **approved**.

96-HOV-13; 3845 North Keystone Avenue (north of site); Requesting a Variance of Development Standards of the Commercial Zoning Ordinance and Sign Regulations to provide for the placement of a canopy for an existing gasoline station with a 7.5-foot front yard setback along Keystone Avenue, and a 50-foot wide canopy, in C-5, **granted**.

95-Z-209 / 95-CV-34, 2401 East 38th Street; Requesting rezoning of 0.46 acre from the D-5 District to the C-4 classification; and a variance of development standards of the Commercial Zoning Ordinance to provide for the construction of an automobile parts and accessories sales business with a reduced side transitional yard setback, **approved**.

95-Z-191; 3850 North Keystone Avenue (north of site), Requesting a rezoning of 0.4 acre, being in the D-5 District, to the C-5 classification, to provide for automobile sales, **approved**.

94-Z-208; 2368 East 38th Street (west of site); Requesting a rezoning of 0.63 acre, being in the D-5 and C-5 Districts, to the C-5 classification, to provide for a restaurant, **approved**.

84-UV1-87, 2425 East 38th Street (east of site); Requesting a variance of use and development standards of the Commercial Zoning Ordinance to provide for a carry-out restaurant with a drive-through window with 100 feet of a dwelling district, without the required rear transitional yard, **granted**.

RU

EXHIBITS

Location Map Subject Site



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 project is an interior and exterior remodel of the existing Popeye's Restaurant with no foreseen adverse effect on the surrounding parcels or general welfare of the community.
Converting the drive-thru from a single lane to a double lane drive-thru will still be in compliance of required stacking spaces per 744-406-1 and other drive-thru and C-5 zoning related ordinances.*

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 parcels adjacent to the existing Popeye's Restaurant are also in the C-5 zoning district and sufficient screening to municipal code exists along the Keystone Ave frontage in question.

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

the existing site's stacking lane is, by current ordinance, a non-conforming use, so any remodel/reconstruction of the site would be reevaluated and must conform unless a variance is approved.

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

*Growing demand and queue in the existing single drive-thru and order station can create traffic buildup and limit access.
The additional order station placement proposed is the most feasible means of resolving this to keep up with demand and the proposed limits how much additional stacking is considered along the Keystone Ave frontage.*

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

no change in use since original construction and no change in comprehensive plan to conflict with proposed work.

Photographs



Subject site, west façade, looking northeast.



Subject site, south façade, looking north.



Subject site, east façade, looking northwest.



Subject site, proposed second drive thru location, looking west.



Subject site drive thru stacking spaces in front yard of North Keystone Avenue, looking southeast.



Adjacent Purple line transit stop, to the south



Adjacent commercial restaurant to the west.



Adjacent commercial restaurant to the north.



BOARD OF ZONING APPEALS DIVISION I

February 4th, 2025

Case Number:	2024-DV1-046
Property Address:	8654 West 86 th Street
Location:	Pike Township, Council District #1
Petitioner:	Gary A. & Mickey K. James
Current Zoning:	D-2 / D-S (FF)
Request:	Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the installation of a six-foot tall decorative fence within the front yard of 86th Street (maximum height of 3.5 feet permitted).
Current Land Use:	Residential
Staff Recommendations:	Staff recommends denial of this variance petition.
Staff Reviewer:	Kiya Mullins, Associate Planner

PETITION HISTORY

This is the second public hearing for this variance petition.

The first public hearing for this case occurred on January 7th, 2024, where it was continued due to the Pike Township Residents Association Inc., a registered neighborhood organization, filing an automatic continuance.

STAFF RECOMMENDATION

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

PETITION OVERVIEW

- This variance requests that a six-foot-tall decorative fence be allowed in the front yard of a property along West 86th Street.
- This property is 5.98 acres within a D-2 zoning district.
- The proposed fence will be wrought iron/aluminum, with 10 (ten) stone/brick columns and 2 (two) stone/brick accent planter boxes.
- The City of Indianapolis Consolidated Zoning/Subdivision Ordinance only permits a fence in the front yard to be 3.5 feet in height.
- Across the street, at 8631 West 86th Street, the residence has a white wood decorative fence that is within the 3.5 foot standard and aligns with the area's character.



Department of Metropolitan Development
 Division of Planning
 Current Planning

- Staff recommends **denial** of this variance petition because there is no practical difficulty. The fence is purely decorative, and the 6 (six) foot height is a decorative decision and not a need. Reducing the size of the proposed fence while keeping the same design would make a variance unnecessary and allow the requested fence to be within compliance.

GENERAL INFORMATION

Existing Zoning	D-2 / D-S (FF)	
Existing Land Use	Residential	
Comprehensive Plan	Linear Park	
Surrounding Context	Zoning	Surrounding Context
	North:	North: Rural or Estate Neighborhood
	South:	South: Rural or Estate Neighborhood
	East:	East: Suburban Neighborhood
	West:	West: Rural or Estate Neighborhood
Thoroughfare Plan		
86 th Street	Primary Collector	40 feet of right of way existing and 80 feet of right of way proposed.
Context Area	Metro	
Floodway / Floodway Fringe	Yes	
Overlay	No	
Wellfield Protection Area	Yes	
Site Plan	11/04/2024	
Site Plan (Amended)	12/06/2024	
Elevations	11/04/2024	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	11/04/2024	
Findings of Fact (Amended)	N/A 8654 West 86th Street	

COMPREHENSIVE PLAN ANALYSIS
 Comprehensive Plan

- Marion County Land Use Plan Pattern Book

Pattern Book / Land Use Plan

Linear Parks: This land use category is intended for public or private property designated for active or passive recreation and is primarily used for the passage of people or wildlife. Examples are greenways, parkways, trails, off-street paths, and conservation areas (pg 16).



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

- N/A

ZONING HISTORY – SURROUNDING AREA

- 2002-UV1-008: 8420 Olin Road
 - 2ND SINGLE-FAMILY DWELLING ON ONE LOT
 - AP
- 2004-UV1-046: 8224 West 82nd Street
 - Legally establish real estate office in D-A.
 - D
- 2007-UV2-022: 8130 West 88th Street
 - Variance of Use of the Dwelling Districts Zoning Ordinance to legally establish the seasonal retail display and sale of produce not grown on the property (not permitted), utilizing two, 32-square foot, covered tables from May 1st to October 31st. Recorded commitment 2009-0014226.
 - AP
- 2008-UV3-005: 8620 West 82nd Street
 - Variance of Use of the Dwelling Districts Zoning Ordinance to provide for the expansion of a landscaping contractor business permitted by petition 2004-UV1-039 (not permitted).
 - WD
- 2010-DV3-039: 8432 West 84th Street
 - Variance of development standards of the Dwelling Districts Zoning Ordinance to legally establish a 1,480-square foot, 23-foot tall, two-story detached garage, being 159% of the main floor area of the primary dwelling and creating an accessory use area of 1,860 square feet, being 133.04% of the total floor area of the primary dwelling (maximum accessory building area can not exceed 75% of the main floor area of the primary dwelling, maximum accessory use area can not exceed 99.9% of the main floor area of the primary dwelling and maximum accessory building height can not exceed 20 feet and can not exceed the height of the primary dwelling).
 - Approved
- 2011-DV2-014: 8439 West 84th Street
 - Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a 1,320-square foot accessory building, with a 15-foot front setback from Olin Road, in front of the established front building line of the primary dwelling (25-foot front setback required, accessory buildings not permitted in front of the established front building line).
 - Approved
- 2012-ZON-024: 8915 Copper Road
 - Rezoning of 0.5 acre, being in the D-S District, to the D-1 classification to provide for residential development.
 - Approved

- 2012-ZON-027: 8930 Lafayette Road
 - Rezoning of 0.86 acre from the D-S District to the SU-1 classification to provide for religious uses.
 - Withdrawn
- 2013-SE2-003: 8930 Lafayette Road
 - Special Exception of the Dwelling Districts Zoning Ordinance to provide for religious uses, with off-street parking.
 - Denied
- 2013-ZON-018: 8222 West 82nd Street
 - Rezoning of 1.03 acres, from the D-A district to the SU-1 classification to provide for the expansion of a parking lot for religious uses.
 - Approved
- 2014-UV1-016: 8654 West 86th Street
 - Variance of use and development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a single-family dwelling on lot with a 26-foot tall, 22 by 27-foot detached garage (maximum 20-foot height permitted), containing a second floor dwelling (one single-family dwelling permitted per lot), and with an 18-foot tall, 1,820-square foot pole barn, creating an accessory building area of 3,158 square feet or 121.2% of the main floor area of the primary building and accessory use area of 5,632 square feet or 100.6% of the total floor area of the primary building (maximum 1,550 square feet of accessory building area or 75% of the main floor area of the primary dwelling, maximum 99.9% of the total floor area of the primary dwelling or 5,597 square feet).
 - Approved
- 2017-CVR-804: 7926 West 88th Street
 - Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to legally establish a lot with 96 feet of street frontage and lot width (minimum 250 lot width and 125 feet of street frontage required).
 - Approved
- 2017-HOV-081: 8927 Copper Road
 - Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 22-foot-tall storage barn (accessory buildings cannot be taller than the primary dwelling).
 - Approved
- 2021-UV1-024: 8356 Lafayette Road
 - Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for automobiles sales (not permitted).
 - Approved
- 2021-UV3-015: 8440 West 82nd Street
 - Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for an artisan winery with indoor/outdoor events and live entertainment.
 - Approved
- 2021-ZON-060: 8356 Lafayette Road
 - Rezoning of 0.57 acre from the D-2 and C-4 districts to the C-5 district.
 - Withdrawn



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

- 2022-UV1-011: 8620 West 82nd Street
 - Fees were paid in 2022-CMP-815. Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 145-foot tall monopole wireless communication tower with a five-foot lightning rod (not permitted), with landscaping on two sides of the tower site (landscaping around entire tower site required).
 - Approved
- 2022-ZON-044: 8320 West 86th Street
 - Rezoning of 4.04 acres from the D-P district to the D-P district to add self storage as permitted use.
 - Withdrawn

EXHIBITS

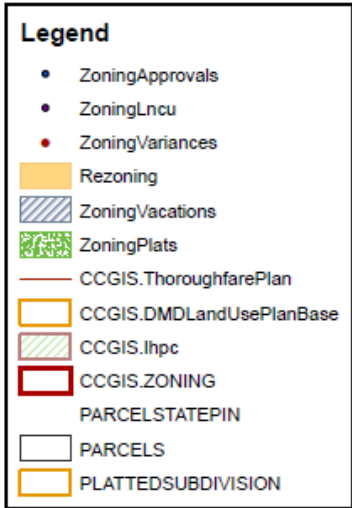
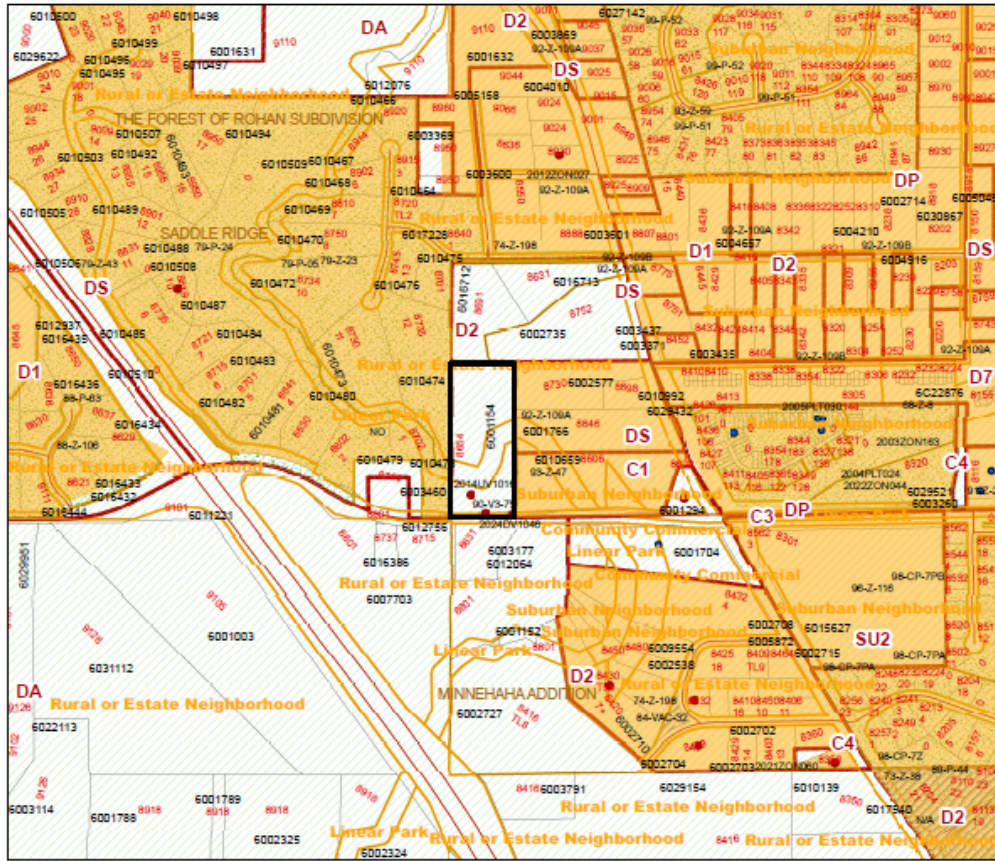


Exhibit 1: ArcGIS map of surrounding area around 8654 West 86th Street.



**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

PROPERTY BORDERS W86TH ST, 35 MPH SPEED LIMIT, 25 MPH SCHOOL ZONE WITH MATURE TREES SURROUNDING STREET. THE 6' HIGH DECORATIVE ESTATE METAL FENCE ALONG WITH ITS BRICK COLUMNS LOCATED EVERY 24' AND 11' FROM ROAD WITH LESS THAN 30% OPACITY WILL NOT BE ANYMORE INJURIOUS TO THE PUBLIC HEALTH SAFETY, MORALS, AND GENERAL WELFARE OF THE COMMUNITY THAN A 4' HIGH FENCE THAT DOES NOT REQUIRE A VARIANCE.

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

A DECORATIVE ESTATE FENCE IS THE MOST ATTRACTIVE FENCING A HOMEOWNER CAN ADD TO THEIR PROPERTY. PROPERTY OWNERS ALONG W86TH THAT BORDERS PETITIONER'S PROPERTY AND OWNER DIRECTLY ACROSS FROM PETITIONER AGREE THE 6' DECORATIVE ESTATE FENCE WILL ADD BEAUTY AND ELEGANCE TO THE AREA, INCREASE CURB APPEAL AND WILL INCREASE PROPERTY VALUES IN THE SURROUNDING AREA.

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

PROPERTY HAS A TAX ACCESSED VALUE OF ~\$1.6 MILLION, AND ACCORDING TO THE LANDSCAPE ARCHITECT, FACTORS LIKE FENCE DISTANCE FROM HOME, COLOR, MATERIAL, LENGTH OF FENCE, HOME STYLE AND HOME SIZE MUST BE CONSIDERED TO PROPERLY FRAME THE PROPERTY. TO ACHIEVE THAT, LANDSCAPE ARCHITECT, FENCE COMPANY AND BRICK MASON THAT SPECIALIZES IN DECORATIVE ESTATE FENCES, ALL RECOMMEND A METAL ORNAMENTAL ESTATE 6' H FENCE WITH BRICK COLUMNS SPACED EVERY 24'.

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 PETITIONER, PROPERTY OWNERS ALONG W86TH STREET, MARION COUNTY, PIKE TOWNSHIP AND TRADERS POINT WILL BE MISSING AN OPPORTUNITY TO ADD A TOUCH OF ELEGANCE AND BEAUTY TO THE TRADERS POINT WEST 86TH STREET AREA.

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

INSTEAD OF AN UNATTRACTIVE 4' CHAIN LINK FENCE ALONG W86TH ST, IT WILL BE A 6' BLACK METAL DECORATIVE ESTATE FENCE W/BRICK COLUMNS EVERY 24' W/ACCENT SEASONAL FLOWER BOXES. METAL FENCING IS THE MOST ATTRACTIVE FENCING A PROPERTY OWNERS CAN ADD TO THEIR HOME THAT IMMEDIATELY ADDS A PRESTIGIOUS LOOK, INCREASES CURB APPEAL AND BRINGS A SENSE OF BEAUTY AND ELEGANCE TO THE AREA WHILE INCEASING SURROUNDING PROPERTY VALUES.

Exhibit 2: The submitted Findings of Fact.

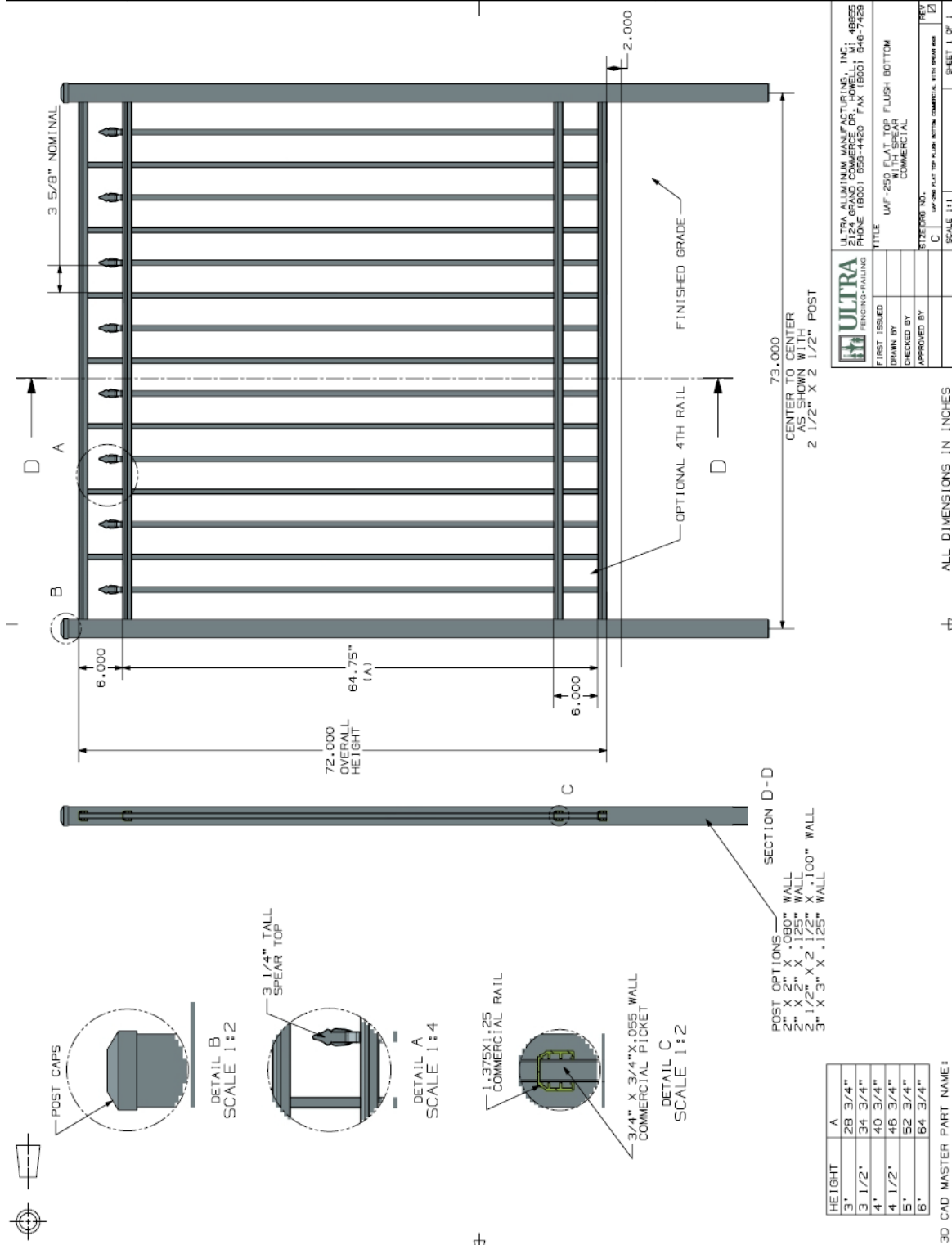


Exhibit 3: The proposed fence design.

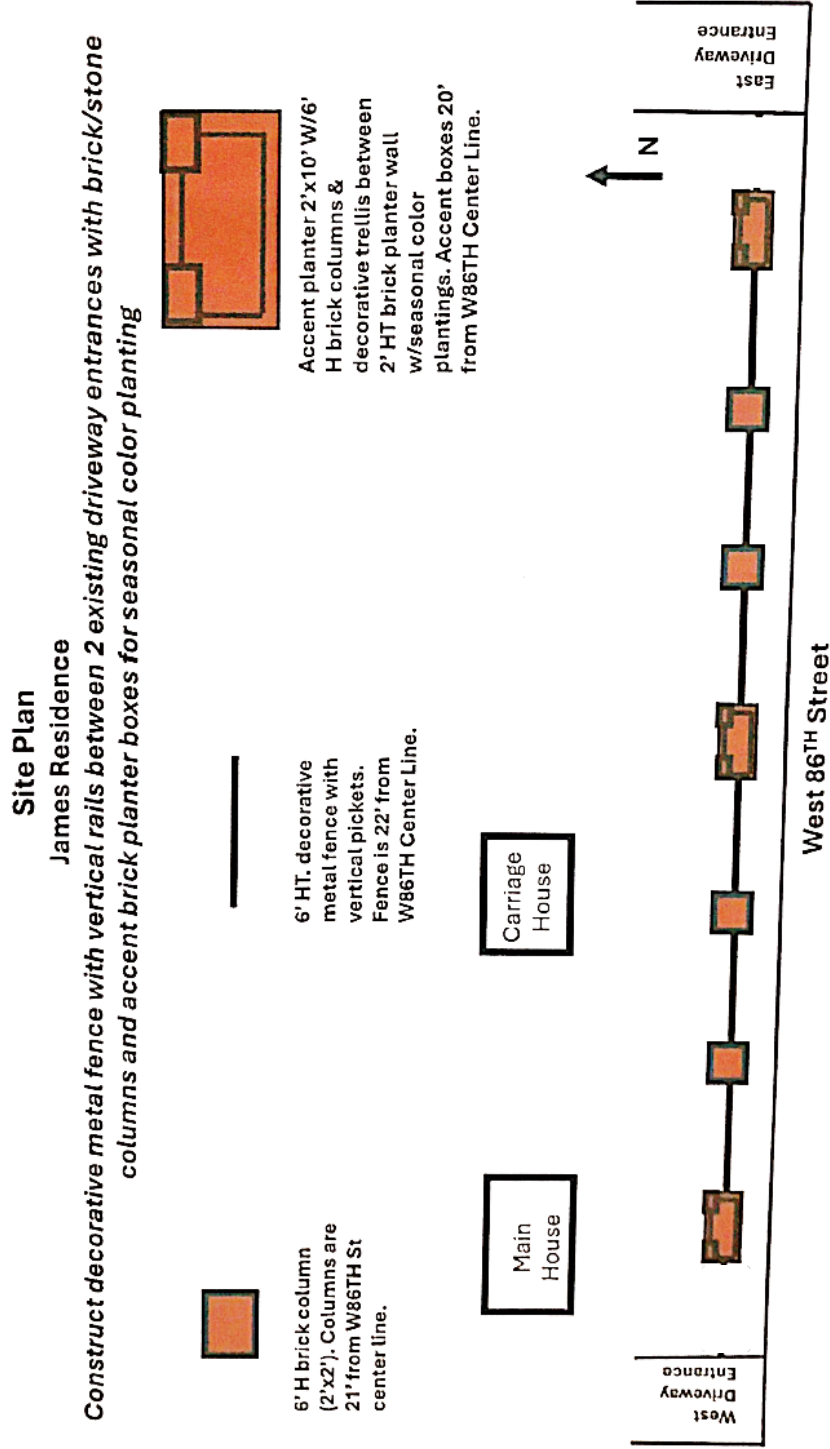


Exhibit 4: Proposed site plan for the decorative fence.



Addendum to Petition

Petitioner: Mickey James

Address of Subject Property: 8654 W86TH ST, Indianapolis IN 46278

Request: Variance of Development Standards.

Provide a Detailed Description of the Proposal: Petitioner's property contains two driveway entrances along W86TH Street. One entrance is at the far SE corner of the property and the second entrance is at the far SW corner of the property. Property owner wishes to construct an Decorative Wrought Iron/Aluminum fence between the two entrances with 10 Stone/Brick Columns and 3 Stone/Brick Accent Brick Planter Boxes for seasonal color planting.

Decorative Fence is Wrought Iron/Aluminium 6' High with Vertical Rails and will be constructed between the Stone/Brick Columns and step with existing elevation. Decorative fence will be 22' from the center line of W86TH ST. No fence will be constructed in the Accent Planter Box locations.

Stone/Brick Columns will use the same brick and stone used on the petitioner's main house. Columns are 2' Square and 6' High. Columns will be spaced every 24' and step with existing elevation. Six of the 10 brick columns will be used in the Accent Brick Planter Boxes. Columns will be 21' from the center line of W86TH ST.

Accent Planter Boxes for seasonal color planting are 2' HT x 10' L with two 6' H Brick Columns. A 6' H decorative metal trellis will be between the brick columns on the back of the Accent Planter Boxes. Accent boxes will be 20' from the center line of W86TH ST.

Exhibit 5: Detailed explanation of fence design, submitted by the petitioner.



Exhibit 6: The primary structure at 8654 West 86th Street.



Exhibit 7: West Driveway Entrance, the bricks of the fence will match the bricks of these columns.



Exhibit 8: East Driveway Entrance.



Exhibit 9: Looking east down West 86th Street, where the proposed fence is currently planned to be constructed.



Exhibit 10: Looking west down West 86th Street, where the proposed fence is currently planned to be constructed



Exhibit 11: Looking at 8654 West 86th Street from across the street.



Exhibit 12: The home across the street from 8654 West 86th Street with their existing within compliance fence.



Exhibit 13: Another image of the home across the street from 8654 West 86th Street with their existing within compliance fence.



BOARD OF ZONING APPEALS DIVISION I

February 4, 2025

Case Number: 2024-DV1-047

Property Address: 1919 Mansfield Street (approximate address)

Location: Center Township, Council District #12

Petitioner: James & Mary Holman

Current Zoning: D-5 (W-1)

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a driveway accessing Mansfield Street (exclusive vehicular access of improved alleys required).

Current Land Use: Residential

Staff Recommendations: Staff recommends denial of this petition

Staff Reviewer: Noah Stern, Senior Planner

PETITION HISTORY

ADDENDUM FOR FEBRUARY 4, 2025 BZA DIVISION I HEARING

- This petition was continued from the January 7, 2025 hearing to the February 4, 2025 hearing

STAFF RECOMMENDATION

- Staff recommends denial of this petition

PETITION OVERVIEW

- This petition would provide for a driveway accessing Mansfield Street (exclusive vehicular access of improved alleys required).
- The Ordinance was amended in April of 2016 to regulate access and connectivity for the zoning districts. This property is required to gain exclusive access from the existing improved alley for any new driveway, per Section 744-301 of the Ordinance. The "Access to accessory parking areas" provision states that "... if a lot abuts an improved alley and the street frontage is less than 200 feet, vehicle access to that lot shall be exclusively from that alley." In addition, per Section 744-401 of the Ordinance, the "Access to and from parking lots and garages" provision states that "... no curb cut for street access to an accessory parking area in the Compact Context area, shall be approved if the property has an improved alley along the side or rear lot line."



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

- The Department of Business and Neighborhood Services has determined that the abutting alley to the east of the property is an “improved” alley, and therefore access from Mansfield Street to the parcel would not be allowed, per the Ordinance.
- The gravel driveway located on the subject site has existed since around 1994, according to aerial imagery. While this predates the Ordinance change in 2016, this driveway was not developed with a curb cut and did not receive permits for such. Therefore, in the City’s view, even though a place to park vehicles in the front yard is existing on the property, vehicular access from Mansfield Street to the private property was never legally established. In 2024, the owner applied for a curb cut of the existing sidewalk for vehicular access to the existing gravel driveway, thus triggering the need for variance approval.
- Vehicles utilizing alleys when available, instead of front-yard driveway access, is a significant help in maintaining walkability and the pedestrian experience, as this style of development results in far fewer conflict points between pedestrians and vehicles, and preserves flat, even sidewalks as opposed to slants and unevenness resulting from driveway curb cuts. Likewise, reducing the number of curb cuts for private vehicular access helps preserve valuable on-street parking spaces available for public use. Further, given that this site is located within the Compact Context Area, Staff finds importance in preserving urban-style development patterns and aesthetics. Typically, this includes neighborhoods with little to no vehicle parking located in front yards, and high-quality pedestrian experience. Contrastingly, high amounts of curb cuts, front-yard vehicle parking, and vehicular priority is more characteristic of suburban-style development which Staff finds to be inappropriate for this area.
- While Staff is aware that there are legally non-conforming driveways and curb cuts that exist in the area, Staffs sees additional curb cuts in areas such as that of the subject site as an undesired precedent that slowly dissolves the character and intentions of urban neighborhoods, and unnecessary when improved alleys are present. With the subject site having access to the improved alley to the rear of the lot, where a vehicular garage already exists (see site visit photos below), Staff does not believe grant of the requested variance to be necessary, and does not find there to be a practical difficulty for the variance and therefore, recommends denial of the request.

GENERAL INFORMATION

Existing Zoning	D-5	
Existing Land Use	Residential	
Comprehensive Plan	3.5-5 units/acre	
Surrounding Context	Zoning	Surrounding Context
North:	D-5	North: Single-family residential
South:	D-5	South: Single-family residential
East:	D-5	East: Single-family residential
West:	D-5	West: Single-family residential
Thoroughfare Plan		
Mansfield Street	Local Street	50 feet of right-of-way existing and 48 feet proposed



Context Area	Compact
Floodway / Floodway Fringe	No
Overlay	No
Wellfield Protection Area	Yes, One-Year
Site Plan	11/21/24
Site Plan (Amended)	N/A
Elevations	N/A
Elevations (Amended)	N/A
Landscape Plan	N/A
Findings of Fact	12/31/24
Findings of Fact (Amended)	N/A

COMPREHENSIVE PLAN ANALYSIS
Comprehensive Plan

- United Northwest Neighborhood Plan (2008)
- Indy Moves

Pattern Book / Land Use Plan

- Not applicable to this site.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- The United Northwest Neighborhood Plan recommends Residential Uses at 3.5-5 units/acre for this site.

Infill Housing Guidelines

- Not Applicable to the Site.

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



Department of Metropolitan Development
Division of Planning
Current Planning

- The Riverside Promenade is located approximately 400 feet from subject site.
- The Central White River Trail is located under ½ mile from the subject site.

ZONING HISTORY

ZONING HISTORY – SITE

N/A

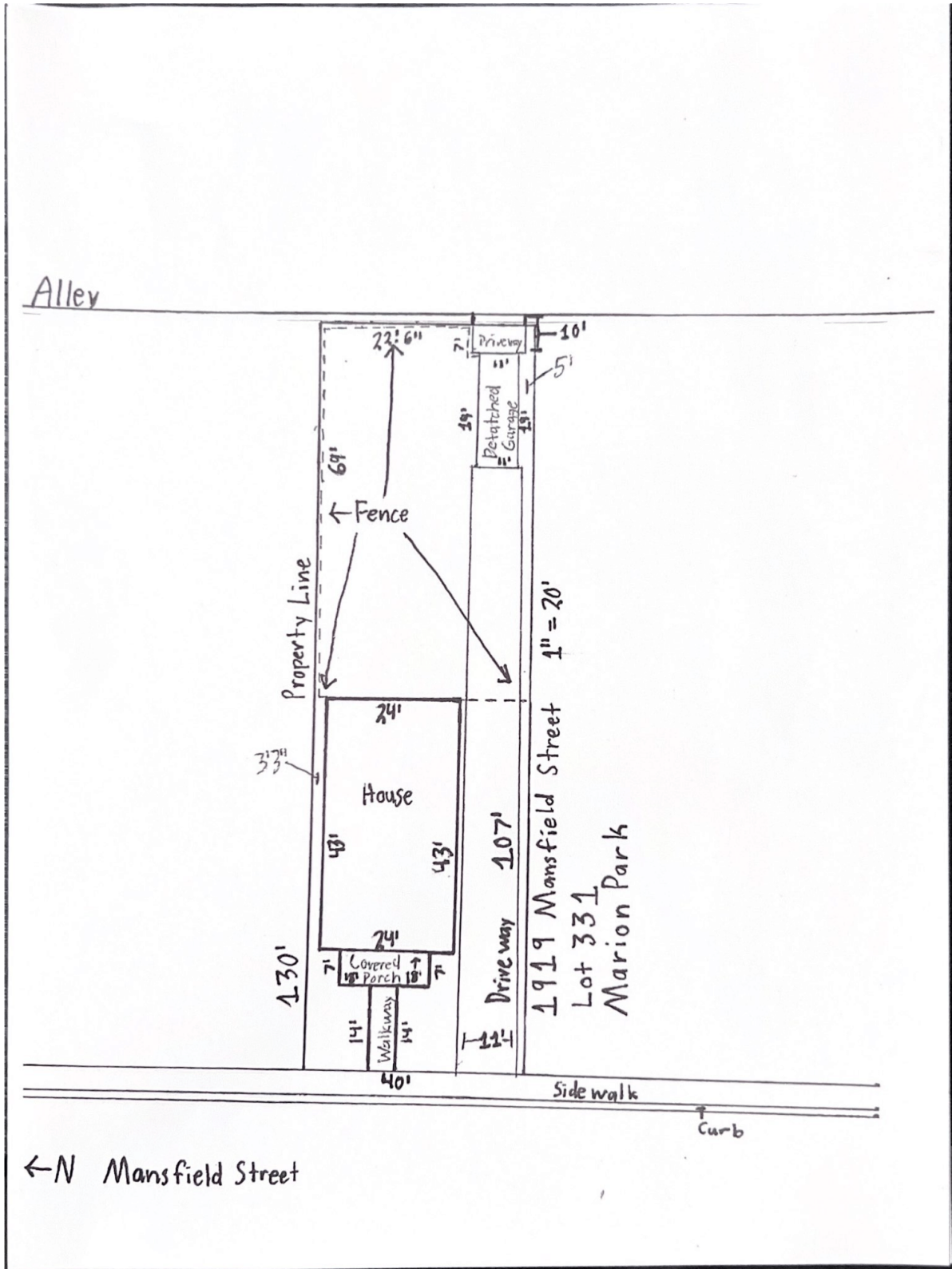
ZONING HISTORY – VICINITY

2024DV2040, 2010 Mansfield Street (north of site); Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a parking area without exclusive alley access and a zero-foot south side yard setback (alley access required, five-foot side yard setback required), **approved.**

88-Z-213, (east of site); requested rezoning from the D-5 district, to the SU-1 classification, **denied.**

EXHIBITS















BOARD OF ZONING APPEALS DIVISION I **February 4th, 2025**

Case Number: 2025-DV1-001

Property Address: 4235 East 46th Street (Approximate Address)

Location: Washington Township, Council District #8

Petitioner: Tamara Brown Living Trust 8/13/2024 by Krieg DeVault LLP & Kevin G. Buchheit

Current Zoning: D-1

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the installation of a six-foot tall ornamental fence within the front yard of East 46th Street (maximum 3.5-foot tall fence permitted).

Current Land Use: Residential

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

Staff Reviewer: Kiya Mullins, Associate Planner

PETITION HISTORY

This is the first public hearing of this variance petition.

STAFF RECOMMENDATION

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

PETITION OVERVIEW

- This petitioner requests that a six-foot-tall decorative fence be allowed in the front yard of a property along East 46th Street.
- This property is two parcels totaling in 1.57 acres in a D-1 zoning district.
- The ornamental wrought iron style fence, which has already been constructed on the property, is intended to contain pets, to prevent the owners’ grandchildren from leaving the property, and to prevent the public from coming onto the property. This property has had issues with citizens using it as a location to turn vehicles around and get back onto 46th street.
- The City of Indianapolis Consolidated Zoning/Subdivision Ordinance only permits a fence in the front yard to be 3.5 feet in height.
- Staff is recommending **denial** of this variance petition because there is no practical difficulty. The 6 (six) foot fence can be decreased in size to match the Ordinance standards.



GENERAL INFORMATION

Existing Zoning	D-1	
Existing Land Use	Residential	
Comprehensive Plan	Suburban Neighborhood	
Surrounding Context	Zoning	Surrounding Context
	North:	D-1 North: 0-1.75 Residential Units Per Acre
	South:	SU-34 South: Suburban Neighborhood
	East:	D-2 East: Suburban Neighborhood
	West:	D-2 West: Suburban Neighborhood
Thoroughfare Plan		
46 th Street	Primary Arterial	101 feet of right-of-way existing and 102 feet of right-of-way existing
Context Area	Metro	
Floodway / Floodway Fringe	Yes	
Overlay	No	
Wellfield Protection Area	Yes	
Site Plan	12/18/2024	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	12/18/2024	
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 Suburban Neighborhood typology is predominantly made up of singlefamily 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 (pg 17).

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

- Design ornamental elements, such as fences and retaining walls, to be simple, fit the context of the block and neighborhood, do not obstruct views of the front of the house, and do not obstruct public sidewalks (pg 17).
- Fencing around dwellings should be carefully placed. See-through fencing is the safest. In the front, fences should be ornamental in style. Do not install privacy fences in front yard (pg 18).

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 – SURROUNDING AREA

- 2003-ZON-050: 5050 East 42nd Street
 - Rezone 10.49 acres from D-2 to SU-2 to provide for educational uses.
 - AP
- 2005-DV3-057: 3817 Devon Drive
 - Legally establish a 1,026-square foot paved off-street parking area located within the front yard and extending into the right-of-way (front yard only permitted to contain enough paving for access to/from the required off-street parking area; private improvements not permitted within the right-of-way), and to legally establish a 60-square foot shed with a zero-foot west side yard setback and a 96-square foot dog pen with a zero-foot east side yard setback (minimum seven-foot side yard and nineteen-foot aggregate side yard setbacks required) in D-2.
 - DIS
- 2008-SE3-004: 4602 North Emerson Avenue
 - Special Exception of the Wireless Communications Zoning Ordinance to provide for a 70-foot tall, wood pole wireless communications tower and associated ground equipment.
 - AP
- 2014-ZON-010: 4718 Fall Creek Parkway N Drive
 - Rezoning of 8.48 acres, from the D-4 (FF) (W-5) District, to the C-1 (FF) (W-5) classification to provide for a nursing home.
 - Approved
- 2019-ZON-073: 4227 East 46th Street
 - Rezoning of 2.9 acres from the SU-1 district to the D-1 district.
 - Approved
- 2021-DV2-018: 4102 East 42nd Street
 - Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a six-foot tall privacy fence in the front yard of Forest Manor Avenue (maximum 3.5-foot tall fence permitted within the front yard).
 - Approved
- 2022-UV2-019: 4305 Glencairn Lane
 - Variance of Use of the Consolidated Zoning and Subdivision Ordinance to provide for a solar array within the front yard (not permitted).
 - Withdrawn
- 2023-CPL-859: 3838 East 46th Street
 - (Amended) Approval of a Subdivision Plat, to be known as Devon Creek, dividing 4.22-acres into ten single-family detached lots and one common area, including the vacation of an irregular portion of right-of-way at the northwest corner of the intersection of East 46th

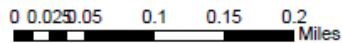
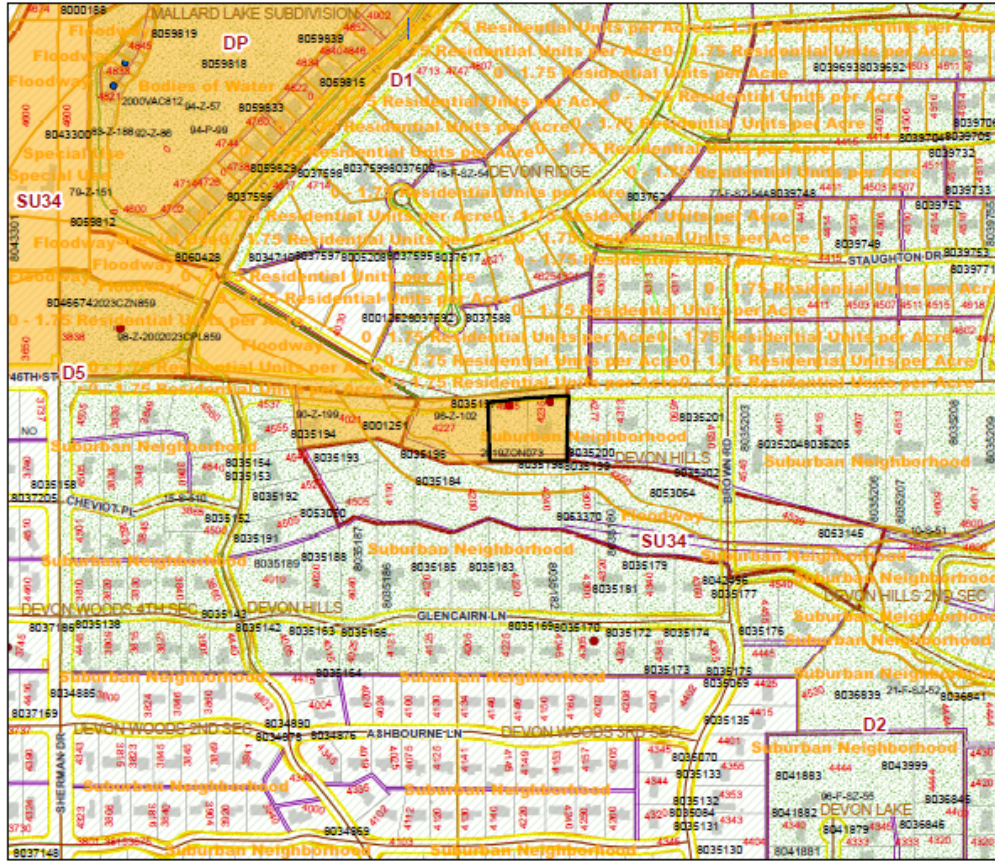


Department of Metropolitan Development
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Current Planning

Street and Millersville Road containing 2,307.8 square feet, with a waiver of the sidewalk requirement along a 65-foot segment of Millersville Road.

- Approved
- 2023-CVR-859: 3838 East 46th Street
 - Variance of Development Standards to provide for an access drive extending 34-feet into the Stream Protection Corridor of Devon Creek for a maximum length of 107 feet (100-foot Stream Protection Corridor Required) and a 68-foot front setback along 46th Street for property address 3860 East 46th Street (front building line range of 20 to 50 feet required).
 - Approved
- 2023-CZN-859: 3838 East 46th Street
 - Rezoning of 4.22 acres from the SU-1 (FW) (FF) to the D-5 (FW) (FF) district to provide for residential uses.
 - Approved

EXHIBITS



Legend

- ZoningApprovals
- ZoningLncu
- ZoningVariances
- Rezoning
- ▨ ZoningVacations
- ZoningPlats
- CCGIS.ThoroughfarePlan
- CCGIS.EASEMENT
- CCGIS.RIGHTOFWAY
- CCGIS.STREETS
- Built/Platted
- OPER_STATUS
- REMOVED
- VACATED
- VACATED/BUILT
- VACATED/LOCATOR
- CCGIS.DMDLandUsePlanBase
- ▨ CCGIS.lhpc
- CCGIS.ZONING
- PARCELSTATEPIN
- PARCELS
- PLATTEDSUBDIVISION
- CCGIS.Buildings



Exhibit 1: ArcGIS map around 4235 East 46th Street.



**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division [redacted]
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:

There is no measurable injury to any community interest by the fence to either the subject property or to any surrounding property, the fence is an up-scale, attractive and ornate design that is a positive visual addition to the community, it does not provide any visual barrier (near-zero opacity), is in good scale and proportion to the 1.57-acre property, and is necessary to provide secure containment for pets and safety for children playing in the yard.

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:

There is no measurable adverse impact to any surrounding property by an up-scale attractive and ornate fence design with near-zero opacity that frames the residential property nicely and proportionally to the lot size and does not detract from the quality of the surrounding community.

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

The extra height of the fence is necessary to provide secure containment for pets and safety for children playing in the yard that a regulation-height fence cannot provide in a way that achieves the spirit and intent of the regulation to maintain an attractive street view and not exceed structural opacity.

Exhibit 2: Findings of Fact submitted by the petitioner.

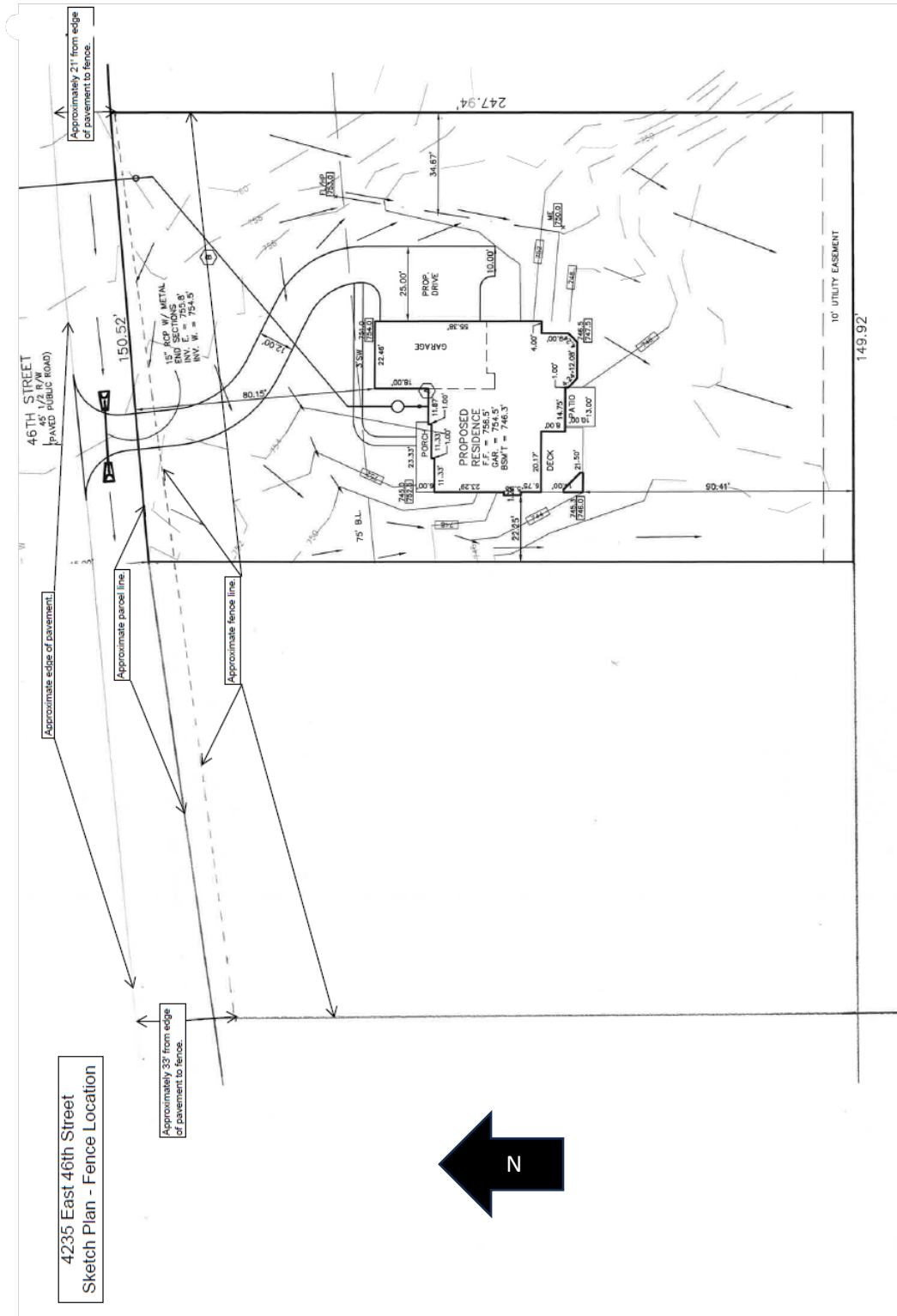


Exhibit 3: Site Plan of 4235 East 46th Street.



Exhibit 4: Aerial image with already constructed fence.



Exhibit 5: The primary structure at 4235 East 46th Street.



Exhibit 6: The fence.



Exhibit 7: The rest of the fence.



Exhibit 8: Looking down the length of the fence.



Exhibit 9: Looking east down 46th Street.



Exhibit 10: Looking west down 46th Street.



Exhibit 11: Neighbor across 46th Street from the subject property.



BOARD OF ZONING APPEALS DIVISION I **February 04, 2025**

Case Number: 2025-DV1-002

Property Address: 8751 Michigan Road (approximate address)

Location: Pike Township, Council District #1

Petitioner: C-4

Current Zoning: Drive-In of Evansville Inc., by Joseph D. Calderon

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an eating establishment with 43 parking spaces (maximum 23 spaces permitted) and a drive-through with a service unit facing Bethany Road, stacking spaces within the front yards of Bethany and Founders Road (not permitted) and without an exclusive bypass aisle (required).

Current Land Use: Commercial

Staff Recommendations: Staff recommends approval of this petition.

Staff Reviewer: Desire Irakoze, Principal Planner II

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff is recommending **approval** of a drive-through with a service unit & stacking spaces within the front yard. Staff is recommending **denial** of the increase the maximum parking to 43 spaces. Staff is recommending **removal of the without an exclusive bypass's aisle.**

PETITION OVERVIEW

The subject property, located at 8751 Michigan Road, is a vacant lot that was previously occupied by Chase Bank. The site has existing drive-thru lanes, parking spaces, and access points. The proposed project is an infill development along Michigan Road, situated in an area with a mix of restaurant, office, and some residential uses. Notable businesses nearby include Stake 'N Shake, White Castle, and Panda Express across Michigan Road, as well as Zaxby's located across Bethany Road, all of which feature drive-thru facilities.



Zoning and Development Standards:

Sec. 744-402.B (Table 744-402-1)- Maximum Parking Requirement.

Table 744-402-1	Off-Street Vehicle Parking Spaces Required	
LAND USE	Minimum	Maximum
Eating Establishment or Food Preparation	1 per 150 sf	1 per 100 sf

The proposed site plan includes a 2,350-sf building. This would allow for a maximum of 23 parking spots (2350sf /100sf). The petitioner is requesting a variance allowing 43 spaces, an 87% increase in the maximum required parking. The petitioner is providing 22 parking spots in the carhop area alone.

It is anticipated that most customers will use either the Carhop area or the drive-thru, given the nature of the establishment (Sonic). With the peak employee count of 8 staff members, staff recommends **approval** of 31 parking spaces.

Sec. 743-306. I.3 – Stacking & Front Yard Variance Request.

“No service unit shall be located on a façade that is adjacent to or faces a public right-of-way that exceeds 30 feet in width. 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.”

The subject property is a triple-frontage lot, a unique characteristic that poses challenges for strict adherence to certain zoning ordinance requirements (**Sec. 741-301. B.2**). However, the C-4 zoning district, which permits eating establishments and food preparation uses, allows for the development of drive-thru facilities. Staff recognizes that the hardship in this case arises from the unique site conditions and the constraints imposed by the zoning ordinance.

Sec. 744-4-06. C.5

“In the Metro Context area, sites with stacking spaces shall include an exclusive bypass aisle, driveway or other circulation area in the parking lot design to allow vehicles to bypass the stacking area.”

The petitioner has provided a site plan which shows an exclusive bypass lane. Therefore, this variance is no longer required.

Project Description:

The proposed development is an eating establishment with a drive-thru, which will facilitate the service of food and beverages directly to patrons in motor vehicles. The proposed use aligns



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

with the definitions provided for "Restaurant, Drive-in or Drive-through" and "Eating Establishment or Food Preparation" as outlined in the zoning code.

The C-4 zoning district is designed to accommodate large-scale commercial and regional business uses, including drive-thru facilities, and the proposed development fits within the intended scope of the district.

In conclusion, this petition seeks approval for variances related to parking, stacking, and the location of service units, acknowledging the unique characteristics of the property and its conformance with the C-4 zoning district regulations. The applicant requests that the Board of Zoning Appeals approve the proposed plan and variance requests based on the existing site conditions and practical difficulties associated with strict application of the zoning ordinance.

GENERAL INFORMATION

Existing Zoning	C-4	
Existing Land Use	Commercial	
Comprehensive Plan	Community Commercial	
Surrounding Context	Zoning	Surrounding Context
	North:	C-4 North: Residential
	South:	D-P South: Residential
	East:	C-4 East: Golf Course
	West:	C-4 West: Residential
Thoroughfare Plan		
Founders Road	Local Street	50-foot existing/proposed right-of-way
Bethany Road	Local Street	50-foot existing/proposed right-of-way
Michigan Road	Primary Arterial	134-foot existing/proposed right-of-way
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	04/09/2024	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	01/29/2025	
Findings of Fact (Amended)	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

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

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends this site to The Community Commercial typology provides 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.
- The use of Sonic restaurant is in harmony should be in harmony with the character of the surrounding commercial properties in terms of materials, building placement, entrance location, and vehicle and service areas.

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

71-Z-223-B; 9301-9501 North Michigan Road, Request rezoning of 61.493 acres of land being in C-2 and C-4 districts to a C-2 Classification to conform zoning boundaries to be platted. **Approved.**

ZONING HISTORY – VICINITY

83-Z-79; 3521 Founders Lane, Request rezoning of 2.98 acres from the C-4 district to the C-6 classification to provide for commercial development. **Approved**

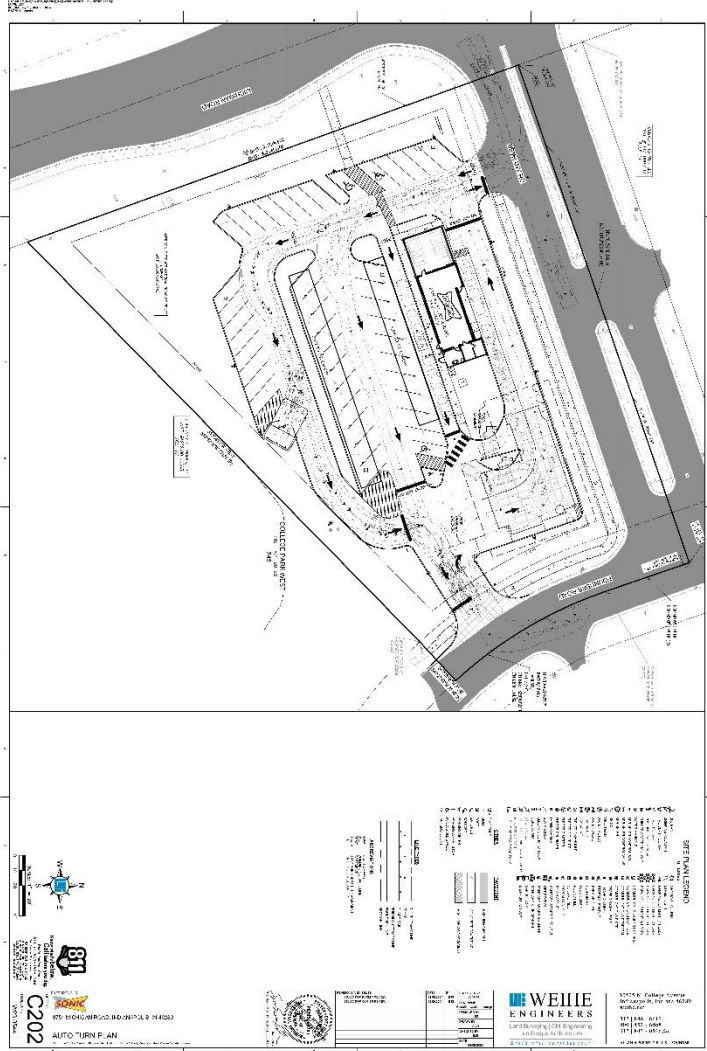
2021ZON016; 3553 Founders Road, Request the rezoning of 2.92 acres from the C-4 district to the D-P district to provide for 88 multifamily units at a density of 30 units per acre. **Approved.**

EXHIBITS

2025DV1002 ; Aerial Map



2025DV1002; Site Plan





Department of Metropolitan Development
Division of Planning
Current Planning

2025DV1002; 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:

- i) the variance for a drive through service unit facing Bethany Road will not interfere with traffic or visibility to or from Bethany Road;
 - ii) the variance for stacking spaces fronting on Bethany and Founders Roads have no risk of stacking into the right-of-way; and
 - iii) the variance for exceeding the maximum number of parking spaces will not result in the reduction of required yards or setbacks.
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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 use and features triggering the variances will not result in any spill over from the subject property to adjoining properties, all setbacks will be met, and the previous use had a drive through operation as well.

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 has three front yards, which makes it impossible to meet all of the drive through requirements, and the proposed operation has a "drive-in" component, which counts towards off street parking spaces.

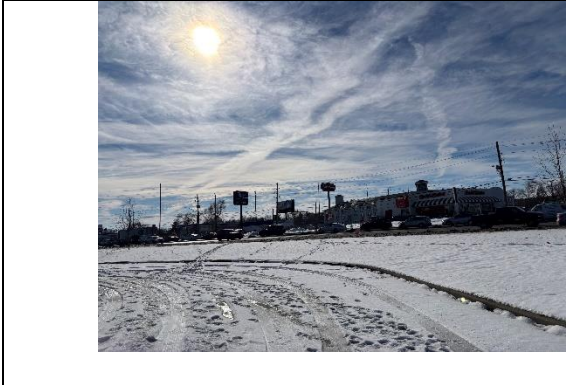
DECISION

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

Adopted this _____ day of _____, 20 ____

2025DV1002 ; Photographs

	
<p>View looking at subject site</p>	<p>View on founders road look at surrounding commercial uses.</p>
	
<p>View south</p>	<p>View across Bethany Road to Zaxby's</p>



View across Michigan looking at Stake N Shake.