



BOARD OF ZONING APPEALS DIVISION III

August 20, 2024

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

Current Land Use: Single Family Dwelling and Event Center

Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

This petition was previously automatically continued at the request of a registered neighborhood organization, from the July 16, 2024, hearing, to the August 20, 2024, hearing; and continued for cause at the request of the petitioner from the August 20, 2024, hearing to the September 17, 2024, hearing.

The petitioner has indicated they will be requesting a **continuance for cause to the October 15, 2024, hearing.**

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

- ◇ The request would provide for the operation of an event center a C-4 use, with a gravel and grass parking area, in a D-A district.
- ◇ 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.

- ◇ The Comprehensive Plan recommends suburban neighborhood uses for the subject site. The proposed use would be permitted in the C-4, Community - Regional District. The C-4 district is designed to provide for the development of major business groupings and regional-size shopping centers to serve a population ranging from a community or neighborhoods to a major segment of the total metropolitan area. These centers may feature a number of large traffic generators such as home improvement stores, department stores, and theatres. Even the smallest of such freestanding uses in this district, as well as commercial centers, require excellent access from major thoroughfares. While these centers are usually characterized by indoor operations, certain permitted uses may have limited outdoor activities, as specified.
- ◇ Staff is concerned with the access to the site from Fisher Road being a single lane residential driveway entrance, located on an interstate overpass. The entrance has limited visibility in Staff's opinion, and is adjacent to the overpass guard rails, further limiting visibility for a commercial use. The approximately 60-100 vehicles attending each event to accommodate the proposed 250 customers maximum may be problematic in locating the entrance in a safe manner, or other issues may occur with passing vehicles due to the limited visibility of the access.
- ◇ Staff also has concern's that emergency services may not be able to access the entrance and site as well. No contingency plan or information on this access has been provided.
- ◇ Although not indicated in the plan of operation, the petitioner has indicated that exiting vehicles would use a side yard gate to access the adjacent Marion County Fairgrounds parking field, and their exit onto Fisher Road.
- ◇ Gravel parking is permitted by the Ordinance for residential uses only. As the proposed use is a commercial use, the paving of the parking area is required in association with that use.
- ◇ Gravel parking areas used in conjunction with commercial uses are always a cause for concern because of potential impacts upon surrounding property and public rights-of-way. Gravel parking can generate dust and air quality issues that can leave the site and impact surrounding properties; erosion control and run-off associated with exposed gravel and soil; negative aesthetic impacts; and the inefficient use of space due to lack of striping. Furthermore, loose stones can enter the public right-of-way and become a hazard for passing vehicles and accelerate the deterioration of taxpayer funded street surfaces.
- ◇ The request would also provide for the expansion of an accessory structure resulting in it being located forward of the primary dwelling and with a five-foot south side yard setback.
- ◇ 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 regulates the building mass impact to surrounding property owners.



- ◇ The proposed accessory structure would extend approximately 90 feet in front of the established front building line of the primary dwelling onsite. This accessory structure location would disrupt and adversely impact the relationship and scale between the primary structure and accessory structures. Additionally, the residential scale of the site would be affected in an adverse manner.
- ◇ The petitioner has requested a setback reduction to five feet, where a 15-foot setback is required. The reduced setback would be for the event center, which was added to the existing zoning complaint barn. It is believed that the event center was constructed without all of the proper permits. Had the permits been obtained, the reduced setback could have been addressed and remedied before construction began.
- ◇ Staff feels the proposed reduced five-foot setback would be insufficient in buffering adjacent properties from the activities associated with the event center. Any reduction in setback would provide less of the required and needed separation from surrounding properties.
- ◇ 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 an event center.
- ◇ The subject site is similar to other nearby residential 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 subject site. For these reasons, staff recommends its denial.

GENERAL INFORMATION

Existing Zoning	D-A	
Existing Land Use	Single Family Dwelling	
Comprehensive Plan	Suburban Neighborhood	
Overlay	No	
Surrounding Context	Zoning	Surrounding Context
	North: SU-9	North: County Fairgrounds parking area
	South: SU-9	South: County Fairgrounds parking area
	East: SU-9	East: County Fairgrounds parking area
	West: SU-9	West: County Fairgrounds
Thoroughfare Plan		
Fisher Road	Primary Collector	80-foot existing and proposed right-of-way.
Context Area	Metro	
Floodway / Floodway Fringe	N/A	
Wellfield Protection Area	No	
Site Plan	June 19, 2024	
Elevations	June 19, 2024	
Plan of Operation	July 25, 2024	
Commitments	N/A	
Landscape Plan	N/A	
Findings of Fact	July 25, 2024	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- The Comprehensive Plan recommends Suburban Neighborhood uses.

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends the Suburban Neighborhood typology for this site. This typology is predominantly made up of single-family housing but is interspersed with attached and multifamily housing where appropriate. This typology should be supported by a variety of neighborhood-serving businesses, institutions, and amenities. Natural Corridors and natural features such as stream corridors, wetlands, and woodlands should be treated as focal points or systems for development. Streets should be well-connected, and amenities should be treated as landmarks that enhance navigability of the development. This typology has a residential density of 1 to 5 dwelling units per acre, but a higher density is possible 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

98-Z-206; 2801 South Fisher Road (north, east, and south of site), requested the rezoning of 43.0 acres from the D-A district to the SU-9 classification, **granted**.

95-HOV-73; 7300 Troy Avenue (southwest of site), requested a variance of development standards to provide for the placement of a pylon sign, 17 feet wide and 13 feet in height, being located within 600 feet of a dwelling district, **granted**.

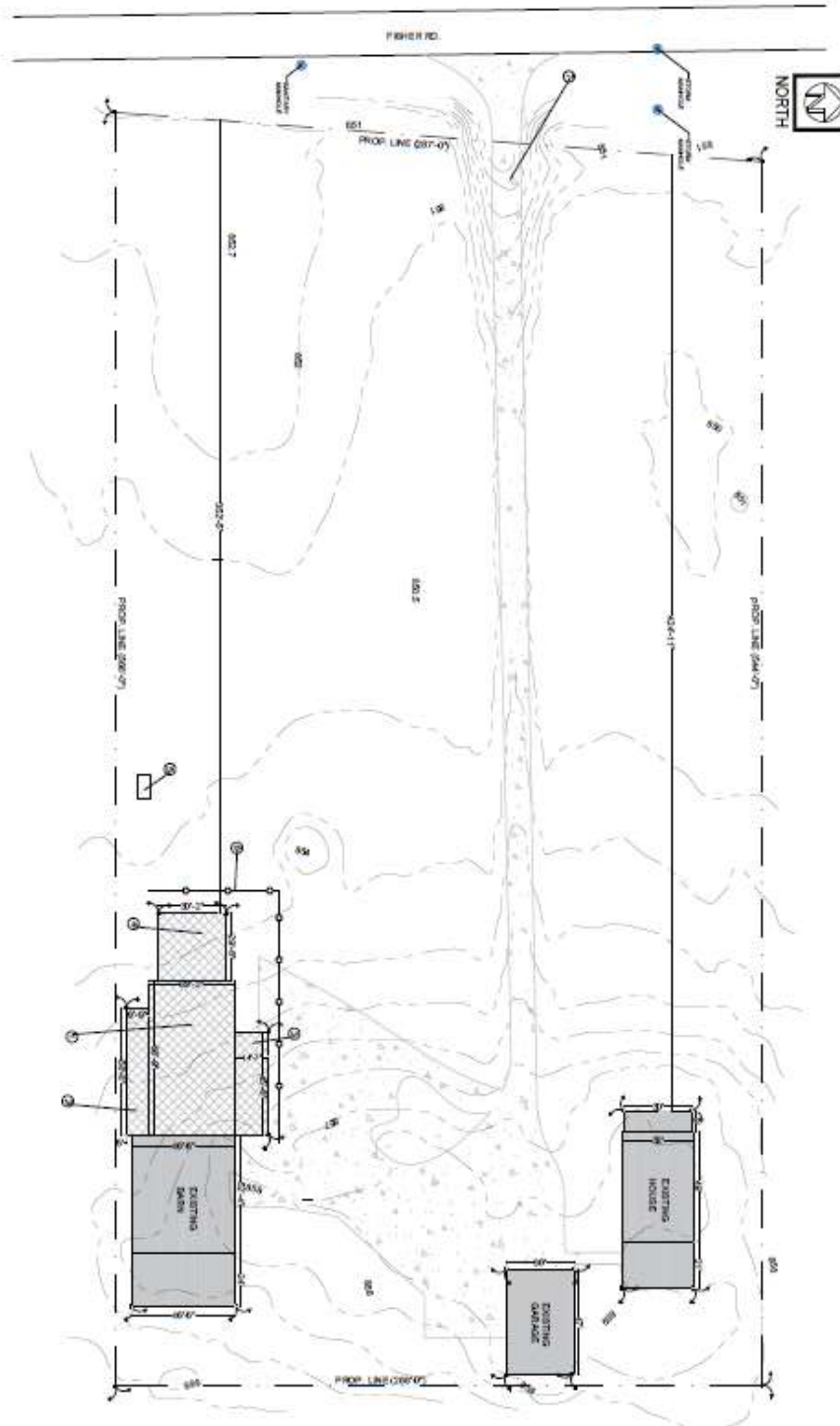
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EXHIBITS

Location Map



Site Plan



Plan Of Operation

2649 Fisher Road – El Granero Rancho Mèndez

Plan/Description of Operation

- We currently offer our 3,000 sf barn for event/gathering space
- We offer our event spaces for community events, weddings, wedding receptions, birthday parties, anniversaries, graduation parties, Quinceañeras, small awards banquets, family reunions, and general celebrations. These will always be private events and not open to the general public.
- Currently we are hoping to host between 2 and 4 events per month. There will be some winter months with no events.
- We plan to keep event attendance limited to 250 attendees or less.
- If requested by our customers, we will allow DJs and events to occur outdoors on the porch/patio areas.
- All vehicles and parking will be located on our property within the gravel lot and occasional overflow onto the grassy areas for events with larger attendance. Attendees will not be allowed to park on the public street or on the Fairgrounds property.
- Security will be hired as needed. Most of our events will not require any security. If needed, we will hire through a private security company to assist with the events and traffic control.
- We do not currently hold nor plan to ever apply for an alcoholic beverage license. If any events wish to have beer or wine, we will work with them to hire a licensed caterer and make sure any one-time beverage permits are in place prior to the events.
- We will follow all noise ordinance requirements. All loud noises and outdoor portions of events will stop prior to 10pm. We currently have no plan to allow or offer any fireworks or pyrotechnics at our facilities. If we ever pursue this, it will only be done in consultation with the local fire station and licensed providers.



Findings of Fact - Use

Petition Number _____

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

PETITION FOR VARIANCE OF USE

FINDINGS OF FACT

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

The occasional use of the barn space as an event space will not have adverse effects on the community because of the nature of events that will be permitted and managed by the owner. The events and scale will consistently be smaller and quieter than the events held by the surrounding property owner and the owner across the street at the Marion County Fairgrounds.

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 surrounding property on all sides is owned by the Marion County Fairgrounds. This property having an occasional use as an event venue will not adversely affect the value of the Interstate highway to the north or the surrounding property belonging to the largest event venue in the area..

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

The property was previously as a larger agricultural operation and is still used for farm animals such as horses, chickens, & geese. The property is located within a mile of 7 different churches and the location is great for weddings and other events. At the same time, the natural, existing tree buffer and surrounding fairground land create a rural atmosphere that separates and screens the barn from the further surrounding residential uses

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 zoning of the property permits single-family residential and agricultural use. However, the unique location, proximity to several churches and conditions of the property create a great location for an event barn which would be beneficial to the community, but limited by the zoning of the site.

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

The comp plan shows the surrounding properties all being dedicated to special use/public/institutional around the county fairgrounds property. The variance of use for occasional use as an event venue would be in-line with this.

DECISION



Findings of Fact - Parking

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 off-street parking will be contained to the site, limited to the same number of events as the facility, and limited to the attendees for the events held at this same property. The grassy area that would be used for this parking space is screened from the street by an existing mature tree line. This would not be used as an overflow lot nor a paid/commercial parking area for the events held across the street at the County Fairgrounds.

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 property adjacent to the north, east, and south is currently a large grassy field that is used as the overflow/off street parking area for the Marion County Fairgrounds during the county fair and larger events held at their venue.

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

The current hard surface and gravel areas that can be used for event parking will hold roughly 40 vehicles. When there are events needing space for more vehicles they will use the grassy area between the barn addition and the street. Without allowing for cars to overflow onto the grassy areas, this will adversely limit the number of attendees to the events or it will require the addition of more hard surface area for parking.

DECISION



Findings of Fact - Setback

Petition Number _____

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

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

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

While being closer to the street than the home, the barn is setback over 350 feet from the right of way; further than all other buildings on the next block north or south. The barn addition is a consistent design to the other structures on the lot and other agricultural buildings in the vicinity.

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 surrounding property on all sides is owned by the Marion County Fairgrounds. The barn addition on this property not adversely affect the value of the Interstate highway to the north or the surrounding property belonging to the largest event venue in the area. The exterior of all structures will still have the appearance of a barn consistent with the agricultural buildings in the area.

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

The original farmhouse on this parcel was built near to the rear line of this parcel. There is no room on this parcel for a substantial barn addition without going towards the front of the property. Any redesign to use space further back on the parcel results in blocking access to other existing structures, removing mature tree canopy of blocking/removing internal driveways.

DECISION

Photographs



Subject site single family dwelling, looking north.



Subject site event center, looking south



Subject site event center with five foot south side setback, looking east



Subject site single lane driveway access from Fisher Road, looking east.



Subject site gravel and grass parking area for event center, looking west.



Subject site gravel and grass parking area for event center, looking north.



Proposed side yard traffic exit onto adjoining county fairgrounds property, looking south



Driveway entrance to the site from Fisher Road, looking south.