

**BOARD OF ZONING APPEALS DIVISION III**

**September 16, 2025**

**Case Number:** 2025-UV3-021

**Property Address:** 4038 & 4040 Otterbein Avenue (approximate address)

**Location:** Perry Township, Council District #23

**Petitioner:** Robert Lopez, by Anthony S. Ridolfo

**Current Zoning:** D-4 (TOD)

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

**Current Land Use:** Residential

**Staff Recommendations:** Staff **recommends approval** of this petition, subject to the revised site plan, file-dated July 28, 2025 and the floor plan, file-dated August 15, 2025.

**Staff Reviewer:** Noah Stern, Senior Planner

**PETITION HISTORY**

- This is the first public hearing for this petition.

**STAFF RECOMMENDATION**

- Staff **recommends approval** of this petition, subject to the revised site plan file-dated July 28, 2025, and the floor plan, file-dated August 15, 2025.

**PETITION OVERVIEW**

- This petition would allow for a second primary building with a 3.5-foot western side yard setback and a six-foot rear yard setback (one primary building permitted per lot, four-foot side, 20-foot rear yard setbacks required).
- The subject site is two (2) parcels, zoned D-4, and is improved with two (2) separate primary buildings. The original primary building, which is located on the corner of Otterbein Avenue and Windermire Street, was built in approximately 1923, according to the property card. This structure was built on top of the lot line separating the parcels, according to the original plat and available Sanborn and Baist maps. The second structure was built around 1953, according to available imagery, and is located entirely on 4040 Otterbein Avenue.
- The original site plan indicated that the structure is approximately 1172 square feet. The amended site plan indicates that the structure is 727 square feet and the floor plan indicates that the residential

unit itself is approximately 701 square feet. While this is under the 720 square feet limit to be classified as a Secondary Dwelling unit, Staff still considers this to be a second primary structure for the following reasons: 1). the structure was built and intended to be its own residence, not clearly secondary to the original residence and, 2). the design and form of the structure contains features of and emulates a primary residence such as the front porch and its own driveway. Staff would note that this development predates the relevant standards for Secondary Dwelling units, and that, while not a common or advisable development pattern, Staff believes that the requested variances are the most appropriate manner in which to legalize the structure. Further, while the development contains two (2) primary structures on one (1) parcel, the lot itself is two (2) parcels with the original structure located on both parcels and the second structure located entirely on one (1) parcel. Therefore, with the two (2) parcels containing two (2) residential structures in total, Staff does not find to development to be overdevelopment of the site. Therefore, Staff is supportive of the request, subject to the revised site plan, file-dated July 28, 2025 and the floor plan, file-dated August 15, 2025. Staff **would not** be supportive of any future additions/expansions to the second primary structure.

- Staff would note that the approval recommendation for this petition is not an indication that Staff would be supportive of other requests for a two primary structures on a parcel, as Staff finds this to be a unique situation where the original structure was placed on top of the side lot line, and both structures predate the Zoning Ordinance.

## GENERAL INFORMATION

<b>Existing Zoning</b>	D-4 (TOD)	
<b>Existing Land Use</b>	Residential	
<b>Comprehensive Plan</b>	Traditional Neighborhood	
<b>Surrounding Context</b>	<b><u>Zoning</u></b>	<b>Surrounding Context</b>
	North: UQ-1	North: University
	South: D-4	South: Residential
	East: UQ-1	East: University
	West: D-4	West: Residential
<b>Thoroughfare Plan</b>		
Otterbein Avenue	Local Street	50 feet of right-of-way existing and 48 feet proposed
Windermire Street	Local Street	50 feet of right-of-way existing and 48 feet proposed
<b>Context Area</b>	Compact	
<b>Floodway / Floodway Fringe</b>	No	
<b>Overlay</b>	Yes, Transit-Oriented Development	
<b>Wellfield Protection Area</b>	No	
<b>Site Plan</b>	7/7/25	
<b>Site Plan (Amended)</b>	N/A	
<b>Elevations</b>	N/A	

<b>Elevations (Amended)</b>	N/A
<b>Landscape Plan</b>	N/A
<b>Findings of Fact</b>	7/28/25
<b>Findings of Fact (Amended)</b>	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 the Traditional Neighborhood typology for this site.

### Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

### Neighborhood / Area Specific Plan

- Not Applicable to the Site.

### Infill Housing Guidelines

- With regarding to additional buildings, the Infill Housing Guidelines recommends:
  - Do not overshadow primary buildings
  - Reinforce existing spacing on the block

### Indy Moves

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

- Not Applicable to the Site.

## ZONING HISTORY

### ZONING HISTORY – SITE

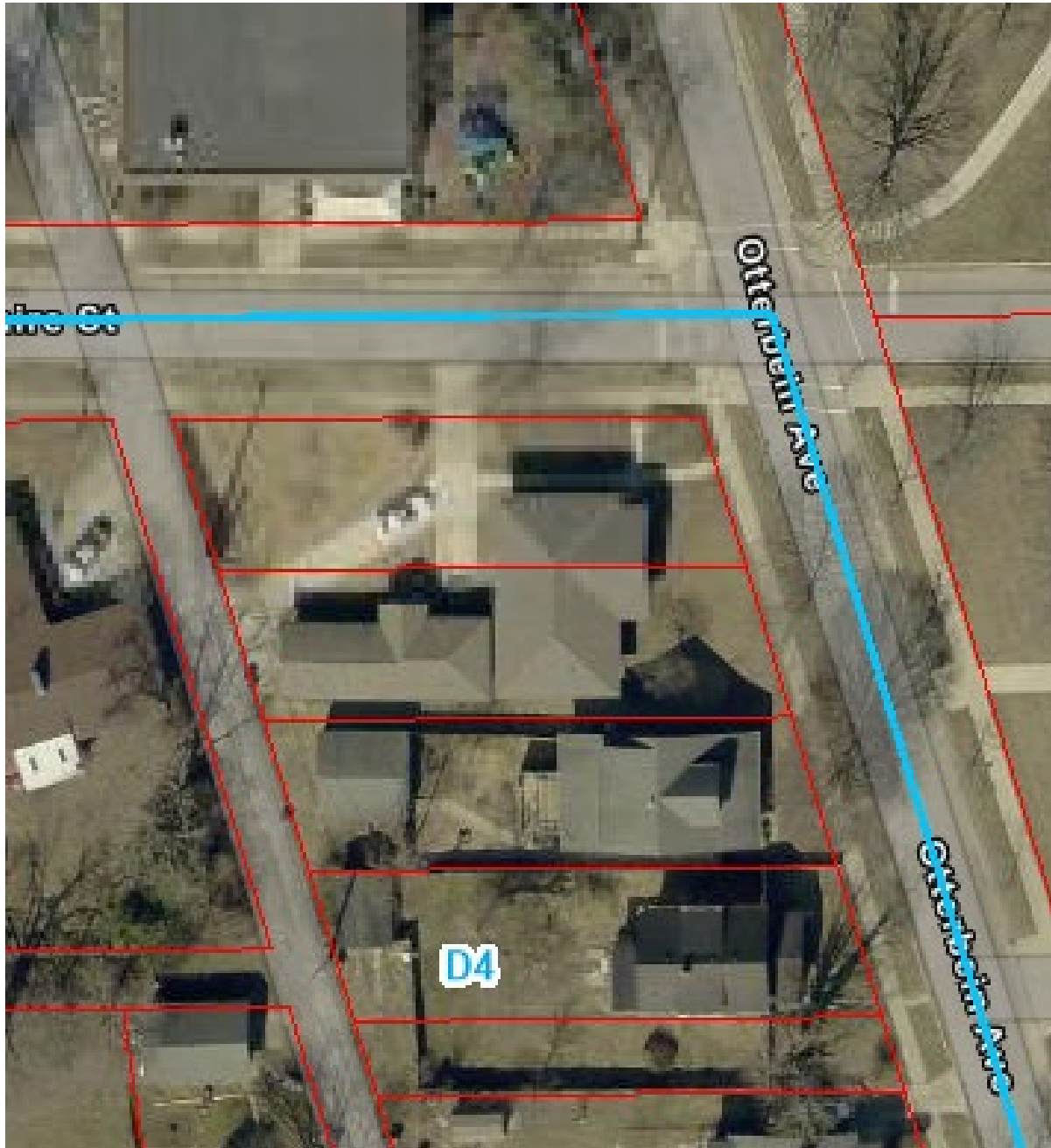
N/A

## **ZONING HISTORY – VICINITY**

**2017UV3002; 4021 Otterbein Avenue (east of site)**, Variance of Use and Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for offices and training rooms for the Indianapolis Neighborhood Housing Partnership in the existing Stierwalt Alumni House (not permitted), and to allow the grant of this variance to satisfy the requirement of filing an Approval petition for review and approval by the Metropolitan Development Commission, **approved**.

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

EXHIBITS



Aerial Photo

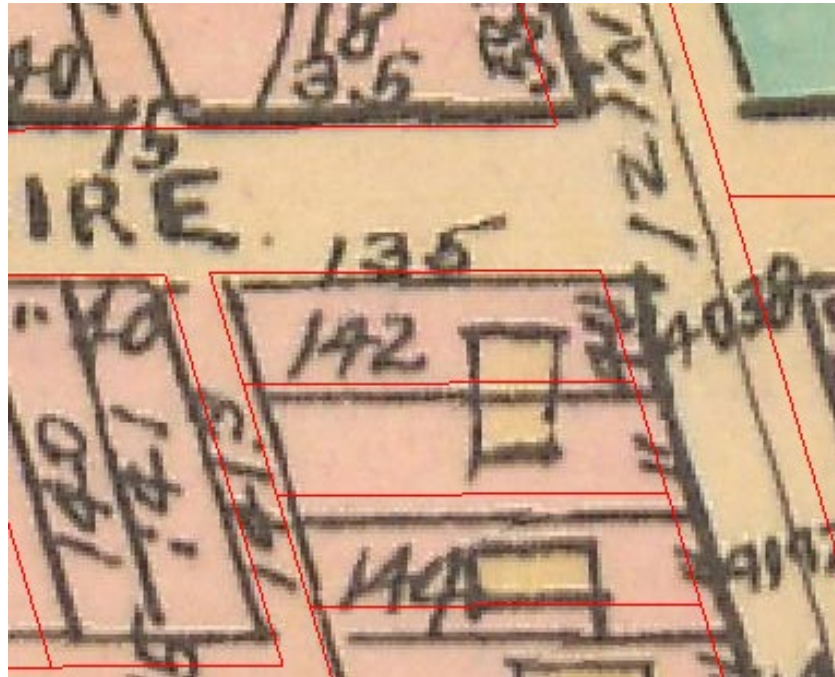


Zoomed in aerial photo

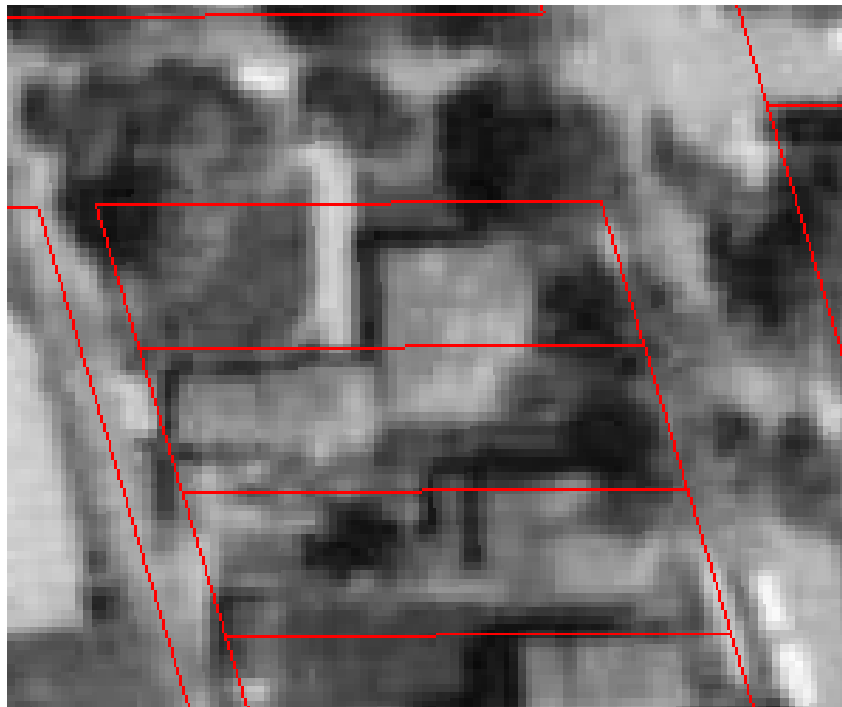




Original Plat showing two separate parcels (Russell was later renamed Windermire)



1941 Sanborn Map



1956 aerial photo, showing the second structure on 4040 Otterbein Ave



Scale:  
 1" = 30'  
 Paper size:  
 8.5" x 11"

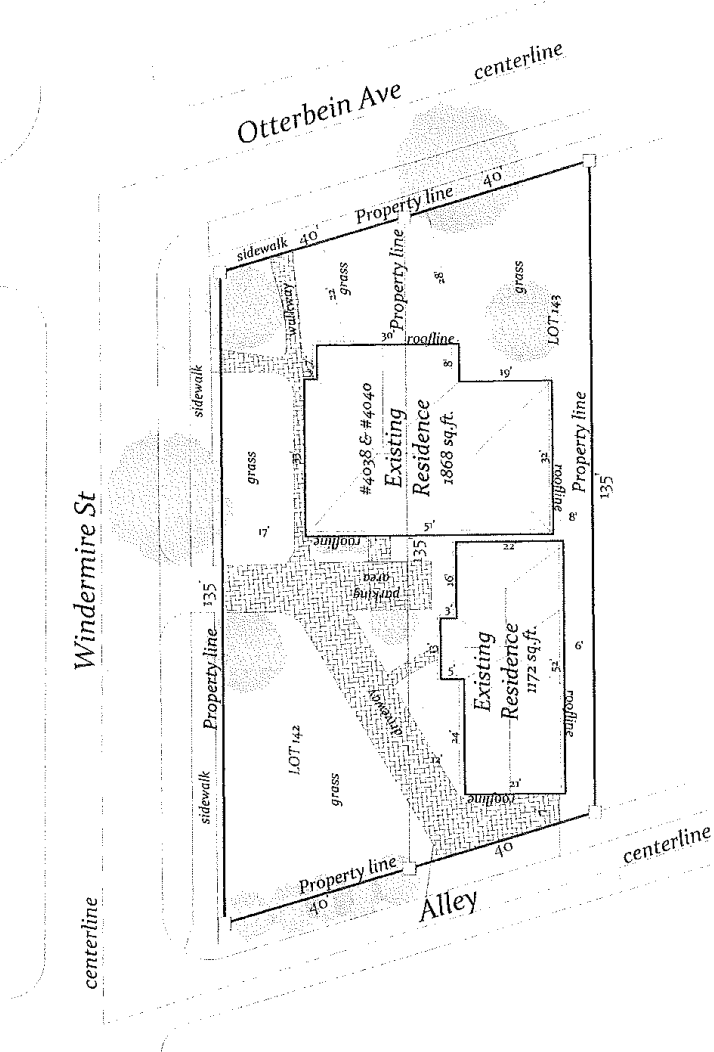
**Legend**

- Property line
- Topography line
- Wall line
- Roof line
- Retaining wall
- Fence
- Proposed addition

**Disclaimer**  
 This is a site plan. It is not a survey. It is not a legal document. It is not a map. It is a site plan. It is not a survey. It is not a legal document. It is not a map. It is a site plan.

**Graphic scale**

0 15' 30' 60'



# **SITE PLAN**

**Address:**  
 4038 & 4040 Otterbein Ave  
 Indianapolis, IN 46227

**Assessor's Parcel Number:**  
 LOT 142  
 142-49-10-31-101-001.080-501  
 LOT 143  
 143-49-10-31-101-001.081-501

**Parcel Area:**  
 LOT 142: 0.12 Acres  
 LOT 143: 0.12 Acres

**Land Use:**  
 Residential  
 Single Family Residence

**Zoning:**  
 LOT 142: R2001  
 LOT 143: R2001

**Legal Description:**  
 LOT 142: WILLIAM L ELDERS  
 UNIVERSITY HTS L142  
 LOT 143: WILLIAM L ELDERS  
 UNIVERSITY HTS L143

**Subdivision:**  
 LOT 142: 1  
 LOT 143: 1

**Owner:** LOPEZ, ROBERTA

**Paper size & scale:**  
 8.5" x 11"; 1" = 30'

**Date:** June, 2025

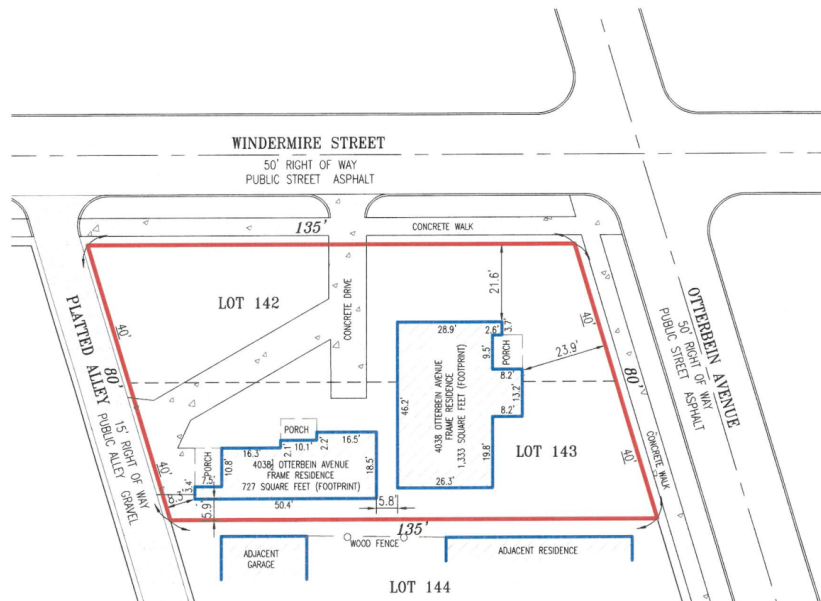




Complete Surveying Services for Commercial - Construction - Residential  
 (317) 841-1506 www.AXISIndy.com P.O. Box 30936 - Indianapolis, IN 46230

PROPERTY ADDRESS: 4038 Otterbein Avenue Indianapolis, Indiana

PROPERTY DESCRIPTION: Lot 142 and 143 in William L. Elder's University Heights Subdivision now in the City of Indianapolis, the plot of which is recorded in Plat Book 13, pages 104, 105 and 106, in the Office of the Recorder of Marion County, Indiana.

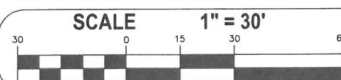


This Report is Designed For Use By A Title Insurance Company With Residential Loan Policies. No Corner Markers Were Set And The Location Data Hereon Is Based On Limited Accuracy Measurements.

\*Note: Unless Otherwise Noted, No Substantial Physical Evidence Was Observed Along Perimeter Lines Of The Subject Tract.

DRAWING NO: 2-78207  
 DRAWN BY: R. STOHLER  
 CHECKED BY: E. SCOTTEN  
 ISSUE DATE: 07-22-2024

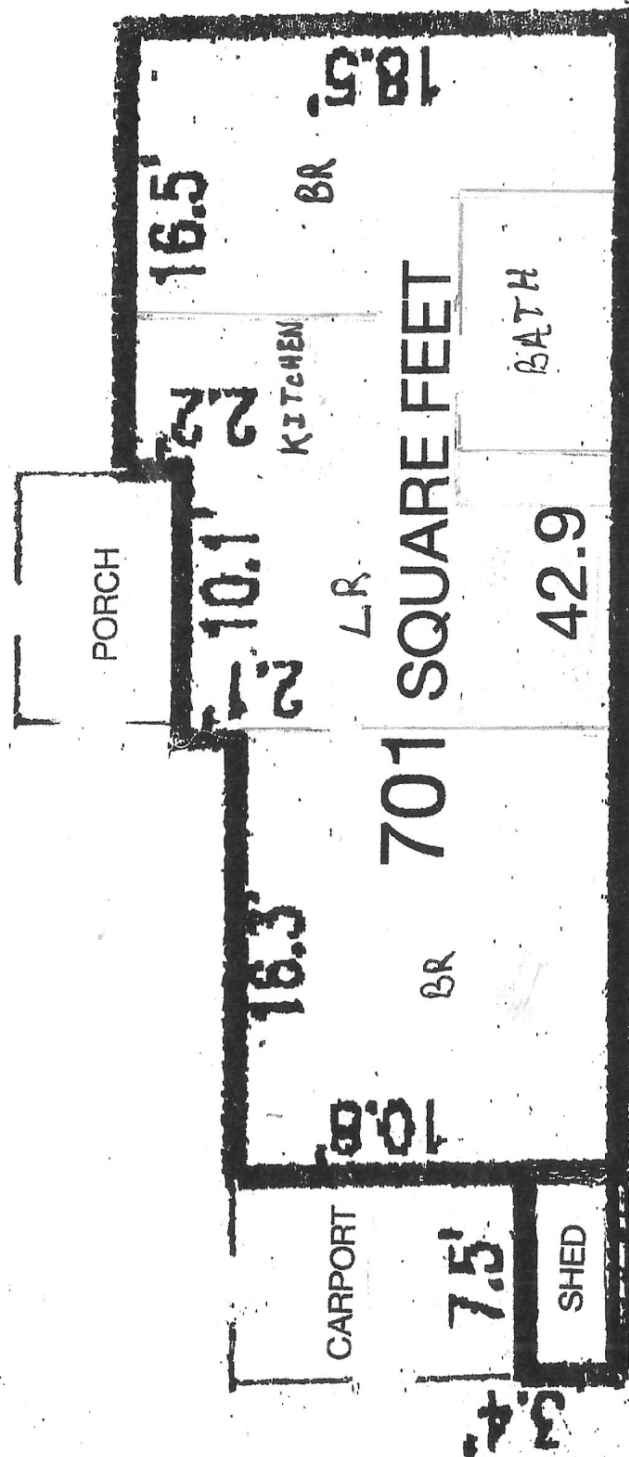
LEGEND:  
 BOUNDARY -   
 BUILDING -



Revised site plan, file-dated July 28, 2025

4038 OTTERBEIN AVENUE

SECONDARY DWELLING





Department of Metropolitan Development  
Division of Planning  
Current Planning

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 proposed use will not create any adverse neighborhood impairments. The proposed use will be consistent with the surrounding area as many single family residences are within reasonably close proximity.

The proposed use allows for an additional residence to be inhabited, therefore increasing consumer expenditure in the immediate community and creating additional income for local businesses.

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

Approval of this petition and resulting variance will allow the existing property with a newly remodeled roof to operate as a primary dwelling unit available for rent. Therefore, it is reasonable to assume that the value of adjacent properties will only increase, as a residence with a newly remodeled roof is a substantial benefit to property value. The proposed use will not affect the current or future use of the adjacent properties.

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

upon information and belief, the subject property has been used as a secondary dwelling unit available to rent. The roof of the secondary dwelling unit became deteriorated, and, to prevent further damage, the roof was remodeled. The proposed use allows the secondary dwelling unit to become a primary dwelling unit and be rented without requiring the unnecessary destruction of a newly constructed roof or the dwelling owner to reside in either primary dwelling unit.

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 subject property cannot yield a reasonable return if used only for the allowed zoned purpose. Further, the subject property is located across the street from the University of Indianapolis, with the vast majority of tenants being students. The strict application of the zoning ordinance creates substantial limitations on the use of the subject property and the granting of this petition shall remedy that fact.

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

the proposed use maintains the traditional neighborhood classification of the subject property. The comprehensive plan explicitly states that secondary detached housing units are encouraged. Therefore, the grant of this petition will not interfere substantially with the comprehensive plan.

DECISION

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

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_





Subject site looking west



Subject site looking southwest





Subject site looking south



Subject site looking southeast





Looking east down Windermire Street



Looking west down Windermire Street