

BOARD OF ZONING APPEALS DIVISION III

February 18, 2025

Case Number:	2025-DV3-003
Address:	1553 Harlan Street (approximate address)
Location:	Center Township, Council District #19
Zoning:	D-5
Petitioner:	Margarita Velazquez Garcia, by Arnoldo Gonzalez Vazquez
Request:	Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an attached covered porch with a zero-foot north side yard setback (five-feet required).
Current Land Use:	Single-family dwelling
Staff Recommendation:	Staff recommends denial of this petition.
Staff Reviewer:	Robert Uhlenhake, Senior Planner

PETITION HISTORY

This is the first hearing for this petition.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

- ◇ The development standards of the Consolidated Zoning and Subdivision Ordinance, specifically those relating to setbacks, are intended to provide for adequate separation and ventilation between structures and use areas as well as provide for a continuous pattern of development through the block.
- ◇ The request would provide for an attached covered porch with a zero-foot north side yard setback, where a five-foot setback is required.
- ◇ During the Staff site visit, it was observed that the attached porch was being used as a carport for personal vehicles, allowing the vehicles to park within the side yard setback. In addition, Staff observed two (2) commercial food truck vehicles parked on site to the rear of the dwelling, as indicated in Staff photos #6 and #7. Aerial photos indicate the same or similar sized commercial vehicles parked on site in 2019, 2020, 2021, 2022, 2023, and 2024.

- ◇ The storage or parking of commercial food truck vehicles is not permitted in residential or dwelling districts, including the subject site zoned D-5. Therefore, they should be removed from the site as they are non-compliant with zoning. By removing the commercial vehicles from the site, the personal vehicles that were observed parking in the side setback, under the covered porch / carport, would have sufficient room to park to the rear of the dwelling, thereby optimizing the use of the available space without compromising safety or functionality, or negatively impacting adjoining property owners.
- ◇ There is no practical difficulty associated with the subject site that would warrant the grant of this variance. The subject site has no natural or manmade physical obstacles that would prohibit compliance with the required setback as the proposed covered porch could be relocated to the rear of the dwelling to meet the required setback. Any practical difficulty related to the requested reduced setback would be self-imposed by the need to have additional parking area for non-compliant commercial vehicles.
- ◇ The request of the reduced setback for the purpose of increasing usable area of the property would be a self-imposed hardship and would negatively impact adjacent property owners. Adjacent properties have demonstrated their ability to be compliant with the Zoning Ordinance and meet the required side setbacks.

GENERAL INFORMATION

Existing Zoning	D-5	
Existing Land Use	Single-Family Dwelling	
Comprehensive Plan	Recommends Traditional Neighborhood uses	
Surrounding Context	Zoning	Surrounding Context
	North:	D-5 Single-family dwelling
	South:	D-5 Single-Family dwelling
	East:	D-5 Single-Family dwelling
	West:	D-5 Single-Family dwelling
Thoroughfare Plan		
Harlan Street	Local Street	50-foot existing and proposed right-of-way.
Context Area	Compact area	
Floodway / Floodway Fringe	No	
Overlay	N/A	
Wellfield Protection Area	N/A	
Site Plan	December 27, 2024	
Elevations	N/A	
Landscape Plan	N/A	
Findings of Fact	December 27, 2024	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

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

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends the Traditional Neighborhood typology that includes a full spectrum of housing types, ranging from single family homes to large-scale multifamily housing. The development pattern of this typology should be compact and well-connected, with access to individual parcels by an alley when practical. Building form should promote the social connectivity of the neighborhood, with clearly defined public, semi-public, and private spaces. Infill development should continue the existing visual pattern, rhythm, or orientation of surrounding buildings when possible. A wide range of neighborhood-serving businesses, institutions, and amenities should be present. Ideally, most daily needs are within walking distance. This typology usually has a residential density of 5 to 15 dwelling units per acre.

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.

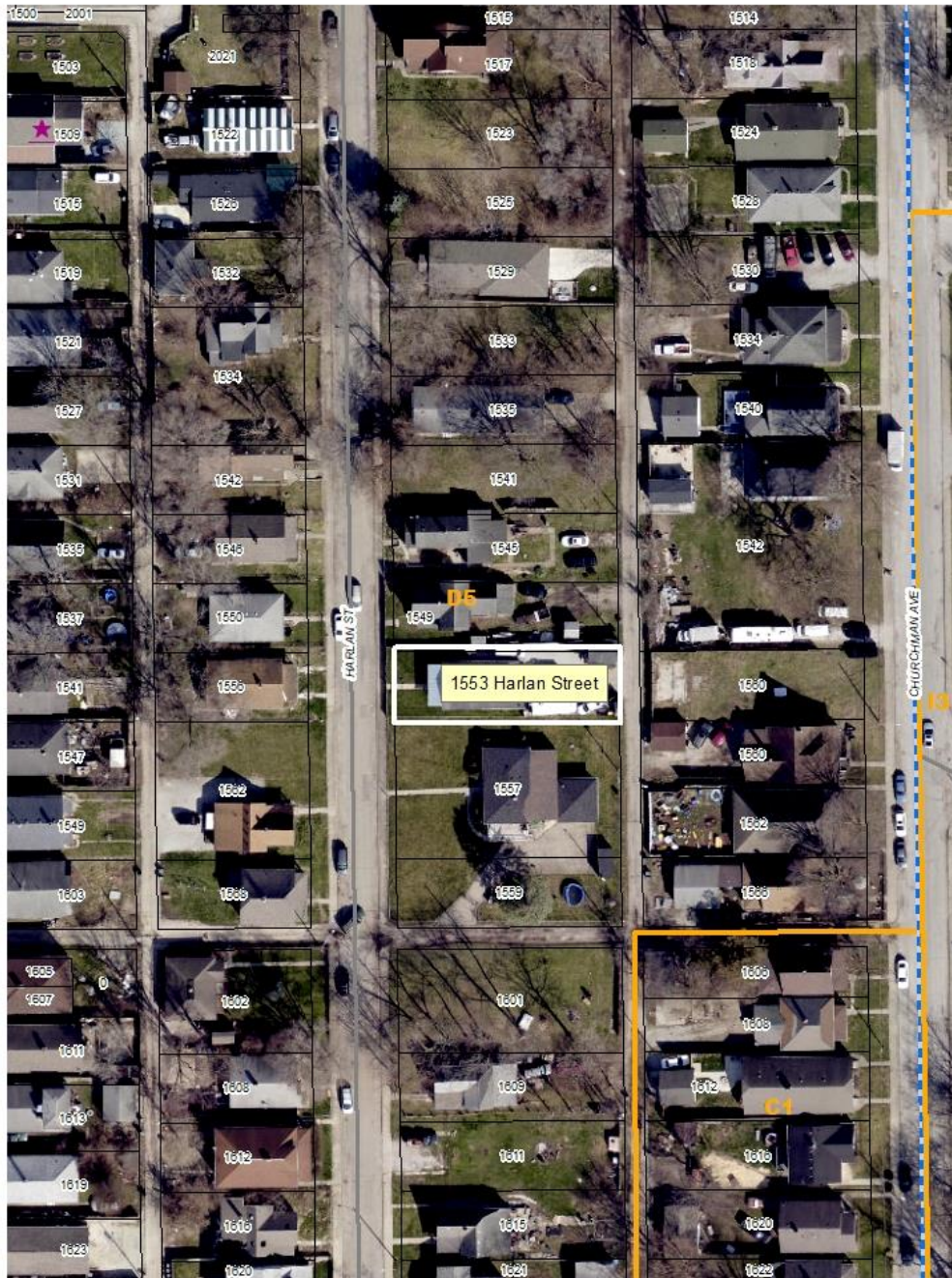
ZONING HISTORY

None.

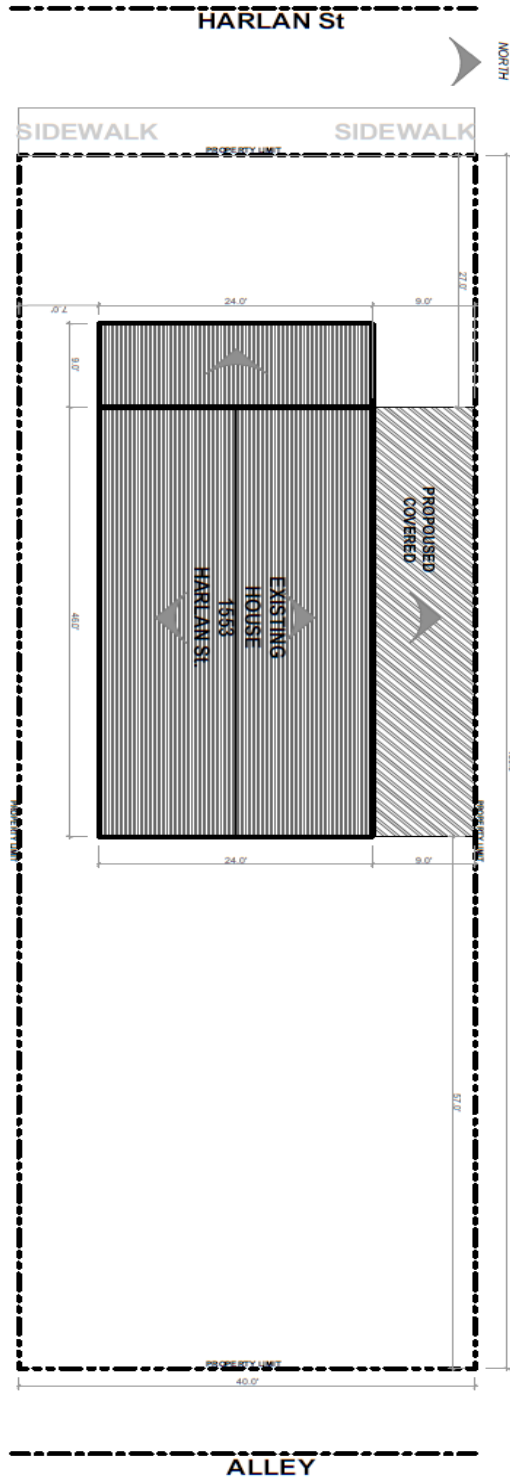
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EXHIBITS

Location Map



Site Plan





Findings of Fact

Petition Number _____

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

PETITION FOR VARIANCE OF USE

FINDINGS OF FACT

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

The proposed porch ensures there is still adequate space for emergency access, fire protection and other safety measures.
The change should not significantly detract from the overall appearance or character of the neighborhood.
The modification should not interfere with utility lines, drainage systems, or other critical infrastructure.

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 porch built should maintain or enhance the aesthetic quality of the surrounding area.
The setback change should not infringe upon the privacy of neighboring properties.
The modification should not impede access to adjacent properties or hinder the ability of neighboring landowners to enjoy and utilize their properties effectively.

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

Adjusting setback requirements enables more efficient use of land and contribute to economic growth and revitalization efforts in the community.
A setback change optimizes the use of the available space without compromising safety or functionality

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

Granting the setback variance ensures equitable treatment and allow the property owner to achieve development outcomes consistent with prevailing standards and practices in the community.
Setback requirements imposes financial burdens on property owners by reducing the usable area of the property and limiting potential development opportunities.
This negatively impacts property values and investment returns, leading to economic hardship for the property owner.

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

The construction of a porch promotes sustainable development, enhancing livability, and fostering economic growth.
This setback involve a minor deviation from standard regulations and does not undermine the broader principles or vision outlined in the comprehensive plan.

Photographs



Photo 1- Subject property looking east.



Photo 2- Subject property attached covered porch with zero-foot north side yard setback, looking east.



Photo 3- Subject property attached covered porch with zero-foot north side yard setback, looking west.



Photo 4- Subject property attached covered porch with personal vehicle parking, looking west.



Photo 5- Two (2) commercial food trucks parked behind dwelling on subject site, looking west.



Photo 6- Two (2) commercial food trucks parked behind dwelling on subject site, looking west.



Photo 7- Adjacent property to the north with zoning compliant setbacks, looking east.



Photo 8- Adjacent property to the north with zoning compliant setbacks, looking east.