



BOARD OF ZONING APPEALS DIVISION III

August 20, 2024

Case Number: 2024-DV3-022
Address: 5870 Hunterglen Road (approximate address)
Location: Lawrence Township, Council District #9
Zoning: D-S
Petitioner: Richard & Tracy Smikle, by Misha Rabinowitch
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a tennis court, partially within the front yard of Hunterglen Road (not permitted), resulting in an open space of 82 percent and a 24.33-foot front yard setback (85 percent open space, 40-foot front yard setback required).

Current Land Use: Single-family dwelling

Staff Recommendation: Staff recommends approval of this petition.

Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff recommends **approval** of this petition.

PETITION OVERVIEW

- ◇ The request would provide for the location of a tennis court, partially within the front yard of Hunterglen Road, resulting in an open space of 82 percent and a 24.33-foot front yard setback
- ◇ The site is zoned D-S, which permits single-family dwellings and is intended to provide for the lowest-density residential development in the county, in areas with extreme topography, areas conducive to estate development, and areas that necessitate low-density development due to other environmental considerations. The D-S District requires a 40-foot front setback on this parcel.
- ◇ The proposed tennis court location and front setback would be appropriate for a parcel of this size and would have minimal impact, because of the tennis courts separation from adjacent structures and the adequate space available to provide for maintenance. In addition, the proposed reduced front setback would preserve two large heritage trees located to the west of the proposed tennis court.



- ◇ The proposed front setback would still provide adequate space to mitigate any adverse impacts and provide the minimum area necessary for maintenance setbacks. In addition, the tennis court would not affect the view shed of the Hunterglen Road corridor due to the extensive landscaping and hilly terrain elevations.
- ◇ Open space is required to provide for a development density that is consistent with the community and to reduce the impact storm water can have on adjacent properties if the land is overdeveloped.
- ◇ The proposed 82% open space would be a 3% deviation from the Ordinance requirement. In Staff’s opinion, this would be a minimal deviation as the reduction would not have any negative impact on adjacent properties.
- ◇ Existing privacy shrubs and trees adjacent to the proposed tennis court will also help to mitigate the aesthetic impacts of the court. In staff’s opinion, the request, as proposed, would be an acceptable deviation of the Ordinance.
- ◇ Generally, staff supports property improvements if their location and characteristics do not negatively impact adjoining residential areas by causing a nuisance to the surrounding neighborhood. Staff believes that this would be true for this particular variance request, and additionally that no public safety or health risks would come from the grant of this variance.

GENERAL INFORMATION

Existing Zoning	D-S
Existing Land Use	Single-Family Dwelling
Comprehensive Plan	Recommends Zero to 1.75 Dwellings Per Acre
Surrounding Context	Zoning
	North: D-S
	South: D-S
	East: D-S
	West: D-S
	Surrounding Context
	North: Golf Course
	South: Single-family dwelling
	East: Single-family dwelling
	West: Single-family dwelling
Thoroughfare Plan	
Hunterglen Road	Private Street
Context Area	Metro area
Floodway / Floodway Fringe	No
Overlay	N/A
Wellfield Protection Area	No
Elevations	N/A
Landscape Plan	N/A
Site Plan	June 24, 2024
Findings of Fact	June 24, 2024



COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- The Comprehensive Plan recommends 0 – 1.75 Dwelling Units Per Acre for the site.

Pattern Book / Land Use Plan

- This density is consistent with rural development patterns and could also limit the impact of development on property with extreme topography or other significant environmental considerations such as floodplains, wetlands, and old-growth woodlands. Additionally, this density would be conducive to agricultural and estate development.

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

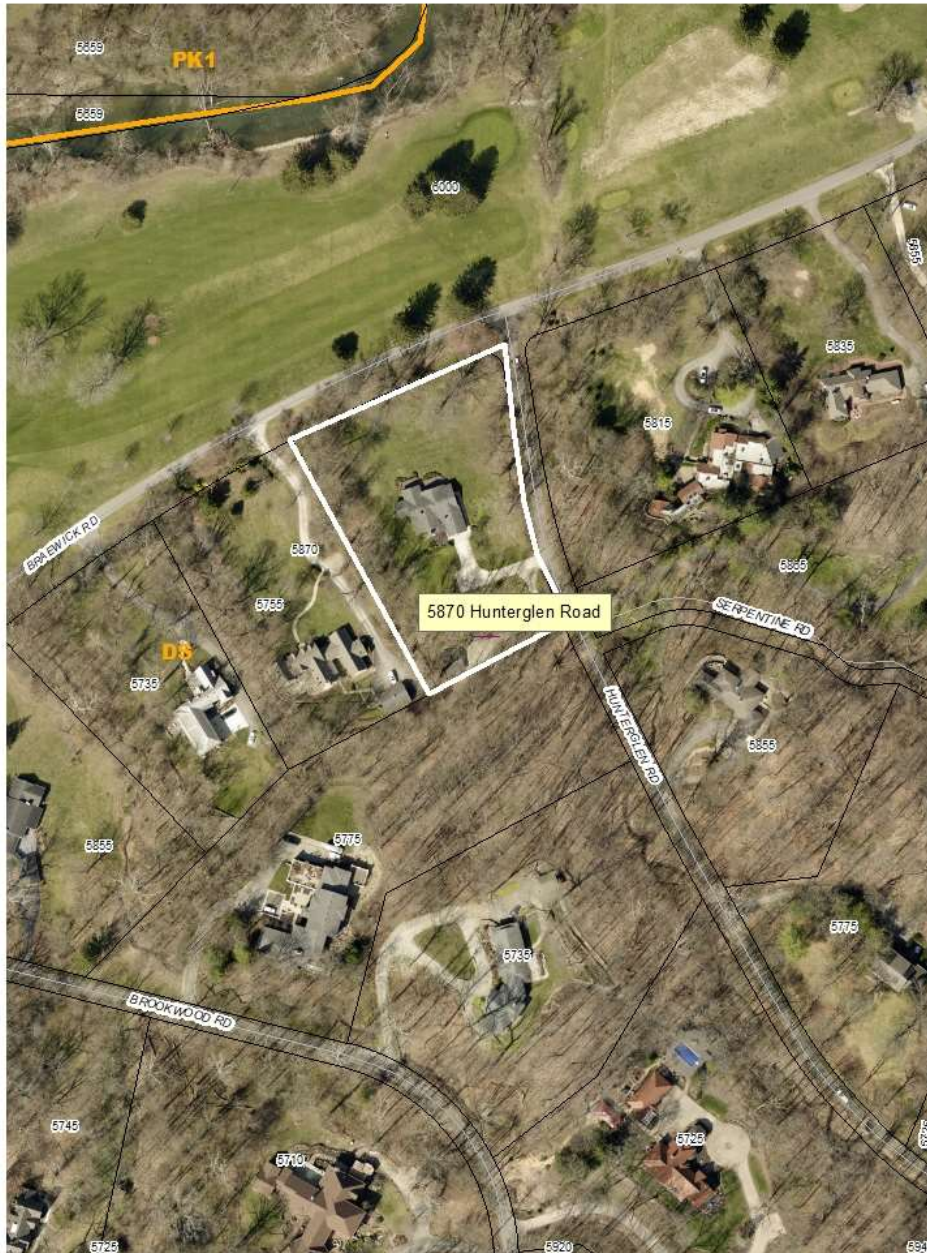
2017-UV3-014; 5610 East 56th Street (south of site), requested variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for two fuel tanks related to a storage barn and workshop for the storage, restoration, and maintenance of an automobile collection, as approved by 2015-DV3-036, being located in front of the front building line of the primary dwelling, **granted**.

2015-DV3-036, 5610 East 56th Street (south of site), requested variance of development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a two-story, 49-foot tall, 13,074-square foot two-story storage barn and workshop to house, restore and maintain an automobile collection, creating, with the existing two-story carriage house, an accessory building area of 15,538 square feet or 411.5% of the main floor area of the primary dwelling and accessory use area of 45,109 square feet or 417.52% of the total floor area of the primary dwelling, and with the proposed storage barn being in front of the established front building line of the primary dwelling, **granted**.

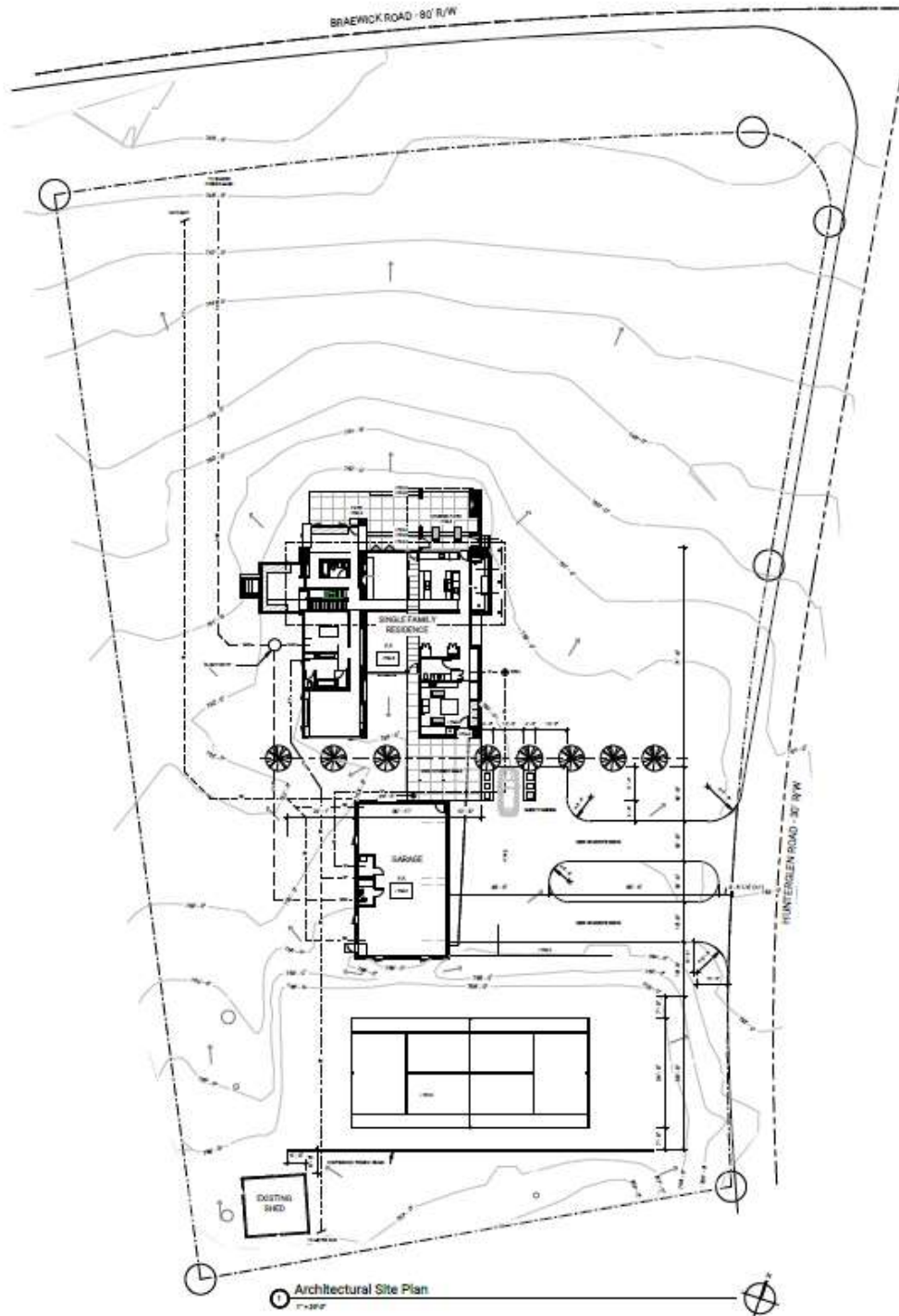
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EXHIBITS

Location Map



Site Plan





Findings of Fact - Front yard

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

(Front Yard)

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

The tennis court in the front yard has been placed in substantially the same location as the tennis court that was previously located on the site. Also, there is significant green space around the tennis court and substantial setback from the adjacent street.

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 tennis court in the front yard has been placed in substantially the same location as the tennis court that was previously located on the site. Also, there is significant green space around the tennis court and substantial setback from the adjacent street.

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

of the configuration of the lot, which is trapezoidal in shape, the location of the residence on the lot, and existing mature trees, the proposed tennis court must be located partially in the front yard.

DECISION



Findings of Fact – Open Space

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

(Open Space)

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

The tennis court replaces a tennis court in substantially the same location as the tennis court that was on the property previously.

Also, there is significant lawn area as a buffer around the property.

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 tennis court replaces a tennis court in substantially the same location as the tennis court that was on the property previously.

Also, there is significant lawn area as a buffer around the property.

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

A tennis court has previously existed on the property in substantially the same location. The new court is built to standard specifications, which results in slightly deficient open space. In addition, the subject property is a corner lot, which makes location of improvements on the site a challenge resulting in practical difficulties complying with strict application of the ordinance required open space.

DECISION



Findings of Fact - Front 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
(Front Setback)**

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

The tennis court has been placed in substantially the same location as the tennis court that was previously located on the site. Also, there is significant green space around the tennis court and substantial setback from the adjacent street.

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 tennis court has been placed in substantially the same location as the tennis court that was previously located on the site. Also, there is significant green space around the tennis court and substantial setback from the adjacent street.

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 is a corner lot, trapezoidal in shape, with a number of mature trees that should be preserved, which results in the required practical difficulty.

DECISION

Photographs



Subject property single-family dwelling under construction, looking southwest.



Subject property approximate front setback of tennis court, looking north.



Subject property approximate rear setback of tennis court, with two adjacent heritage trees, looking west.



Subject property east side parcel line tree screening, looking south.



Adjacent property looking east.



Adjacent property looking west.