

BOARD OF ZONING APPEALS DIVISION III

SEPTEMBER 15, 2026

Case Number: 2026-UV3-014

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

Location: Perry Township, Council District #23

Petitioner: Roberta Lopez, by Anthony S. Ridolfo

Current Zoning: D-4 (TOD)

Request: Variance of Use of the Consolidated Zoning and Subdivision Ordinance to allow for a secondary dwelling unit with a size of 727 square feet (maximum 720 feet permitted) and to allow for a primary and secondary dwelling unit without permanent occupancy by the owner (occupancy of either the primary or secondary dwelling unit by the owner required).

Current Land Use: Residential

Staff Recommendations: Staff recommends **approval** of this petition.

Staff Reviewer: Drew Haynes, Senior Planner

PETITION HISTORY

This petition was originally scheduled for the August 18th hearing and has been continued to the September 15th hearing to allow for proper notice.

STAFF RECOMMENDATION

Staff recommends **approval** of this petition.

PETITION OVERVIEW

- **The Request:** The petitioner is requesting a variance of use to allow for the permitted residential use of a secondary dwelling be over 720 square feet and allow for the permitted residential use of a secondary dwelling unit to not be the owner's permanent residence.
- **Context:** 4038 & 4040 Otterbein Ave is a residential site at the corner of Windermire St. and Otterbein Ave. The site is in a transit-oriented development (TOD) corridor, right on the southwestern edge of the University of Indianapolis.
- **Zoning:** This site is technically two (2) parcels and contains two (2) primary buildings that are zoned D-4. D-4 district calls for low to medium intensity of single-family and two-family residential development. According to the property card, the original primary building to the east was built in approximately 1923. 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 primary building to the west was built around 1953, according to imagery, and is located entirely on 4040 Otterbein Avenue.

- **History:** A previous variance of use was granted, last year (2025-UV3-021), that allowed for a second primary residence 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 setback required). At the time of approval, this created both residences to be viewed as primary dwellings.
- **Recommendation:** Staff recommends approval of both requests in this petition. Staff consider the request to allow a secondary dwelling unit of 727 square feet reasonable, given that the dimensions extend only 7 feet beyond the maximum square feet permitted in the zoning ordinance.
- Although the classification of the dwelling units proposed by this petition would differ from the previous petition, the resulting housing configuration requested by this permit would be identical to the configuration previously approved by 2025UV3021 (no changes to the square footage of either residence are proposed). The previously considered classification of two primary buildings would not have a requirement related to owner-occupancy of either unit. Therefore, staff would consider this deviation to be minor in nature and would recommend approval of the variance related to owner-occupancy.

GENERAL INFORMATION

Existing Zoning	D-4 (TOD)	
Existing Land Use	Residential	
Comprehensive Plan	Traditional Neighborhood	
Surrounding Context	Zoning	Surrounding Context
North:	UQ-1	North: University
South:	D-4	South: Residential
East:	UQ-1	East: University
West:	D-4	West: Residential
Thoroughfare Plan		
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.
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	Yes, Transit Oriented Development	
Wellfield Protection Area	No	
Site Plan	7/10/2026	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	

Findings of Fact	7/10/2026
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

- Marion County Land Use Plan Pattern Book recommends the Traditional Neighborhood typology for this site. This typology includes a wide array of housing types from single family homes to multi-family housing. The building form should promote the social connectivity of the neighborhood with clearly defined public, semi-public, and private spaces.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- This site sits in a Regional Office Park or Campus (REG) TOD typology. This typology has infill development with increased walkability and varied land uses is desired. Off-street parking is discouraged and should be limited to garages.

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

- IHG 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

2025-UV3-021, 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), **approved**.

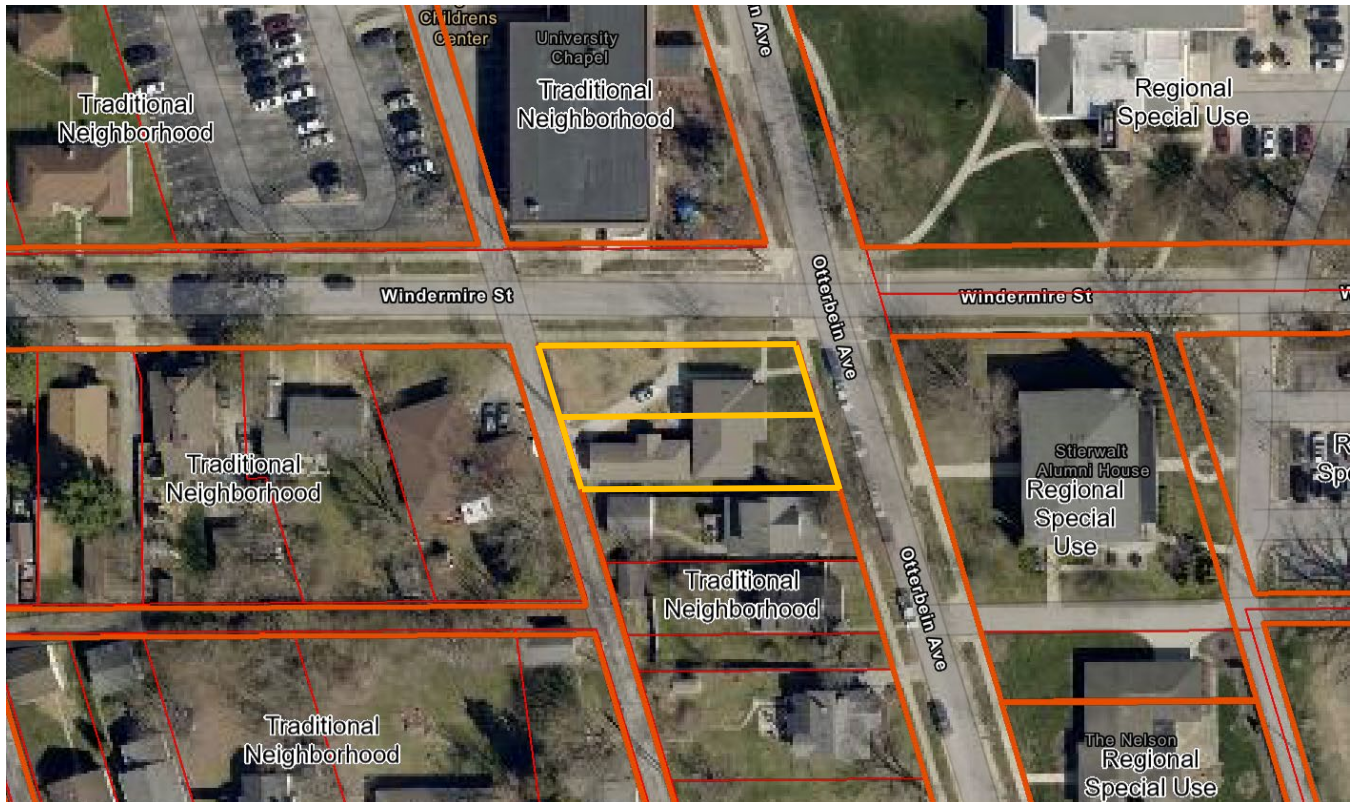
ZONING HISTORY – VICINITY

2017-UV3-002; 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**.

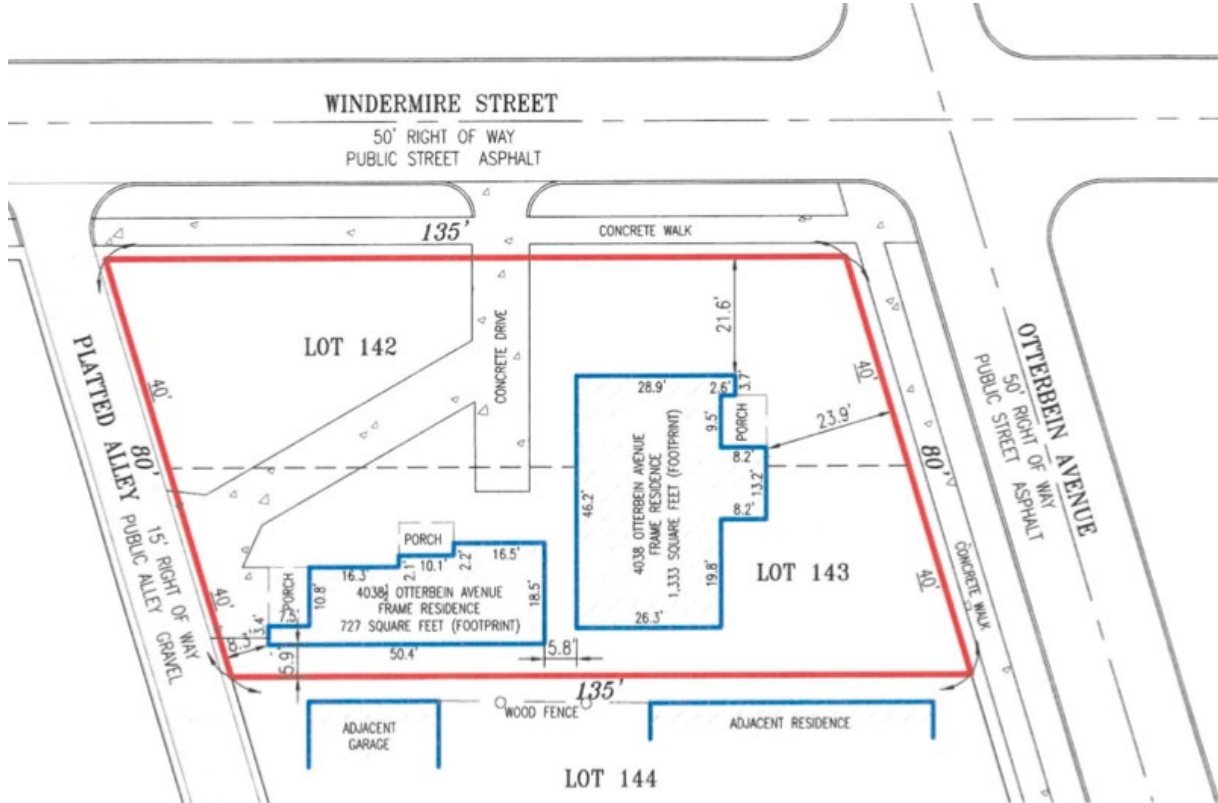
2017-CZN-CAP-CVR-CVC-838; 4018 Bowman Avenue, 1227 and 1233 East Hanna Drive, 4002 Otterbein Avenue, 1218 and 1224 Windermire Street, 1402 1406, 1412, 1414, 1420, 1428, 1432, 1502, 1508, 1514, 1526 East Castle Avenue, Rezoning of 4.7 acres from the D-4 and SU-1 districts to the UQ-1 classification. University 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 Map



Site Plan



Findings of Fact

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division III
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

it involves no construction and no physical change to the property. Both dwellings have existed for decades and this Board approved both as primary dwellings in 2025-UV3-021.

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 nothing visible changes. The surrounding neighborhood already includes a mix of owner-occupied and rental homes, many of which are rented for purposes of student housing.

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

the original 1923 residence was built on the lot line between two platted lots, and both homes predate the zoning ordinance. The owner-occupancy standard was written for a different situation than this property presents.

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 owner would need to live in one of the homes to rent the other. This relief was requested in 2025-UV3-021, and this filing completes what was started in the original petition.

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

the comprehensive plan recommends the Traditional Neighborhood typology for this area. The grant simply keeps two existing homes in use.

Site Photos



