

BOARD OF ZONING APPEALS DIVISION III

May 20th, 2025

Case Number: 2025-UV3-005
Property Address: 5109 Hardegan Street
Location: Perry Township, Council District #23
Petitioner: Jonathan & Brenda Scotten, by Victoria Katterhenry
Current Zoning: D-3
Request: Variance of Use of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a secondary dwelling unit without an entry visible from the right-of-way (required).
Current Land Use: Residential
Staff Recommendations: Staff is recommending **approval** of this variance petition.
Staff Reviewer: Kiya Mullins, Associate Planner

PETITION HISTORY

This is the first public hearing for this variance petition.

STAFF RECOMMENDATION

Staff is recommending **approval** of this variance petition.

PETITION OVERVIEW

- The petitioner of this variance petition is requesting to construct a secondary dwelling unit that will not face the Hardegan Street.
- This property is 1.11 acres in size in the D-3 zoning district.
- The primary dwelling and the neighboring property to the west also face the same driveway instead of Hardegan Street.
- According to historical aerials, homes in these locations have been facing the driveway instead of Handegan Street since 1962.
- The proposed secondary dwelling unit will meet all setbacks.
- Staff is recommending **approval** of this variance petition because it is not possible for the home to face the right of way due to the age and layout of the surrounding properties. This is a practical difficulty that would not be possible to correct without a variance of use.

GENERAL INFORMATION

Existing Zoning	D-3	
Existing Land Use	Residential	
Comprehensive Plan	Suburban Neighborhood	
Surrounding Context	<u>Zoning</u>	Surrounding Context
North:	D-6	North: Suburban Neighborhood
South:	D-4	South: Suburban Neighborhood
East:	D-1	East: Suburban Neighborhood
West:	D-3	West: Suburban Neighborhood
Thoroughfare Plan		
Hardegan Street	Local Street	30 feet of right-of-way existing and 50 feet proposed.
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	3/25/2025	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	3/25/2025	
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

- The Suburban Neighborhood typology is predominantly made up of singlefamily 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 organizing systems for development. Streets should be well-connected and amenities should be treated as landmarks that enhance navigability of the development. This typology generally has a residential density of 1 to 5 dwelling units per acre, but a higher density is

recommended 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

Orient the front façade of a house in the same direction as other houses on the street. Avoid single buildings which turn away from the street and give the appearance that the street façade is not the front façade.

For circumstances where there may be multiple housing units on a single parcel, the unit or units closest to the street should face towards the street

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 – SURROUNDING AREA

- 2006-ZON-839: 1820 East Epler Avenue
 - Rezoning of 3.97 acres, from the D-3 District, to the SU-1 classification to legally establish a religious use.
 - AP
- 2007-DV3-048A: 4953 South Walcott Street
 - Variance of Development Standards of the Dwelling Districts Zoning Ordinance to: to legally establish a 948-square foot detached garage and a 96-square foot playhouse, resulting in an accessory building area of 1044.6-square feet or 103 percent of the main floor area of the primary structure (maximum 769-square feet or 75 percent of the main floor area of the primary structure permitted)), resulting in an accessory use area of 1,283.6-square feet or 126.5 percent of the total living area of the primary structure (maximum 1,014-square feet or 99.99 percent of the main floor area of the primary structure permitted).
 - AP
- 2007-DV3-048B: 4953 South Walcott Street
 - Variance of Development Standards of the Dwelling Districts Zoning Ordinance to legally establish a 264-square foot detached boat port accessory structure , resulting in an accessory building area of 1,308.6 square feet or 129 percent of the main floor area of the primary structure (maximum 760-square feet or 75 percent of the main floor area of the primary structure permitted), resulting in an accessory use area of 1,547.6-square feet or 152.6 percent of the total living area of the primary structure (maximum 1,014-square feet or 99.99 percent of the main floor area of the primary structure permitted).
 - Denied
- 2009-DV2-025: 5400 South Keystone Avenue
 - Variance of Development Standards of the Dwelling Districts Zoning Ordinance to provide for an above ground pool, deck and canopies with an accessory use area of 3,346 square feet or 250 percent of the total living area of the primary structure (maximum 1,343 square feet or 99.99 percent of the total living area of the primary structure permitted), and to legally establish an accessory building area of 1,258 square feet or 94 percent of the main floor area of the primary structure (maximum 1007 square feet or 75 percent of the main floor area of the primary structure permitted).
 - Denied
- 2010-DV1-043: 5540 South Keystone Avenue
 - Variance of Development Standards of the Dwelling Districts Zoning Ordinance to provide for a 576-square foot garage, creating an accessory use area of 1,196 square feet or 109.52% of the total floor area of the primary dwelling (99.9% of the total living area or

- 1091 square feet permitted) and to provide for an accessory building area of 1056-square feet or 96.7% of the main floor area of the primary dwelling (819 square feet or 75% of the main floor area of the dwelling permitted).
- Approved
 - 2015-UV1-012: 5430 South Keystone
 - Variance of Use of the Dwelling Districts Zoning Ordinance to provide for a landscaping contractor (not permitted), including the parking and storage of commercial vehicles and trailers (not permitted).
 - Denied
 - 2022-CZN-859: 1838 East Epler Avenue
 - Rezoning of 1.41 acres from the SU-1 District to the D-3 District to provide for residential development.
 - Approved
 - 2023-UV3-021: 1838 East Epler Avenue
 - Variance of Use of the Consolidated Zoning and Subdivision Ordinance to provide for the storage of four commercial vehicles (not permitted).
 - Approved

EXHIBITS

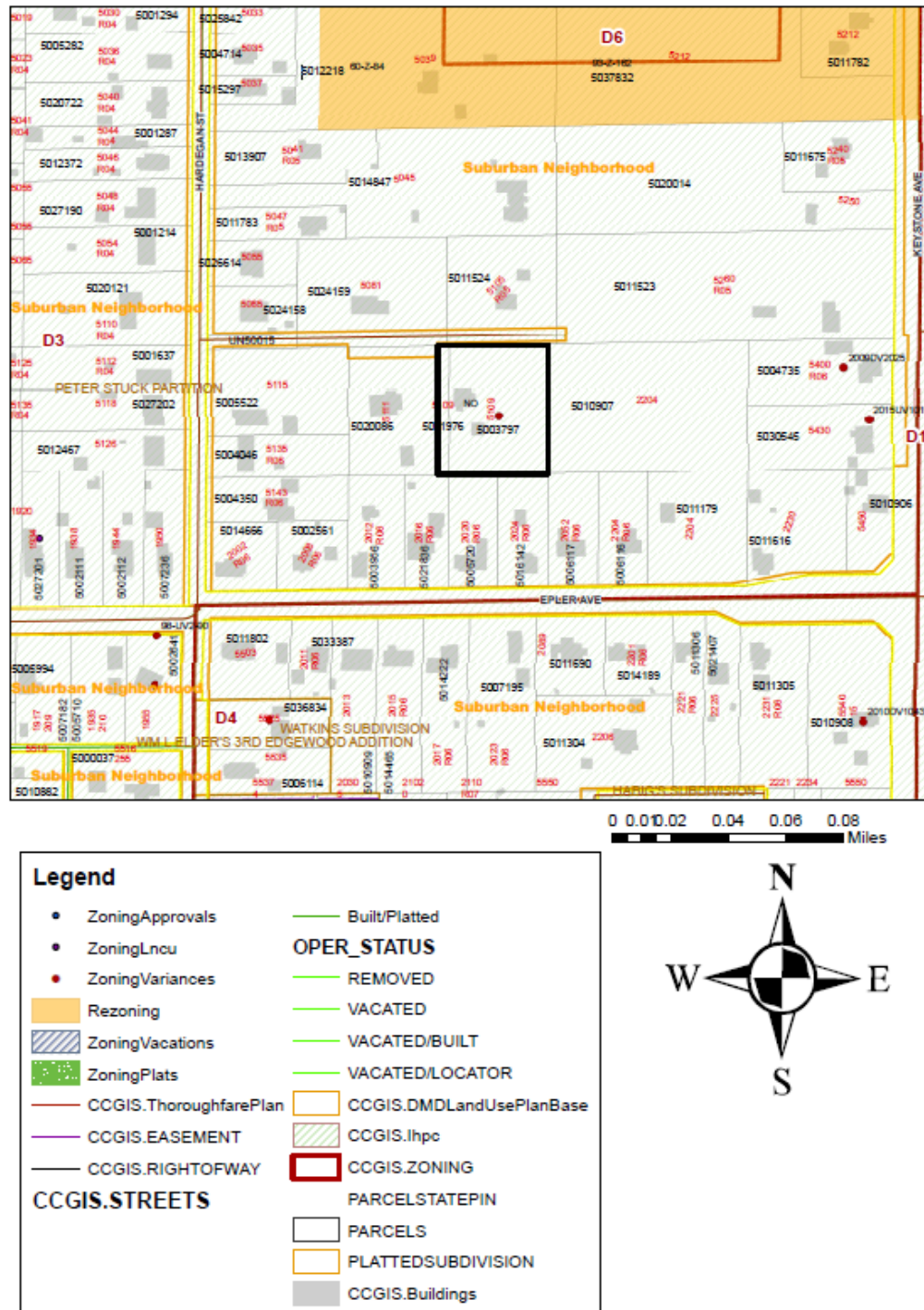


Exhibit 1: ArcGIS map of the subject site and surrounding area.

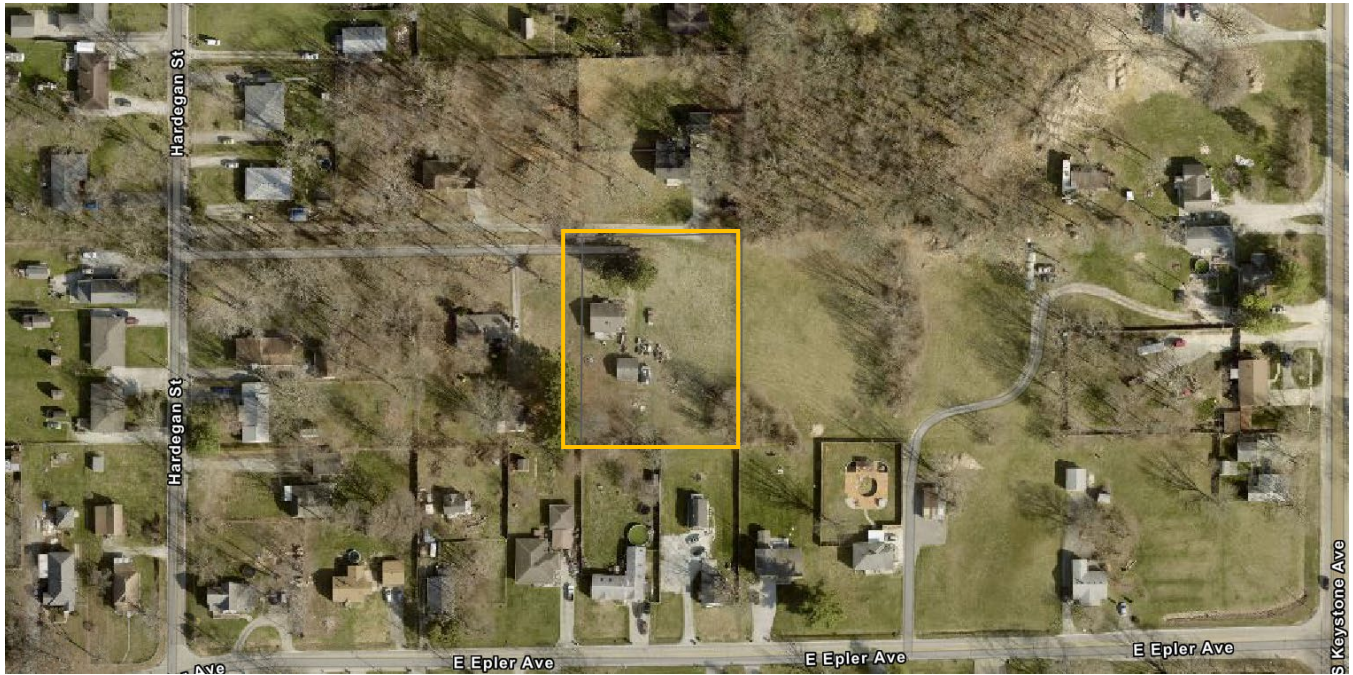


Exhibit 2: Aerial of the subject site and surrounding area.

**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

It aligns with the existing zoning regulations and is designed to enhance the neighborhood. The variance has received support from the neighboring properties indicating that the community perceives no threat to their health and safety.

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 use of the secondary dwelling will be compatible with the surrounding properties in aesthetics. It has similar colors shape and peak as the main building and similar colors as neighboring properties and this complements the character of the neighborhood there fore not impacting property values. If variance granted will help with economic growth and housing shortages. three neighboring properties view this as favorable. Property owner will maintain the landscape to fit in with the neighborhood. and Beautify.

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

This variance is needed because the zoning laws say secondary dwelling must face a right of way. Zoning allows for a secondary dwelling for no less than 200 sq ft but smaller than 720 sq ft which the secondary dwelling falls into that range. It will have 1 off street parking. The other properties in the neighborhood face a shared lane to Hardegan Rd. New dwelling will face the same as current properties. Due to the location it is impossible for secondary dwelling to face a main road.

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

There is no way for this property to face a main right of way due to the location of the main property. The secondary dwelling is intended for a family member with meniers disease who at times needs help. Due to strict zoning it denies the property owner a reasonable use of their land. This restricts the property owner from accommodating his family member. It could help increase the property values by increasing affordable housing.

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

The proposed variance aligns with the comprehensive plan by promoting sustainable development and increasing housing options within the community. Nearby properties have similar dwellings but are not restricted by right of way facing. Granting this variance does not affect noise or traffic problems. The secondary dwelling will use the same shared lane and drive as the primary dwelling. Granting this variance supports the comprehensive plan for a more diverse and affordable community therefore benefitting the property owners and the community as a whole.





Exhibit 5: General proposed location for the secondary dwelling unit, looking south.



Exhibit 6: General proposed location of the secondary dwelling unit, looking east.



Exhibit 7: The primary dwelling unit on the subject site.



Exhibit 8: Looking to home across the street from the proposed location of the secondary dwelling unit.



Exhibit 9: Looking down Hardegan Street (right) and the driveway (left).



Exhibit 10: Neighbor to the west of the subject side that also faces the same drive way.



Exhibit 11: 1962 Historical Aerial of subject site.