

**BOARD OF ZONING APPEALS DIVISION II**

**August 08, 2023**

**Case Number:** 2023-DV1-035

**Property Address:** 1310 W 26<sup>th</sup> Street (approximate address)

**Location:** Center Township, Council District #11

**Petitioner:** Allan Pingul, by Jeremy Littell

**Current Zoning:** D-5

**Request:** Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a single-family dwelling and secondary dwelling unit, with three-foot side yard setbacks on both sides (five-foot side yard setbacks required).

**Current Land Use:** Residential

**Staff Recommendations:** Staff **recommends approval** of this request

**Recommended Motion:** Motion to approve petition 2023-DV1-035

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

**PETITION HISTORY**

**ADDENDUM FOR AUGUST 8, 2023**

This petition was transferred from the August 1, 2023 BZA Division I hearing to the August 8, 2023 BZA Division II hearing due to lack of a quorum.

Staff continues to **recommend approval** of this request.

**STAFF RECOMMENDATION**

Staff **recommends approval** of this request

**PETITION OVERVIEW**

- ◇ The request would grant three-foot side yard setbacks (five-foot side yard setbacks required) on the 0.10-acre subject site to allow for the construction of a 2-story single-family detached house and a 2-story accessory structure with a garage on the ground floor.
- ◇ The minimum lot width in D-5 districts for detached units is 40 feet. The lot width of the subject site is 33 feet, representing a practical difficulty with regards to the ability for the property owner to comply with side yard setback requirements.

- ◇ In certain land use typologies, such as D-5, reduced setbacks can often lead to adjacent structures overwhelming one another. The proposed height of the primary structure is to be 25 feet (35 feet maximum). The adjacent single-family residence directly to the west of the subject site has a height of approximately 18 feet. The difference in height between the two structures is insignificant enough that the massing of the proposed structure will not overwhelm the adjacent structure. This is in accordance with the Comprehensive Plan recommendation of having primary structures be no more than one and half times the height of adjacent primary structures in the Traditional Neighborhood typology.
- ◇ Accessory structures such as detached garages are found throughout the neighborhood. While secondary dwelling structures are not commonplace in the surrounding area, the proposed design is in accordance with the Infill Housing Guidelines by placing the secondary structure behind the primary, by allowing for access via the alley to the secondary structure, and by using complimentary aesthetics to that of the primary structure. Likewise, the Marion County Land Use Plan Pattern Book encourages adding secondary dwelling units in traditional neighborhood contexts. Additionally, the lot will remain in compliance for the minimum amount of open space required (40%). Therefore, the proposed secondary dwelling unit will not have a significant negative impact on the subject site, nor the overall feeling of the neighborhood.

## GENERAL INFORMATION

<b>Existing Zoning</b>	D-5	
<b>Existing Land Use</b>	Residential	
<b>Comprehensive Plan</b>	Traditional Neighborhood	
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Surrounding Context</b>
North:	D-5	North: Single-Family Residential
South:	D-5	South: Single-Family Residential
East:	D-5	East: Single-Family Residential
West:	D-5	West: Single-Family Residential
<b>Thoroughfare Plan</b>		
26 <sup>th</sup> Street	Local Street Existing ROW: 54 ft Proposed ROW: 48 ft	
<b>Context Area</b>	Compact	
<b>Floodway / Floodway Fringe</b>	No	
<b>Overlay</b>	No	
<b>Wellfield Protection Area</b>	Yes	
<b>Site Plan</b>	6/28/2023	
<b>Site Plan (Amended)</b>	7/26/2023	
<b>Elevations</b>		
<b>Elevations (Amended)</b>	N/A	

<b>Landscape Plan</b>	N/A
<b>Findings of Fact</b>	6/28/2023
<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 recommends the Traditional Neighborhood living typology for this site.
- In the Traditional Neighborhood living typology the Pattern Book:
  - Encourages secondary units
  - Recommends primary structures be no more than one and a half times the height of adjacent primary structures
  - Recommends garages be loaded and accessed from an alley or side street, when possible.

### 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

- The Infill Housing Guidelines (IHG) document is used to promote good practice with regards to form, massing, aesthetics, landscaping, etc. of new infill housing projects for all scales and types.

- The Infill Housing Guidelines document recommends:
  - Locate accessory structures behind primary building
  - Access accessory buildings from alleys
  - Don't overshadow primary buildings
  - Coordinate the architectural styles and aesthetics of primary and accessory structures
  - Be sensitive to street context: new housing might have different styles but should generally be coordinated with regards to setbacks, massing, public door placement, etc.
- The proposal is in accordance with these recommendations

**Indy Moves**

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

- Not Applicable to the Site.

## ZONING HISTORY

### ZONING HISTORY – SITE

#### EXISTING VIOLATIONS

N/A

#### PREVIOUS CASES

N/A

### ZONING HISTORY – VICINITY

**2011DV3029; 1352 W 25<sup>th</sup> Street (south of site)**, Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a 625-square foot addition to an existing dwelling, creating an open space of 60.56% and a rear setback of nine feet (minimum 65% open space and 20-foot rear setback required), **approved**.

**2012UV1019; 1234 W 26<sup>th</sup> Street (east of site)**, Variance of use of the Dwelling Districts Zoning Ordinance to provide for a Men's Fellowship House including bible study, worship and meetings (not permitted), **approved**.

**2019HOV010, 1362 W 27<sup>th</sup> Street (north of site)**, Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for four single-family dwellings with 637 square feet of main floor area (660 square feet required), **approved**.

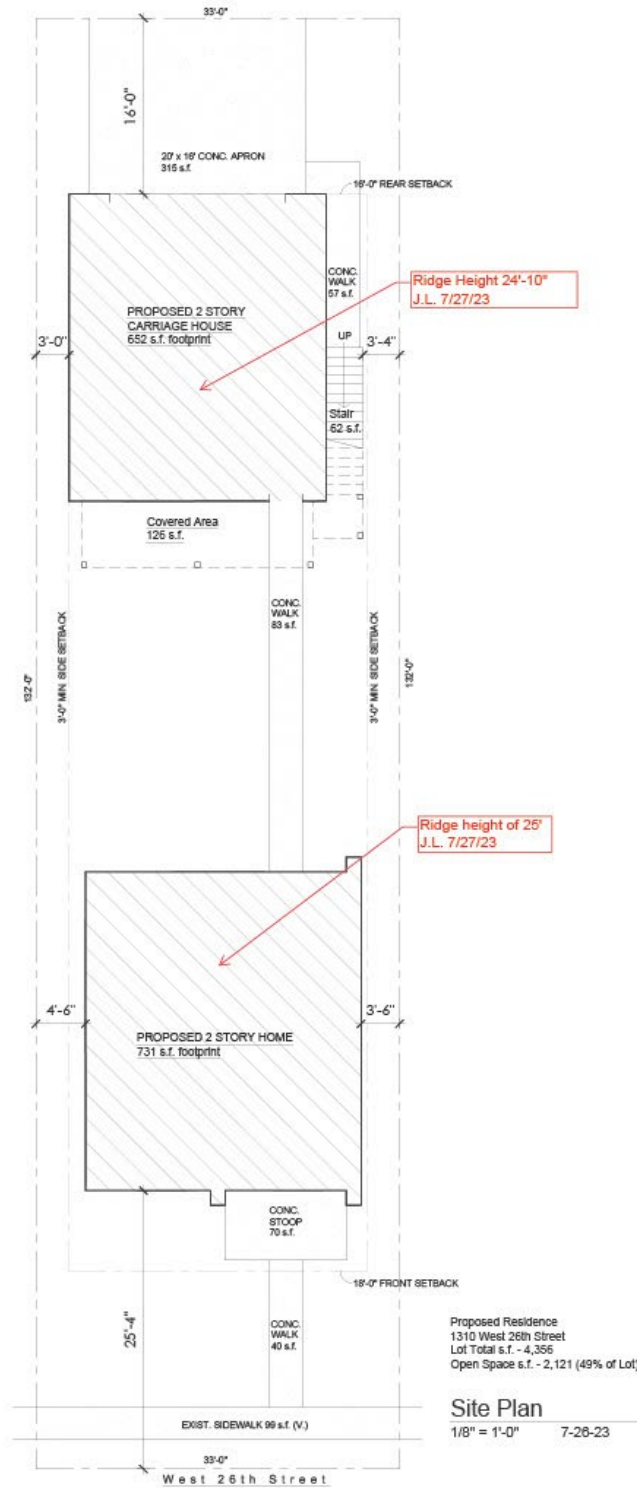
**99-Z-41; 2651 N Harding Street (west of site)**, Rezoning from SU-7 to D-8 district to provide for a two-story, eight apartment unit multi-family structure- designated for seniors, the handicapped, and families 80% or below median income, **approved**.

**2018ZON114, 2534 Burton Ave, (east of site)**, Rezoning of 1.6 acres from the C-1 (W-5), C-3, C-3 (W-5) I-2 (W-5) and I-3 (W-5) districts to the D-5 and D-5 (W-5) classifications, **approved**.

**2023ZON033C, 909 N Pershing Ave, (east of site)**, Rezoning of 909 North Pershing Avenue, totaling 0.12-acre, from the C-1 District to the D-8 District. Rezoning of 1210 & 1214 Udel Street, totaling 0.13-acre, from the I-2 District to the D-8 District. Rezoning of 2520 & 2657 Burton Avenue, totaling 0.24-acre, from the I-2 (W-5) District to the D-8 (W-5) District, **approved**.

**2006HOV038, 1260 Edgemont Ave (south of site)**, VARIANCE OF DEVELOPMENT STANDARDS of the Dwelling Districts Zoning Ordinance to provide for the construction of a single-family dwelling with a 7.7-foot front setback from the right-of-way of Sugar Grove Avenue (minimum 25-foot front setback required), **approved**.

EXHIBITS





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 DEVELOPMENT STANDARDS

FINDINGS OF FACT

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

Petitioner proposed variance of setbacks for proposed house and garage will still be within compact context zone requirements for this area.

---

---

---

---

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:

Existing trees and open space of adjacent properties will not be adversely affected by installation of the single story garage in the future

---

---

---

---

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

Strict application of setback guidelines will result in a smaller, less aesthetically pleasing single story addition that will not provide appropriate cost to value for Owner to produce a functional 4 bedroom, 2.5 bath home, and will significantly reduce overall value of the property.

Strict adherence to setback requirements will restrict Owner to a single car garage, rather than to a modern standard two car garage, for safe and protected parking of two vehicles on the property, which will reduce value of property.

---

DECISION

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

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

_____	_____
_____	_____
_____	_____



















