

BOARD OF ZONING APPEALS DIVISION I

October 6, 2026

Case Number: 2026-UV1-002
Property Address: 5301 West 56th Street (approximate address)
Location: Pike Township, Council District #6
Petitioner: Mirza W.A. Baig, by David Kingen and Justin Kingen
Current Zoning: D-A (FF) (FW)
Request: Variance of Use of the Consolidated Zoning and Subdivision Ordinance to legally establish a four-unit apartment building as a second primary structure on a lot (not permitted).
Current Land Use: Residential
Staff Recommendations: Staff recommends that this petition be either **withdrawn** or **dismissed**.
Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

7/7/26: Given the length of time the petitioner anticipated it would take to apply for variances from relevant areas of Fire Code, the petitioner was granted a 3-month continuance to the October 6, 2026 hearing date with the stipulation that **(a)** new notice would need to be mailed to surrounding property owners and **(b)** that additional continuances would not be supported. At the time of publication of this report, new notice had not yet been mailed and the State-level variance from a Fire Code standard had also not yet been filed. Staff would contend that the Fire Code issues should be resolved prior to the hearing of a zoning variance, and would not be supportive of additional continuance requests given the petitioner has been granted multiple continuances previously and the petition was originally scheduled for hearing in March. Staff recommends that this petition be either **withdrawn** or **dismissed**, with the potential to refile the application once Fire Code issues have been resolved.

6/9/26: The initial fire inspection found 10 violations at the site. Several of those violations were resolved, but the petitioner is continuing to explore options related to the width of the access road and lack of fire hydrant. An additional continuance was requested to the July 7th hearing date.

4/7/26: The petitioner was granted a continuance to the May 12, 2026 hearing date in order to allow time for a fire inspection of the unpermitted multifamily dwelling on the property.

3/3/26: A timely automatic continuance request was filed by a registered neighborhood organization to move the hearing to the April 7, 2026 hearing date of Division I.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition, but would recommend approval if refiled as a rezoning and plat combination petition and if all Fire Code issues were to be rectified.

PETITION OVERVIEW

- 5301 West 56th Street is a residential parcel with a size of 3.26 acres. It is currently improved with two (2) structures. The property card for the site lists the northwest building as being a single-family residence built in 1950, and the southeast building as being a “main garage” built in 1963. Surrounding land uses are residential in nature, and the undeveloped southern portion of this property is comprised of floodway due to proximity to Little Eagle Creek to the southeast.
- At some point, internal conversion work was conducted within the southeast building to convert it from a detached garage into an apartment building with four (4) separate dwelling units. No permits appear to have been pulled to allow for this conversion, and the conversion is not reflected on the property card. Multifamily uses are not a legal use within the D-A zoning district, and have never been a legal land use within the D-A or equivalent districts.
- A complaint was filed with the Mayor’s Action Center in 2025 related to the unpermitted apartment use, which resulted in the opening of the violation case VIO25-005356. That enforcement case cited the property for the multifamily use as well as for the parking of an unlicensed vehicle on the site (to be resolved outside of the scope of this petition). Petition approval would allow for the illegal and unpermitted use to remain within the building to the southeast. No new construction or expansion of the apartment use is contemplated as a part of this petition.
- The rezoning petition 2025ZON089 was applied for in August 2025 in response to the violation case opened in June. That petition would have rezoned the full property to the D-6 zoning designation. At that time, staff indicated to the petitioner that while the straight rezoning to D-6 would not have been supportable, staff *could* support a combination petition to **(a)** have the site platted into two separate lots (one containing the single-family home and the other containing the unpermitted apartment) and **(b)** rezone solely the parcel containing the apartment to an appropriate multifamily residential district. The petitioner withdrew the rezoning petition and instead decided to file for a Variance of Use.
- 5301 West 56th is currently zoned D-A (Dwelling-Agricultural) to allow for agricultural uses as well as large estate development of single-family dwellings. Portions of the lot to the south fall within the Floodway and Floodway Fringe, although current residences at the site does not intersect with those secondary zoning areas. The Comprehensive Plan recommends the developed portions of the property to the Suburban Neighborhood typology to allow for predominantly single-family housing but with limited attached and multifamily housing where appropriate. The property also partially falls within the Environmentally Sensitive and Residential Corridor Reserve overlays.
- Staff would note that since the conversion of the garage to multifamily uses appears to have been completed without permits, it’s entirely possible that the internal work does not fully meet relevant building or residential codes to ensure the health, safety, and welfare of occupants. Additional applications should be made to **(a)** have a structural review of the illegal conversion work completed and **(b)** verify if the property is adequately connected to either city sewer or septic.

- Additionally, a fire marshal with the Pike Township Fire Department noted that when viewing the site externally at least one violation of relevant fire code exists (fire apparatus access would be blocked by fences, trees, and branches). A later inspection conducted in early April noted 10 total Fire Code violations at the site (see Exhibits below). Staff would not be supportive of *any* petition to allow for the unpermitted multifamily use to remain in place absent evidence that no violations related to fire code existed at the property.
- It does not appear that the burden of undue hardship has been met to justify approval of a use variance at this property. No barriers would exist to have the site operate in a compliant fashion, and any hardship related to the illegal use would be self-imposed, even if by a previous owner. Additionally, the layout of the residential buildings at the site does not match Comprehensive Plan recommendations for when multi-family development might be appropriate in this typology.
- Although a Variance of Use would not be supportable, staff maintains their position that having the property replatted to allow for a distinct lot for each building, accompanied by a rezoning to an appropriate multifamily district, would be supportable. Although still seeking forgiveness instead of permission, this would be a more appropriate zoning tool both in terms of property valuation for tax purposes (the property card still lists the multifamily structure as a “main garage”) while also allowing for existing tenants to remain in the building with an accurate zone to ensure any future development meets multifamily standards. Staff recommends denial of the variance as proposed, but would be supportive of a request for a replat and rezone of the site (with the caveat that any violations related to fire code/access be resolved).

GENERAL INFORMATION

Existing Zoning	D-A (FF) (FW)	
Existing Land Use	Residential	
Comprehensive Plan	Suburban Neighborhood / Floodway	
Surrounding Context	Zoning	Surrounding Context
North:	D-A	North: Residential
South:	D-A	South: Residential
East:	D-3	East: Undeveloped
West:	D-A	West: Residential
Thoroughfare Plan		
56 th Street	Primary Arterial	100-foot existing right-of-way and 102-foot proposed right-of-way
Context Area	Metro	
Floodway / Floodway Fringe	Yes	
Overlay	Yes	
Wellfield Protection Area	No	
Site Plan	01/07/2026	
Site Plan (Amended)	N/A	

Elevations	N/A
Elevations (Amended)	N/A
Landscape Plan	N/A
Findings of Fact	01/07/2026
Findings of Fact (Amended)	N/A

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book

Pattern Book / Land Use Plan

- The Suburban Neighborhood typology is predominantly made up of single-family housing but is interspersed with attached and multifamily housing where appropriate. Natural corridors and natural features such as stream corridors, wetlands, and woodlands should be treated as focal points or organizing systems for development. This typology typically 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.
 - Multifamily Housing should be located along arterial or collector streets, with parking either behind or interior to the development with a gradual transition of building height and massing from adjacent developments.
- The Floodway category delineates areas that exhibit a great potential for property loss and damage from severe flooding, or from water quality degradation. No development should occur within the floodway, and none would be proposed as a part of this petition.
- The Environmentally Sensitive Areas (ES) Overlay is intended for areas containing high quality woodlands, wetlands, or other natural resources that should be protected. Development should preserve at least 30% of the parcel as tree canopy of naturalized areas for single-family development, or 20% for small-scale multifamily housing.
- The Residential Corridor Reserve (RR) Overlay is intended for areas where the residential nature of a corridor is at risk due to encroachment from other land uses.

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

ZONING HISTORY – SITE

2025ZON089, Rezoning of 3.5 acres from the D-A (FF) (FW) district to the D-6 (FF) (FW) district to provide for a small apartment use, **pending**.

ZONING HISTORY – VICINITY

2025ZON079 ; 5451 Moller Road (southwest of site), Rezoning of 0.733-acre from the D-A and D-P districts to the D-A district to legally establish a detached single-family dwelling, **withdrawn**.

2025UV1006 ; 5451 Moller Road (southwest of site), Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the storage of two food trucks (prohibited) with a gravel parking area (parking areas must be paved), **withdrawn**.

2024UV2013 ; 5455 West 56th Street (west of site), Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a pylon sign with digital display (digital display not permitted), **approved**.

2014DV3059 ; 5455 West 56th Street (west of site), Variance of development standards of the Sign Regulations to provide for a 7.33-foot tall, 52-square foot freestanding sign within approximately 70 feet of the nearest dwelling district (maximum four-foot tall sign permitted within 600 feet of a dwelling district), **approved**.

92-Z-62 ; 5333 West 56th Street (west of site), Rezoning of 3.7692 acres, being in the D-A district, to the SU-1 classification to provide for the construction of a church, **approved**.

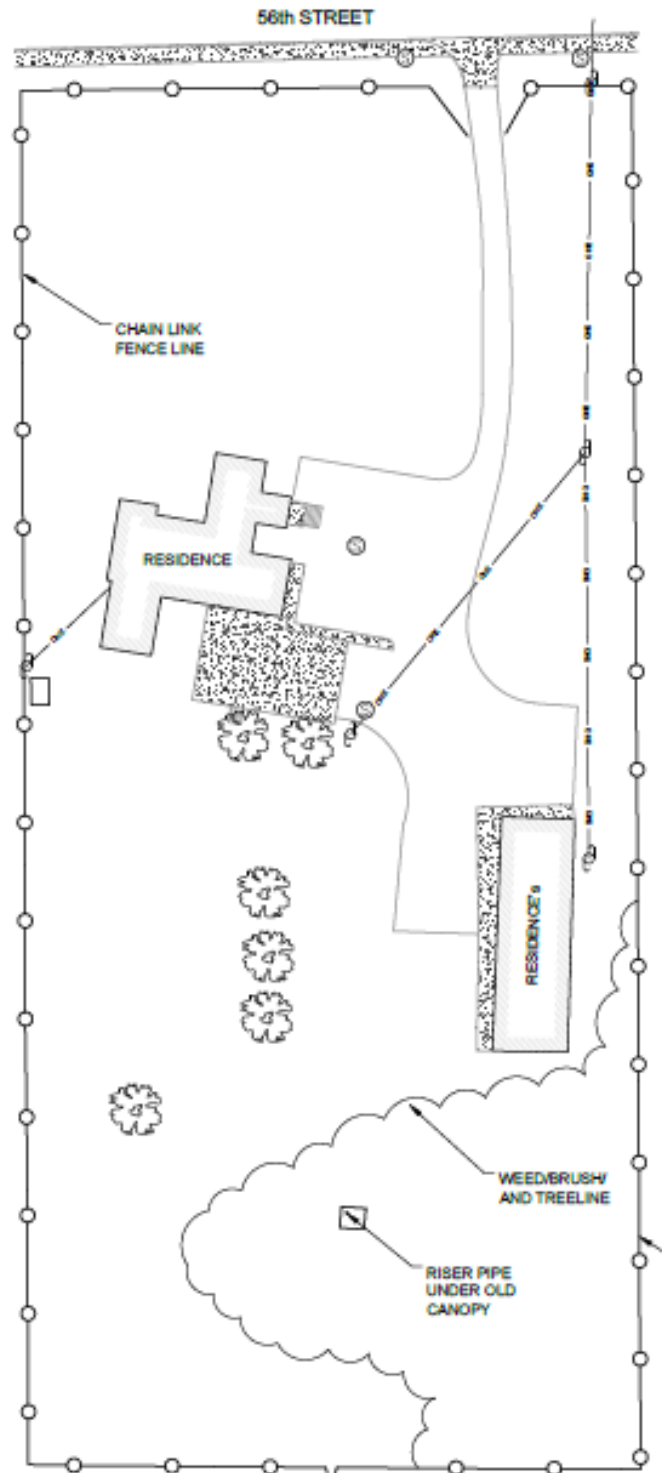
85-UV1-119 ; 5412 West 56th Street (northwest of site), variance of use of the Marion County Master Plan Permanent Zoning Ordinance to provide for a dentist's office in a single-family residence, **approved**.

EXHIBITS

2026UV1002 ; Aerial Map



2026UV1002 ; Site Plan



2026UV1002 ; Aerial Map (zoomed, 2024)



2026UV1002 ; Notice of Violation (VIO25-005356)

Section 740 -1005.A.4. Civil Zoning Violation

Specific Violation: The outdoor storage of inoperable vehicles in any zoning district, the provisions of which do not specifically permit such a use; (Any motor vehicle, racing vehicle, recreational vehicle, trailer, camper, boat, airplane, bus, truck, or similar vehicle, that cannot be driven, towed or hauled on a city street without being subject to the issuance of a traffic citation by reason of its operating condition or the lack of a valid license plate, or flat tires; or that is otherwise partially dismantled or mechanically inoperable...Chrysler town & country).

Section 740 -1005.A.7. Civil Zoning Violation

Specific Violation: The conduct of any activity in a zoning district, not specifically enumerated as a permitted primary or accessory use in that zoning district; (Table 743-1: - Multi-family units are not a permitted use in a D-A zoning district)

2026UV1002 ; Findings of Fact

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

The property has long contained two primary buildings, and this request does not involve new construction or an expansion of use. The site is large enough to safely and appropriately support both buildings, and continuing their use will not create safety issues or negatively impact the surrounding area.

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 existing buildings have been in place for many years without causing problems for neighboring properties. Granting the variance will not change the appearance or intensity of the site and will simply bring the property into compliance, which supports stability and protects nearby property values.

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

The property is unusually large and was historically developed with two primary buildings under prior approvals. These conditions are unique to this site and are not common to other properties in the zoning district. The situation was not created by the current owner.

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

Enforcing the ordinance as written would require eliminating or vacating an existing building that the site can reasonably support. This would place an unnecessary burden on the property owner without providing a meaningful benefit to the public.

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

The request supports continued use of an existing property without increasing density or introducing an incompatible use. Legalizing the existing site condition aligns with the Comprehensive Plan's goals of stability and responsible use of developed land.

2026UV1002 ; Photographs



Photo 1: Subject Site Viewed from North



Photo 2: 56th Street Frontage Viewed from Subject Site Parkign Area

2026UV1002 ; Photographs (continued)



Photo 3: Single-Family Residence (Northwest Building) Viewed from East



Photo 4: Multi-Family Building (Southeast Building) Viewed from Northwest

2026UV1002 ; Photographs (continued)



Photo 5: Multi-Family Building (Southeast Building) Viewed from North



Photo 6: Multiple Power Meters on Multi-Family Building

2026UV1002 ; Photographs (continued)



Photo 7: Entrances to Units A and C of Multi-Family Building Viewed from East



Photo 8: Entrances to Units B and D of Multi-Family Building Viewed from East