

**BOARD OF ZONING APPEALS DIVISION III**

April 1, 2025

**Case Number:** 2025-DV1-003  
**Property Address:** 2703 Cardigan Road (approximate address)  
**Location:** Pike Township, Council District #1  
**Petitioner:** Jose Luis Martinez Marcial, by Arnoldo Gonzales Vasquez  
**Current Zoning:** D-3 / D-A  
**Request:** Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a 53-foot-wide parking area within the front yard (maximum 30-foot width permitted).  
**Current Land Use:** Residential  
**Staff Recommendations:** Staff recommends **denial** of the variance.  
**Staff Reviewer:** Michael Weigel, Senior Planner

**PETITION HISTORY**

A timely automatic continuance request was filed by a registered neighborhood organization prior to March 4<sup>th</sup> hearing date of Division I.

**STAFF RECOMMENDATION**

Staff recommends **denial** of the variance.

**PETITION OVERVIEW**

- 2703 Cardigan Road is a residential property that is currently improved with a single-family home and several rear accessory structures. A variance was approved in 2012 to allow for placement of a patio in the rear yard in addition to the three (3) existing accessory structures. Since then, fencing has been added to the site and an additional gravel driveway was placed leading to the fenced rear-yard area (this work appears to have been done around 2015). Power lines run to the east of the property, and it is surrounded by single-family residential uses on all other sides.
- A violation case, VIO22-007641, was opened in 2022 at this site. It cited the property owner for placement of driveway that resulted in a vehicle area width of 53 feet within the front yard. Since Ordinance lists the maximum width of driveways as being 30 feet within residential front yards, a variance would be required to allow for the gravel driveway to remain. Staff notes the likelihood that (a) paving of the driveway (b) infrastructure permits from BNS and (c) an additional

infrastructure variance for the small separation between the two driveways (unlikely to be granted per a Department of Public Works representative) would also be requirements.

- Although it was not cited by the inspector or included within the applicant's variance request, staff has suspicions that a commercial contractor use might be operating from the fenced rear-yard area of the subject site. This theory is supported by (a) aerial site photography that appears to show parking of multiple commercial vehicles on the property; (b) the presence of a box truck within the rear-yard parking area (see Photo 5 within Exhibits); and (c) the receipt of fourteen (14) different complaints about the property filed with the Mayor's Action Center since 2016 that predominantly focus on the operation of a construction contractor at the property.
- Complaints about the property (see Exhibits) have included that there is "some sort of construction business with all of their construction trucks and equipment" and that the "loud load and unload" of vehicles for "earth moving/dumping" and other "heavy equipment" create a "noise disturbance" even with a rear yard fence providing partial screening. The applicant has indicated that "all trucks have been moved to a different location, and [the owner] will no longer have commercial vehicles at this property". If this variance were to be approved it would not allow or legally establish commercial contractor operations at the site, and should that use exist at the property in the future, it could potentially be cited by inspectors in the future.
- The property is primarily zoned D-3 to allow for low- or medium- intensity residential development predominantly composed of single-family residences with flat topography and pedestrian linkages to community facilities. Similarly, the Comprehensive Plan recommends it to the Suburban Neighborhood typology for single-family housing interspersed with attached and multifamily housing where appropriate. Neither the zone nor the typology contemplates heavy commercial or industrial uses as being appropriate land uses.
- Findings of Fact provided by the applicant indicate that the added gravel driveway would allow additional space for vehicles to maneuver, that it would not alter neighborhood character or reduce property values, and that usage of the older paved driveway alone would pose challenges for regular accommodation of larger vehicles such as SUVs, trucks, or delivery/service vehicles.
- Staff disagrees with these assertions and would contend that the original paved driveway appears to offer ample space for access by personal or the occasional service in a manner similar to neighboring properties. Additionally, the fact that the gravel drive leads directly to the rear-yard fenced area that has been linked to past neighbor complaints of commercial activity would seem to imply that the gravel drive potentially functions as an extension of an unpermitted commercial contractor use. For these reasons and for the lack of practical difficulty requiring the site to be developed in such a manner, staff would recommend denial of the variance request.

## GENERAL INFORMATION

<b>Existing Zoning</b>	D-3 / D-A		
<b>Existing Land Use</b>	Residential		
<b>Comprehensive Plan</b>	Suburban Neighborhood		
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Surrounding Context</b>	
	North:	D-3	North: Residential
	South:	D-A	South: Residential
	East:	D-3	East: Residential
	West:	D-3	West: Residential
<b>Thoroughfare Plan</b>			
Cardigan Road	Local Street	48-foot existing right-of-way and 50-foot proposed right-of-way	
<b>Context Area</b>	Metro		
<b>Floodway / Floodway Fringe</b>	No		
<b>Overlay</b>	No		
<b>Wellfield Protection Area</b>	No		
<b>Site Plan</b>	01/03/2025		
<b>Site Plan (Amended)</b>	N/A		
<b>Elevations</b>	N/A		
<b>Elevations (Amended)</b>	N/A		
<b>Landscape Plan</b>	N/A		
<b>Findings of Fact</b>	01/03/2025		
<b>Findings of Fact (Amended)</b>	N/A		

## COMPREHENSIVE PLAN ANALYSIS

### Comprehensive Plan

- Marion County Land Use Plan Pattern Book

### Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends this property to the Suburban Neighborhood living typology to allow for single-family housing interspersed with attached and multifamily housing where appropriate. This typology should be supported by a variety of neighborhood-serving businesses, institutions, and amenities. Heavy commercial and industrial uses are not recommended for this typology.



**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

**2012DV1030**, Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a 570-square foot covered patio creating an accessory use area of 1,973 square feet, being 122% of the total floor area of the primary dwelling (1,619 square feet or 99.9% of the total floor area permitted), **approved**.

### ZONING HISTORY – VICINITY

**2020DV3029 ; 8042 Charlecot Drive (northwest of site)**, Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for 47-foot metal poles for small cell wireless communications facilities, with associated equipment and antennas within the right-of-way (underground utilities only permitted after January 1, 1973), **denied**.

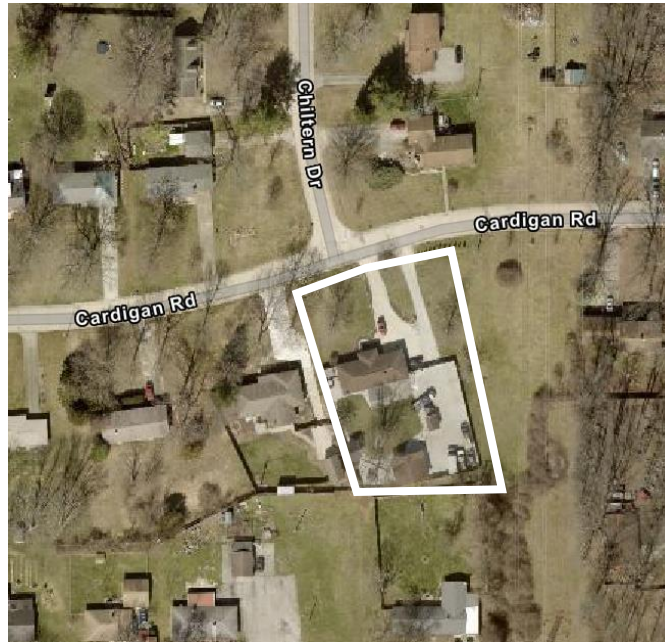
**2010UV1029 ; 8012 Charlecot Drive (northwest of site)**, Variance of use and development standards of the Dwelling Districts Zoning Ordinance to provide for a 768-square foot detached garage (not permitted), with a 15.64-foot front setback from Thorneycroft Drive, in front of the established building line of the primary dwelling (25-foot front setback required, not permitted in front of the primary building's established front building line), **approved**.

**99-UV3-22 ; 2940 W 79<sup>th</sup> Street (southwest of site)**, variance of use of the Dwelling Districts Zoning Ordinance to legally establish a seasonal retail produce sales use in an existing detached garage with outdoor display of produce (not permitted), **approved**.

**90-V1-37 ; 2950 W 79<sup>th</sup> Street (southwest of site)**, variance of development standards of the Dwelling Districts Zoning Ordinance to permit the construction of a 576 square foot detached garage with a side yard setback of 9 feet (15 feet required), **approved**.

**EXHIBITS**

**2025DV1003 ; Aerial Map (Present)**



**2025DV1003 ; Aerial Map (2014)**



**2025DV1003 ; Site Plan**



## **2025DV1003 ; Findings of Fact**

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

1. Enhanced Safety: A wider driveway can improve safety by providing additional space for vehicle maneuvering, reducing the likelihood of accidents.
2. Improved Accessibility: A wider driveway can accommodate more vehicles safely without encroaching on the street or sidewalk, enhancing accessibility for residents and visitors while reducing the chances of illegal or obstructive parking that could inconvenience neighbors.
3. Increased Property Value and Community Appeal: A well-designed, wider driveway can improve property value, which contributes positively to the neighborhood's overall appearance and marketability, enhancing community welfare and attractiveness.

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:

1. Minimal Environmental Impact: With careful planning, the wider driveway can be constructed using permeable materials to minimize runoff, preserving environmental quality while improving functionality.
2. No Negative Impact on Morals or General Welfare: This adjustment is a practical change with no impact on the community's moral standards or general welfare, as it does not alter the character of the neighborhood or disrupt social norms.
3. Minimal Impact on Neighboring Use: Adjacent properties will retain full access and enjoyment of their own spaces without disruption.  
A wider driveway does not encroach upon or interfere with neighboring lots, nor does it restrict the use of shared community spaces.

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

1. Restricted Accessibility for Larger Vehicles: If the property regularly accommodates larger vehicles (such as SUVs or trucks) or requires access for delivery or service vehicles, a standard-width driveway may make it challenging for these vehicles to access the property without encroaching on adjacent spaces or damaging landscaping.
2. Increased Safety Concerns: A narrow driveway increases the risk of accidental damage to vehicles, property, or landscaping due to the difficulty of maneuvering in a confined space
3. Potential for Increased Street Congestion: Without adequate driveway space, vehicles may need to park on the street, leading to congestion in front of the property.
4. Reduced Property Functionality: For families with more than one driver or those who host visitors, the lack of sufficient parking space can create ongoing practical challenges in daily life.



**2025DV1003 ; Previous MAC Complaints (1 of 2)**

INV24-27629 (Joan Wilson, 12/30/2024): CONSTRUCTION CONTRACTOR...Description: undefined // Question: What is the nature of your request? Answer: I would like to report **unzoned** business activity // Question: When is business operating? Answer: All Day // Question: What type of business? Answer: Other - provide details // Question: Please provide details here Answer: This residential home has been operating some sort of construction business with **all** of their construction trucks and equipment stored on the property. They did build a fence around the equipment, but it should still not be allowed in a residential community. The neighbors hear the equipment being loaded up early each morning and it's a noise disturbance. // Question: Is the business operating in a residential area? Answer: Yes

INV23-19969 (Anonymous, 8/16/23): WHAT IS THE NATURE OF YOUR REQUEST? : I WOULD LIKE TO REPORT A FAILURE TO COMPLY WITH ZONING DISTRICT DEVELOPMENT STANDARDS ; WHAT IS THE PROBLEM? : OTHER - PROVIDE DETAILS ; PLEASE PROVIDE DETAILS HERE : CITIZEN REPORTING THAT THE OWNERS WHO LIVE AT THE ADDRESS LISTED ON THE CASE BUILT THREE STRUCTURES IN THE BACK OF THEIR PROPERTY (WITHOUT PERMITS ON THE PREMISES) THAT THEY USE TO HOST PARTIES AND TO STORE MATERIAL. PLEASE INSPECT.

INV23-19966 (Anonymous, 8/16/23): \*\*\*CITIZEN REPORTING THAT THE OWNERS WHO LIVE AT THE ADDRESS LISTED ON THE CASE ARE RUNNING A CONSTRUCTION BUSINESS OUT OF THEIR HOME BETWEEN THE HOURS OF 6:00AM/7:00AM IN THE MORNINGS AND FROM 4:00PM/7:00PM IN THE AFTERNOONS (MONDAY-FRIDAY). PLEASE INSPECT.\*\*\*WHAT IS THE NATURE OF YOUR REQUEST? : I WOULD LIKE TO REPORT UNZONED BUSINESS ACTIVITY ; WHEN IS BUSINESS OPERATING? : ALL DAY ; WHAT TYPE OF BUSINESS? : OTHER - PROVIDE DETAILS ; PLEASE PROVIDE DETAILS HERE : CONSTRUCTION BUSINESS ; IS THE BUSINESS OPERATING IN A RESIDENTIAL AREA? : YES

INV22-28707 (Joan Wilson, 11/21/22): WHAT IS THE NATURE OF YOUR REQUEST? : I WOULD LIKE TO REPORT UNZONED BUSINESS ACTIVITY ; WHEN IS BUSINESS OPERATING? : ALL DAY ; WHAT TYPE OF BUSINESS? : OTHER - PROVIDE DETAILS ; PLEASE PROVIDE DETAILS HERE : CONSTRUCTION ; IS THE BUSINESS OPERATING IN A RESIDENTIAL AREA? : YES ;

INV19-18841 (Anonymous, 6/8/19): \*\*\*RESIDENTS RUN A BUSINESS FROM THIS LOCATION. HAVE 2 DRIVEWAYS WITH GRASS IN BETWEEN...CAR SHOULD BE ON ONE OF THE DRIVEWAYS INSTEAD OF GRASS. THEY HAVE MULTIPLY CARS PARKED ON THE PROPERTY.\*\*\*IS THIS AT A BUSINESS LOCATION, RESIDENTIAL PROPERTY OR VACANT LOT? : RESIDENTIAL PROPERTY ; WHERE IS THE VEHICLE SITTING? : ON GRASS IN FRONT OF HOUSE ; PROPERTY OWNER REPORTING? : NO ; BUSINESS OWNER NAME (IF APPLICABLE)? : N/A ; COLOR? : OTHER - PLEASE PROVIDE DETAILS IN COMMENT SECTION ; MAKE? : CHEVY ; LICENSE PLATE? : NO ; IF YOU KNOW THE LICENSE PLATE STATE AND NUMBER, PLEASE INDICATE BELOW, OTHERWISE ENTER UNKNOWN? : UNKNOWN ; BROKEN WINDOWS? : NO ; FLAT TIRES? : NO ; DURATION SITTING? : 1-30 DAYS ;

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**2025DV1003 ; Previous MAC Complaints (2 of 2)**

INV17-34938 (9/19/17, Joan Wilson): WHAT TYPE OF BUSINESS? : CONSTRUCTION ;  
WHEN IS BUSINESS BEING RUN? : ALL DAY ;

INV17-16736 (5/23/17, Karen Coleman): \*\*\*CITIZEN REPORTED THAT RESIDENTS  
STORE THERE CONSTRUCTION EQUIPMENT AT LISTED ADDRESS IN THE  
DRIVEWAY AND SIDE YARD. ALSO STATED THAT THEY ARE GONE DURING THE  
DAY SO IF YOU CAN LOOK BEFORE 7 A.M OR AFTER 6 P.M. THEY TURN THIS  
EQUIPMENT ON AND IT IS SO LOUD TO LOAD AND UNLOAD. PLEASE  
INSPECT\*\*\*TYPE OF VEHICLE : OTHER ; WHERE IS VEHICLE BEING STORED? : ON  
THE DRIVEWAY/ SIDE YARD BY THE FENCE ;

INV17-01091 (4/28/17, Joan Wilson): \*\*\*CITIZEN CALLED TO REPORT THAT SHE  
THINKS AT THE ABOVE LOCATION SOME TYPE OF BUSINESS GOING ON. PLEASE  
INSPECT\*\*\*WHAT TYPE OF BUSINESS? : LANDSCAPING ; WHEN IS BUSINESS  
BEING RUN? : ALL DAY ;

INV16-30676 (7/30/16, Anonymous): \*\*\*COMMERCIAL VEHICLES AND EARTH MOVING  
EQUIPMENT STORED AT THIS RESIDENCE...AREA NOT ZONED FOR  
BUSINESS\*\*\*WHAT TYPE OF BUSINESS? : EARTH MOVING/DUMPING ; WHEN IS  
BUSINESS BEING RUN? : ALL DAY ;

INV16-29533 (7/23/16, Anonymous): \*\*\*DUMP TRUCK AND TRAILER WITH  
BOBCAT\*\*\*WHERE IS VEHICLE BEING STORED? : DRIVEWAY ;

INV16-26231 (7/2/16, Anonymous): \*\*\*PLEASE, PLEASE HELP! THIS AREA IS NOT  
ZONED FOR BUSINESS AND THIS PERSON HAS DUMP TRUCKS, HEAVY  
EQUIPMENT, 7-10 CARS PARKED ON PROPERTY. THIS HAS TO BE THE  
HEADQUARTERS FOR HIS BUSINESS. I DON'T THINK HE OWNS THE PROPERTY HE  
HAS TAKEN OVER ON THE EAST SIDE OF HIS HOUSE AND HE'S BUILDING A FENCE  
ON THAT PROPERTY! OUR NEIGHBORHOOD WILL GO DOWN FAST IF PEOPLE  
DON'T OBEY THE BY-LAWS \*\*\*WHERE IS THE FENCE LOCATED? : OVER 6 FT IN  
SIDE YARD ;

INV16-19836 (5/31/16, Anonymous): \*\*\*RUNNING BUSINESS AT RESIDENCE. KEEPS  
DUMP TRUCKS, EARTH MOVING EQUIPMENT AT HOME. AREA NOT ZONED FOR  
BUSINESS. EQUIPMENT KEPT ON LOT NEXT ADJACENT TO HIS HOME WHICH I  
DON'T HE OWNS??? 3-5 LARGE VEHICLES PARKED THERE EVERY  
WEEKEND\*\*\*WHAT IS THE PROBLEM? : OUTDOOR STORAGE ;

INV16-02466 (2/9/16, Anonymous): \*\*\*WESTCHESTER ESTATES NOT ZONED TO STORE  
BUSINESS EQUIPMENT ON THE EAST SIDE OF THE RESIDENTS HOME. HE'S MADE A  
ROAD, POURED GRAVED ON PROPERTY THAT BELONGS TO SOME ONE ELSE TO  
MAKE A ROAD TO PARK HIS EARTH MOVING EQUIPMENT. EYESORE AND NOT  
LEGAL\*\*\*WHERE IS VEHICLE BEING STORED? : OTHER; PLEASE PROVIDE  
DETAILS IN COMMENTS ;

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**2025DV1003 ; Photographs**



Photo 1: Gravel Driveway and Fenced Gate Viewed from North



Photo 2: Both Driveways Viewed from Northeast

**2025DV1003 ; Photographs (continued)**



Photo 3: Established Driveway/Parking Area Viewed from Subject Site



Photo 4: Subject Site Prior to Installation of Fence/Gravel Driveway (June 2014)

**2025DV1003 ; Photographs (continued)**



Photo 5: Interior of Fenced Rear Yard (possible commercial vehicle parking area)



Photo 6: Accessory Structures Within Fenced Rear Yard

**2025DV1003 ; Photographs (continued)**



Photo 7: Adjacent Property/Driveway to West



Photo 8: Adjacent Property/Driveways to North (Chiltern Drive)