

BOARD OF ZONING APPEALS DIVISION II

April 14, 2026

Case Number: 2026-DV2-010
Property Address: 1346 West 23rd Street (approximate address)
Location: Center Township, Council District #12
Petitioner: Michael Caldwell, Jr., by Jonathan Howe
Current Zoning: D-5 (W-5)
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for 1-foot side yard setbacks (5-foot side setback required).
Current Land Use: Residential
Staff Recommendations: Staff recommends **denial** of this petition.
Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

- 1346 West 23rd Street is a residentially zoned parcel with a lot width of 40 feet and a lot depth of 248 feet. Until 2024, it was improved with a single-family residence with a size of 907.5 square feet as well as a detached garage accessed from the alley to the west of the site (see aerial photography within Exhibits). Surrounding land uses are also residential in nature. The established residence at the site has an eastern side yard setback of 12.1 feet and a legally non-conforming setback of 3.7 feet to the west.
- In 2024, the detached garage was demolished and partial construction commenced on a substantial residential addition onto the rear of the existing residence. Per submitted plans, the addition would have a size of 2705.5 square feet and would contain two (2) bedrooms and one (1) bathroom. No permits appear to have been obtained and sought for this work, and as a result of a complaint, violations were issued by the Department of Business and Neighborhood Services for the lack of a wrecking or structural permit to allow for the demolition and addition, respectively.

- Although no zoning violation case has been opened at the site citing the property for side setback violations, the survey provided by the applicant and measurements taken by staff indicate that the addition would encroach into both required side yard setbacks by 3.5-4 feet on each side.
- Approval of this petition would allow for construction to be completed on the unpermitted addition with side setbacks of around one foot to both the west (bordering the alley) and the east (bordering a different residential property). The survey provided indicates a separation of 1.2 feet to the west and 1.5 feet to the east; staff wrote the request to reflect 1-foot setbacks to allow a small margin of error in those measurements.
- During staff's site visit, the presence of several inoperable vehicles was noted within the rear yard (photo 5 within Exhibits). Although no zoning violation case is open at the property, it is likely that these vehicles would constitute a zoning violation, and approval of this petition would not constitute permission for the outdoor storage of inoperable vehicles at the site.
- The subject site is zoned D-5 to allow for medium and large-lot housing formats, primarily for detached houses. It also falls within a Wellhead Protection Area, which would not have an impact on applicable residential development standards. Similarly, the United Northwest Neighborhood Plan recommends it for low-density residential development of 3.5-5 dwelling units per acre.
- Infill Housing Guidelines indicate that side yard setbacks should reinforce the spacing and context of the block while leaving room for building maintenance with basic tools such as ladders. Additionally, those Guidelines indicate that building massing and size should consider the context of surrounding homes. The proposed addition would not comply with this section of the Plan, given that there doesn't appear to be similarly narrow non-conforming setbacks or residences close to the proposed size (approximately 3x the size of the previously existing house) either on the block or in the immediate vicinity.
- Findings of Fact provided by the applicant claim that the development would meet relevant building code and that the dimensions of the lot would limit options for compliant development. Staff would disagree with each assertion: no permits were secured to confirm compliance with applicable standards, and Table R302.1(1) of the Indiana Residential Code indicates that openings in walls (i.e. windows) would not be allowed within 3 feet of property lines, in addition to adequate fire-resistant wall materials. Construction in the field and submitted plans show that this standard would not be met, which would prevent the applicant from obtaining a structural permit regardless of the result of the variance request.
- Per aerial photography, it also doesn't appear that neighboring lots of a similar size have setbacks this close to property lines (either legally established or via petition), and the lot width is a standard 40 feet that would meet size requirements for the D-5 zoning district. Substantial room would exist to the north of the established residence (30 feet of buildable width and 165 feet of buildable depth) which would allow room for building additions that would comply with Ordinance requirements for side setbacks.

- Staff feels that options for compliant development could have been explored if permits had been sought prior to partial construction of the unpermitted structure and would want to avoid the negative precedent of allowing for building that substantially deviate from Ordinance and Plan guidance by “asking for forgiveness instead of permission”. Additionally, the difficulty at the site is self-imposed by the owner rather than based in any site-specific condition, and staff feels that the cost of the mistake of building without permits should be borne by the owner instead of by neighboring properties. Staff recommends denial of the petition.

GENERAL INFORMATION

Existing Zoning	D-5 (W-5)	
Existing Land Use	Residential	
Comprehensive Plan	Dwellings 3.5-5 Units per Acre	
Surrounding Context	Zoning	Surrounding Context
North:	D-5	North: Residential
South:	D-5	South: Residential
East:	D-5	East: Residential
West:	D-5	West: Residential
Thoroughfare Plan		
23 rd Street	Local Street	40-foot existing right-of-way and 48-foot proposed right-of-way
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	Yes	
Site Plan	02/27/2026	
Site Plan (Amended)	03/13/2026	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	02/27/2026	
Findings of Fact (Amended)	03/11/2026	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- United Northwest Neighborhood Plan
- Infill Housing Guidelines

Pattern Book / Land Use Plan

- Not Applicable to the Site. Please see Neighborhood / Area Specific Plan below.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- The United Northwest Neighborhood Plan recommends this property for residential development with a density of 3.5-5 dwelling units per acre (Low Density Residential; single-family dwellings).

Infill Housing Guidelines

- Infill Housing Guidelines indicate that building setbacks should reinforce spacing on the block while leaving room for building maintenance with basic tools. Additionally, building massing and size should consider the context of surrounding homes.

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 – VICINITY

2025DV2004 ; 2328 N Harding Street (west of site), Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a detached garage with one-foot side yard setbacks on a lot with an existing duplex (five feet required), **withdrawn**.

2011ZON080 ; 1349 Burdsal Parkway (north of site), Rezoning of 0.50 acre, from the D-5 (W-1) District, to the C-3C (W-1) classification to provide for commercial development, **withdrawn**.

2011VAR015 ; 1349 Burdsal Parkway (north of site), Variance of development standards of the Commercial Zoning Ordinance to provide for a 6.75-foot south transitional setback (10-foot transitional setback required along alleys) and a three-foot east side transitional setback (20-foot east side transitional yard) and to provide for carryout food service within three feet of a D-5 zoned protected district to the east (100-foot separation required), **withdrawn**.

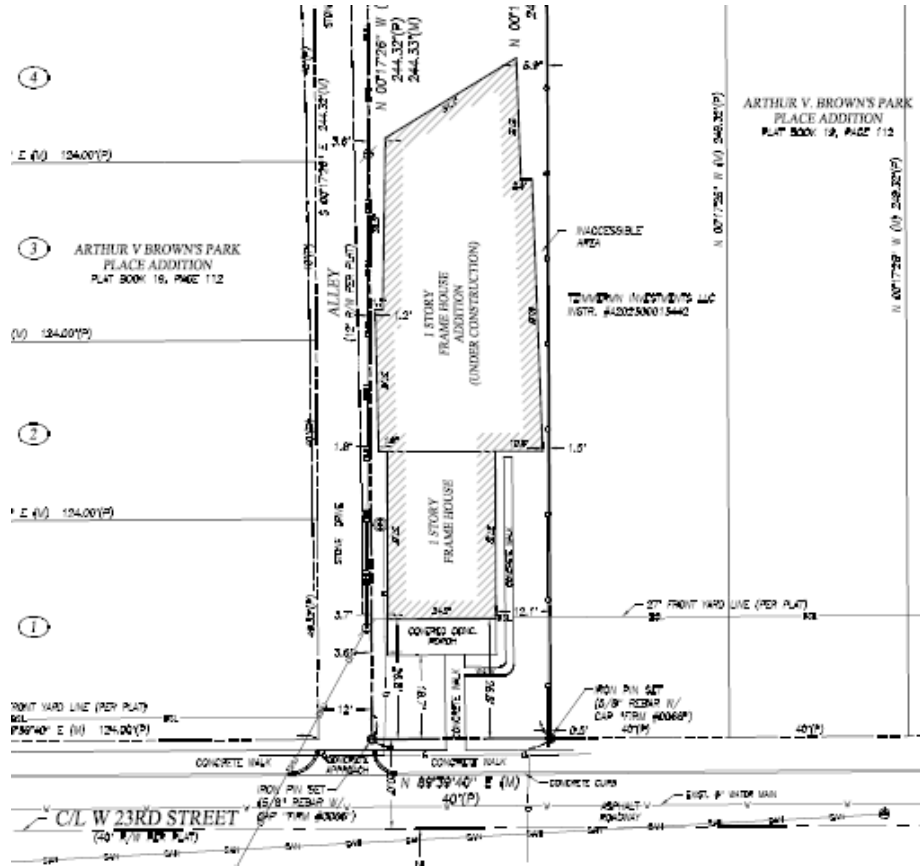
2003SE1008 ; 2320 Sugar Grove Avenue (east of site), Special Exception of the Dwelling Districts Zoning Ordinance to provide for religious uses, **approved**.

EXHIBITS

2025DV2010 ; Aerial Map



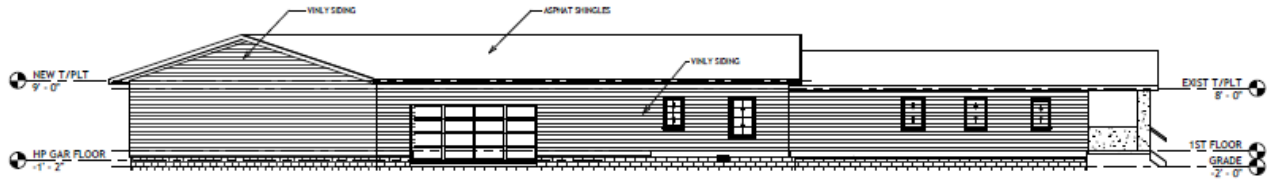
2025DV2010 ; Site Plan (partial)



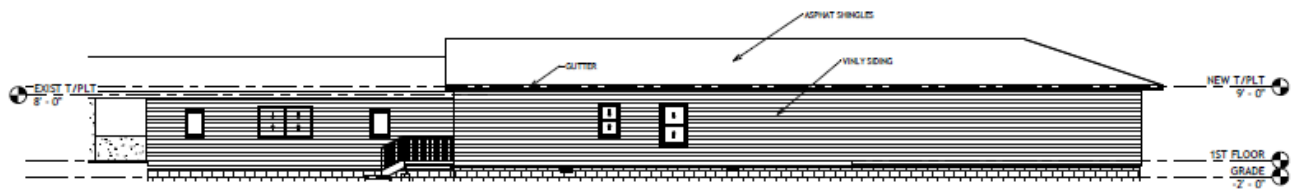
2025DV2010 ; Aerial Photo (early 2024)



2025DV2010 ; Elevations (STR25-01621)



④ West Architectural Building Elevation
 1/8" = 1'-0"



⑤ East Architectural Building Elevation
 1/8" = 1'-0"

2025DV2010 ; Findings of Fact

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

- The variance allows a 3.5-foot side setback for a detached accessory structure where 5 feet is required
- The structure is accessory to an existing single-family dwelling and does not introduce a new use or increase density.
- The improvement will comply with applicable building and fire codes.
- The requested variance will not negatively affect public health, safety, or welfare.

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:

- The property is located in an established residential neighborhood consisting primarily of single-family homes and detached garages.
- The requested setback reduction is minimal and consistent with similar accessory structures in the area.
- The structure remains residential in scale and character. The variance will not adversely affect neighboring properties or property values.

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

- The property is a platted residential lot with an existing home and limited placement options for accessory structures.
- Strict application of the 5-foot setback would significantly limit reasonable use of the rear yard area.
- The requested 1.5-foot reduction is the minimum relief necessary to allow normal residential improvements.

2025DV2010 ; Photographs



Photo 1: Subject Site Viewed from South



Photo 2: Subject Site Viewed from Southwest

2025DV2010 ; Photographs (continued)



Photo 3: Subject Site Viewed from West



Photo 4: Subject Site Viewed from Northwest

2025DV2010 ; Photographs (continued)



Photo 5: Rear Yard of Subject Site Viewed from West



Photo 6: Addition Viewed from Eastern Property Line

2025DV2010 ; Photographs (continued)



Photo 7: Adjacent Property to West



Photo 8: Adjacent Property to Southwest

2025DV2010 ; Photographs (continued)



Photo 9: Adjacent Property to Southeast



Photo 10: Adjacent Property to East