

**BOARD OF ZONING APPEALS DIVISION I**

**October 7, 2024**

**Case Number:** 2025-DV1-041

**Property Address:** 9229 Walton Avenue (approximate address)

**Location:** Wayne Township, Council District #17

**Petitioner:** Pamela & Mark Farley

**Current Zoning:** D-A

**Request:** Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a detached garage and to legally establish detached accessory structures with a five-foot west side yard setback and a three-foot south rear yard setback (15-foot setbacks required) resulting in an open space of 84% (85% required).

**Current Land Use:** Residential

**Staff**

**Recommendations:** Staff recommends **approval** of the variances.

**Staff Reviewer:** Michael Weigel, Senior Planner

**PETITION HISTORY**

This is the first public hearing for this petition.

**STAFF RECOMMENDATION**

Staff recommends **approval** of the variances.

**PETITION OVERVIEW**

- 9229 Walton Avenue is a residential parcel that is zoned D-A and located near the boundary of Marion County and Hendricks County. Surrounding land uses include a multi-tenant commercial building to the north and residential uses in other directions (homes to the south are zoned D-3 for comparatively denser residential development).
- In 2024, the drainage permit DRN24-02761 was issued to allow for a new concrete slab in the approximate location of the detached garage now proposed. No applications for structural or Improvement Location permits were made concurrently with that drainage approval, and it does not appear that applicable zoning setbacks were consulted by the contractor or as a part of the drainage review. Additionally, two (2) smaller accessory structures exist on the site (one built in the early 90s and the other in the mid-00s) with areas below the threshold for requiring permit approval. However, setback restrictions would still be applicable for smaller accessory structures.

- Approval of this variance would allow for construction of a 16' x 20' detached garage with a height of 8 feet in the location of the concrete pad already placed. The new garage would require a Variance of Development Standards for its proposed 5-foot setback (the D-A zoning district would require 15 feet). Two (2) additional variances would be needed to **(a)** legally establish the side and rear setbacks of the smaller accessory structures (5-foot to the west and 3-foot to the south) and **(b)** allow for an open space of 84% at the site (85% required by the D-A zoning district).
- This property is zoned D-A to allow for a variety of agricultural uses with a secondary provision for large estate development of single-family dwellings. The Comprehensive Plan recommends the site to the Suburban Neighborhood typology to allow for predominantly single-family housing interspersed with attached or multifamily housing where appropriate. The size and density of this and surrounding lots would seem to match the Suburban Neighborhood recommendation more closely than the D-A zoning of the subject site.
- Findings of Fact provided by the applicant indicate that the variance should be granted given that the concrete pad has already been poured and the similarity between this property and adjacent residential sites to the south and east zoned D-3. Although staff would not agree that having poured a concrete pad before securing all necessary permits for construction would constitute a site-specific practical difficulty, it is true that this lot is substantially undersized compared to the current minimum lot size for the D-A zoning district: the parcel is 15,860 square feet which would be only 12% of the D-A minimum of three (3) acres.
- If this property were zoned D-3 like nearby residential properties, no variances would be required related to open space (70% minimum) and the proposed side setback would only deviate from the D-3 requirement by one foot (6-foot side setback would be applicable). Given the practical difficulty caused by the undersized lot and that the proposed site layout would approximate dimensional standards applicable for nearby properties, staff recommend approval of the requested variances.

## GENERAL INFORMATION

<b>Existing Zoning</b>	D-A	
<b>Existing Land Use</b>	Residential	
<b>Comprehensive Plan</b>	Suburban Neighborhood	
<b>Surrounding Context</b>	<b><u>Zoning</u></b>	<b>Surrounding Context</b>
North:	C-3	North: Commercial
South:	D-3	South: Residential
East:	D-A	East: Residential
West:	D-A	West: Residential
<b>Thoroughfare Plan</b>		
Fullen Drive	Local Street	50-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>	08/10/2025
<b>Site Plan (Amended)</b>	N/A
<b>Elevations</b>	08/10/2025
<b>Elevations (Amended)</b>	N/A
<b>Landscape Plan</b>	N/A
<b>Findings of Fact</b>	08/10/2025
<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 site to the Suburban Neighborhood living typology to allow for predominantly single-family housing interspersed with attached or multifamily housing where appropriate and supported by a variety of neighborhood-serving businesses and amenities.

### 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

N/A

### ZONING HISTORY – VICINITY

**2005ZON168 ; 55 S Raceway Road (north of site)**, rezoning of 5.46 acres, being in the C-3 and C-1 Districts to the C-3 classification to provide for neighborhood commercial uses, **approved**.

**85-Z-76 ; 9213 W Jackson Street (south of site)**, rezoning of 1.3 acres, being in the A-1 district, to the D-3 classification, to provide for residential use.

**85-UV1-8 ; 9213 W Jackson Street (south of site)**, variance of use of the Marion County Master Plan Permanent Zoning Ordinance to provide for the erection and use of three two-family residences, **withdrawn**.

**71-Z-26 ; portions of the 8800-9300 blocks of Fullen Drive (south and east of site)**, rezoning of 26.51 acres, being in A-2 district to D-3 classification to provide for residential use by platting, **approved**.

EXHIBITS

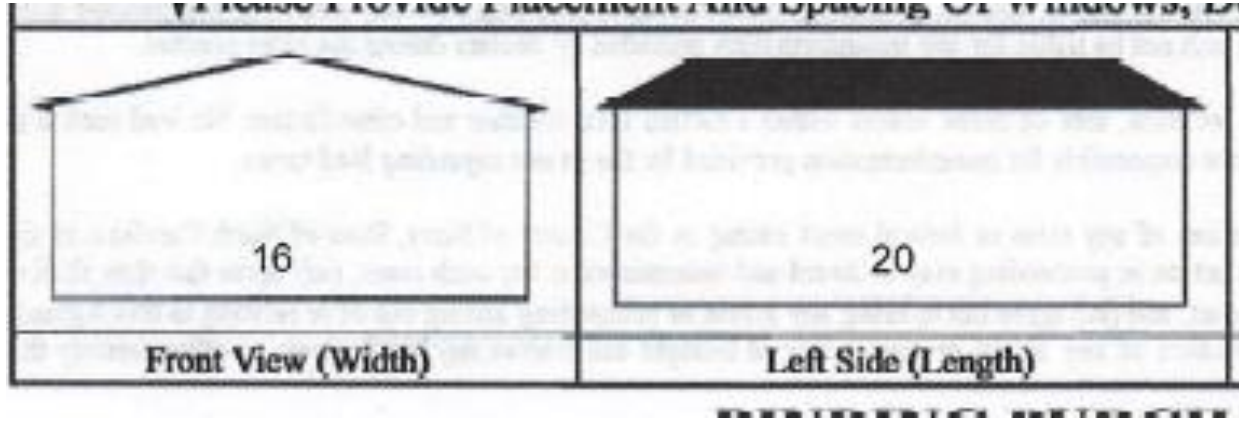
2025DV1041 ; Aerial Map





Site plan for a 1st brick single family dwelling. The plan shows a 17' x 21' concrete pad, a 16' x 20' proposed steel building, a 10' x 12' concrete structure, and a 17' x 21' concrete pad. It also includes a gravel driveway, a paver sidewalk, a non-working fireplace, a gas meter, and various underground utilities like water, sanitary drain, and gas lines. Landscaping features include cedar trees, a rose of Sharon bush, and a swale. Dimensions and labels for various elements are provided throughout the plan.

**2025DV1041 ; Elevations**



**2025DV1041 ; Findings of Fact**

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

PRIVATE GARAGE TO BE CONSTRUCTED TO ADD VALUE TO THE PROPERTY AND QUALITY TO LIFE.

NO ADDITIONAL TRAFFIC WILL BE GENERATED AS A RESULT OF THIS PROJECT.

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:

PROPOSED GARAGE IS IN LINE WITH EXISTING DRIVEWAY ,SO NO VEHICLE WILL BE ANY CLOSER TO THE NEIGHBORS THAN THEY WOULD ALREADY BE WHEN SIMPLY PARKED IN THE GRAVEL DRIVEWAY.

GARAGE WITH WHITE EXTERIOR, ROOF PITCH AND HEIGHT OF SIDE WALLS MATCHING HOUSE WOULD BLOCK STREET VIEW OF "COUNTRY" TYPE SHED, AREA PROPERTIES SOUTH OF WALTON AV. (LIKE MINE) ARE ZONED D3 (6' SIDE OFFSET)

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

CONCRETE COMPANY FAILED TO DO THE RESEARCH OR GET THE PERMITS REQUIRED... YET POURED A PAD ANYWAY.

(POURED FOUNDATION PAD WOULD HAVE BUILDING WALL AT 5'-6" - ONLY 6" DIFFERENCE FROM THE 6' OFFSET OF ADJACENT D3.)  
 MOVING THE PAD IS NOT POSSIBLE. DESTROYING IT AND RE-POURING IS COST PROHIBITIVE.

**2025DV1041 ; Photographs**



Photo 1: Subject Site Viewed from North



Photo 2: Location of Proposed Garage



**2025DV1041 ; Photographs (continued)**



Photo 3: Proposed Garage Location Viewed from Northwest



Photo 4: Proposed Garage Location Viewed from Northeast



**2025DV1041 ; Photographs (continued)**



Photo 5: Adjacent Property to West



Photo 6: Adjacent Property to East (November 2024)