

BOARD OF ZONING APPEALS DIVISION I

October 13, 2026

Case Number:	2026-DV2-032
Property Address:	826 East 46 th Street (approximate address)
Location:	Washington Township, Council District #7
Petitioner:	STR Landholdings LLC, by Josh Smith
Current Zoning:	D-5 (TOD) (W-5)
Request:	Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for construction of a detached garage with a 0-foot northern side setback (7 feet required) and a 0-foot western rear setback (5 feet required).
Current Land Use:	Residential
Staff Recommendations:	Staff recommends approval of the requested variances.
Staff Reviewer:	Michael Weigel, Principal Planner I

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff recommends **approval** of the variances.

PETITION OVERVIEW

826 East 46th Street is a 0.14-acre parcel currently developed with a residential structure and located on a corner lot to the northwest of the intersection of 46th Street and Guilford Avenue. The house was originally built in 1925, and per the property card a detached garage was built to the west of the primary structure as well (this garage is visible within Photo 4 of the Exhibits below and was demolished in 2026). The property lacks alley access given the presence of a second developed lot between the subject site and the first alley to the west of Guilford. Surrounding land uses are residential in nature.

Approval of this variance request would allow for the construction of a new detached garage with the same footprint (but a different foundation) as the previous garage that had existed for around 100 years prior to the recent demolition, per the site plan and elevations within Exhibits below. This would require the grant of two variances of development standards: one variance would be for a 0-foot northern side setback (7 feet required), and the other would be for a 0-foot western rear yard setback (5 feet required). Per the Indianapolis Zoning Ordinance, the eastern property line fronting on Guilford would be considered the front yard despite the front door being located facing 46th Street to the south, while the northern and southern property lines would be considered side and corner side yards respectively and the western property line would be the rear yard.

Although the Indianapolis Zoning Ordinance does allow for the reconstruction of legally established, detached, accessory structures on “existing foundations” even if the reconstruction wouldn’t comply with side- or rear-yard setback requirements (744-202.E.1.b), that exception would not be applicable in this instance. Per the petitioner, parts of the existing foundation were removed and replaced with a new slab placed on existing footers, which would mean that it is no longer a fully “existing foundation”. Grant of this petition would not allow for foundation work or changes outside of what might be allowed by the 2020 Indiana Residential Code, and issuance of a structural permit would be required prior to construction.

The height of the new detached garage is 19 feet per submitted plans; Ordinance would require that the garage be shorter than the existing primary residence. Additionally, the combined footprint of the new garage and existing residence would not violate current open space requirements for the D-5 zoning district on a lot with this housing typology and dimensions (60% open space required, proposed 61%).

This site is zoned D-5 to allow for medium and large-lot housing formats (primarily for detached houses), and is also located within both the Transit-Oriented Development secondary zoning district (given its proximity to the 46th & College BRT stop of the Red Line) and a Wellhead Protection District (an area within a municipal water wellfield which would not impact residential zoning standards). The Comprehensive Plan recommends it to the Traditional Neighborhood living typology and a Walkable Neighborhood TOD typology (see Comprehensive Plan Analysis section of the report below). Relevant Infill Housing Guidelines indicate that side setbacks should allow for adequate spacing for maintenance while reinforcing the block’s context, and that accessory structures should not overshadow primary ones.

In 2026, a right-of-way violation was opened at the site related to the lack of permit permissions for work done within a public right-of-way. This appears to be related to the installation of concrete steps and paved areas at the property (see photos 3 and 4 below), and resolution of that violation would need to occur through the Department of Business and Neighborhood Services. Similarly, grant of this petition would not allow for the garage to deviate from applicable requirements for firewall installation or window limitations on the western and northern facades of the proposed structure.

Findings of Fact provided by the applicant cite the identical location of the new garage to the previous structure, the partial reuse of the foundation, and the lack of feasible alternate locations for a new garage as site-specific difficulties justifying grant of the variance. Staff would concur that the lot dimensions, lack of alley access, and placement of the existing residence and partial foundation would limit options for alternate, compliant development of a new detached garage meeting setback standards.

Additionally, staff would note that there is an existing pattern of garages with similarly deficient setback for nearby lots with residences fronting on 46th Street (see photos 8-10 below), and that the grant of a variance to allow for rebuild of the property on a new or altered foundation might be preferable to incentivizing the use of a foundation originally constructed in 1925 to avoid the need for a zoning petition. Given the conformity with Infill Housing Guidelines and the surrounding neighborhood, the site-specific difficulties created by lot dimensions and the existing residence, and the placement of the garage in an identical location to the previous garage, staff would recommend **approval** of the variance requests.

GENERAL INFORMATION

Existing Zoning	D-5 (TOD) (W-5)	
Existing Land Use	Residential	
Comprehensive Plan	Traditional Neighborhood	
Surrounding Context	<u>Zoning</u>	Surrounding Context
North:	D-5	North: Residential
South:	D-5	South: Residential
East:	D-5	East: Residential
West:	D-5	West: Residential
Thoroughfare Plan		
46 th Street	Primary Arterial	50-foot existing right-of-way and 56-foot proposed right-of-way
Guilford Avenue	Local Street	50-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	08/19/2026	
Site Plan (Amended)	N/A	
Elevations	08/19/2026	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	08/19/2026	
Findings of Fact (Amended)	09/23/2026	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book
- Red Line TOD Strategic Plan
- Infill Housing Guidelines

Pattern Book / Land Use Plan

- The Traditional Neighborhood typology includes a full spectrum of housing types, ranging from single family homes to large-scale multifamily housing. The development pattern of this typology

should be compact and well-connected, with access to individual parcels by an alley when practical. Building form should promote the social connectivity of the neighborhood, with clearly defined public, semi-public, and private spaces. Infill development should continue the existing visual pattern, rhythm, or orientation of surrounding buildings when possible. A wide range of neighborhood-serving businesses, institutions, and amenities should be present. Ideally, most daily needs are within walking distance. This typology usually has a residential density of 5 to 15 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.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Given the proximity to the College & 46th Red Line BRT stop, the TOD Strategic Plan recommends this site to the Walkable Neighborhood TOD typology. This typology is intended for walkable areas that are primarily residential but may have a commercial node of 1-2 city blocks, with a mix of uses at the station and stabilized residential beyond. Off-street parking is discouraged and should be limited to garages.

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

- Building spacing should reinforce spacing on the existing block, limit uncharacteristically large gaps between houses, and leave room for maintenance. Accessory structures should be located behind primary buildings, accessed from alleys when possible, and should be coordinated with primary buildings without overshadowing them in terms of scale, height, or mass.

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

2025DV1028 ; 4830 Guilford Avenue (north of site), Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a detached garage resulting in a three-foot south side yard setback (five feet required), **approved**.

2015DV1046 ; 4851 Carrollton Avenue (north of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a the construction of a deck on top of an existing garage, with an approximately zero-foot south side setback and a one-foot aggregate side setback (minimum four-foot side and 10-foot aggregate side setback required), **approved**.

2014HOV038 ; 4575 Guilford Avenue (southeast of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a front porch, with an approximately 20-foot front setback from Guilford Avenue (minimum 25-foot front setback required), **approved**.

2010DV3003 ; 4801 Guilford Avenue (northeast of site), Variance of development standards of the Dwelling Districts Zoning Ordinance (a) to provide for the construction of a 260-square foot garage with a zero-foot front setback along 48th Street (25-foot front setback or average setback required); (b) to provide for a six-foot tall fence in the front yard of 48th Street and encroaching four feet into the right-of-way of 48th Street (maximum 42-inch fence permitted within the front yard, fences not permitted within the right-of-way); and (c) to provide for a porte-cochere, with a 10-foot setback from Guilford Avenue and a zero-foot setback from 48th Street (25-foot front setback required along local streets), **approved**.

2007DV1026 ; 4619 Carrollton Avenue (northwest of site), Variance of Development Standards of the Dwelling Districts Zoning Ordinance to legally establish the construction of a 115.5-square foot covered deck addition to a single-family dwelling with a 1.5-foot north side setback (minimum four-foot side setback required), and to legally establish an eight-foot side yard aggregate (minimum ten-foot side yard aggregate required), **denied**.

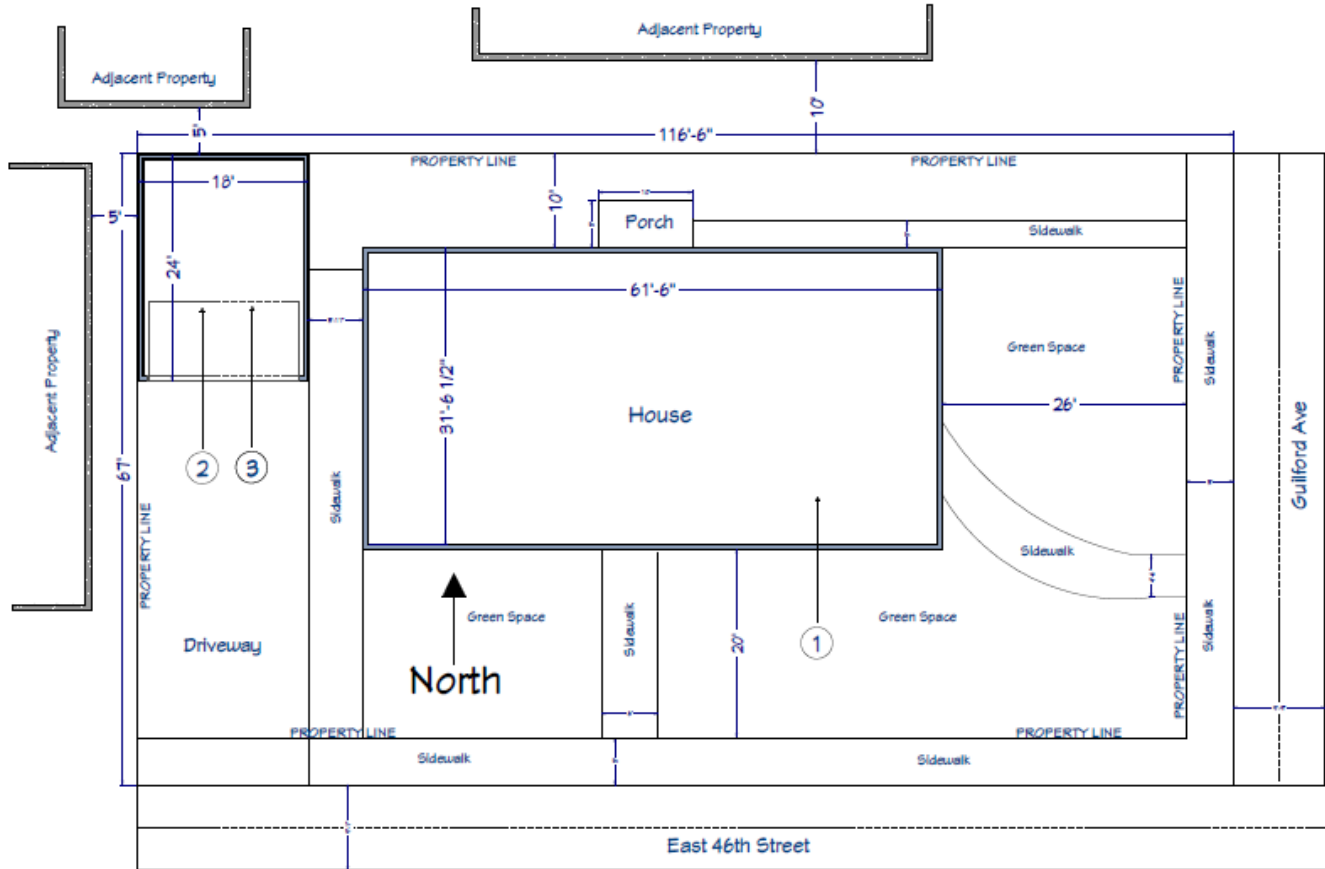
2000UV1034 ; 4715 Guilford Avenue (northeast of site), Variance of Use of the Dwelling Districts Zoning Ordinance to legally establish two dwelling units on one lot, with both units in a two-story dwelling structure originally constructed as a single-family dwelling (maximum two dwelling units in an originally constructed duplex permitted), **approved**.

EXHIBITS

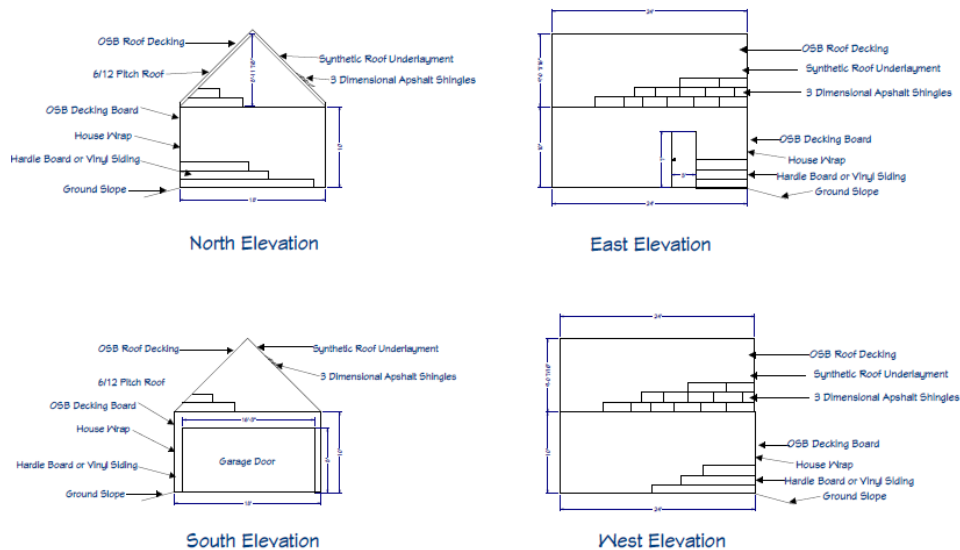
2026DV2032 ; Aerial Map



2026DV2032 ; Site Plan



2026DV2032 ; Building Elevations





Department of Metropolitan Development
Division of Planning
Current Planning

2026DV2032 ; Notice of Violation (VIO26-006154)

Violation Location: 826 E 46TH ST

Violation #: VIO26-006154

Certified Mail #:

This notice is to inform you that the above referenced location was inspected on 07/31/2026 by John Fife, Right-Of-Way Inspector of the Department of Business & Neighborhood Services, and you were found to be in violation of the Municipal Code of Indianapolis and Marion County. The violation found is as follows:

Violation of Ordinance: 645-324. Permit required for work in right-of-way; enforcement.

Specifics: It shall be unlawful for any person or other entity to perform any work, including cutting, drilling, digging or excavating in, on, over or under a public right-of-way without first having obtained a permit

You must bring yourself into compliance with the Code within 7 days. In order to do so you must do the following:

Corrective Action Needed: Must obtain driveway permit & activate

2026DV2032 ; Findings of Fact

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

This property will remain single family residential and in compliance with all other D5 regulations.

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:

This variance allows the rebuilding of a garage over the existing foundation at the existing setbacks. The design follows the character of the existing home, garage, and surrounding neighborhood.

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

Due the original layout of the home and detached garage on this corner lot, and being oriented to face south, there is limited room for garage space. The original garage was built in the NW corner of the property at the property lines. By granting the variance the existing foundation can be rebuilt upon and the new garage will not need to be reduced in size to meet the requirements for relocation; 7ft on the side and 5ft on the rear to meet the current D5 development standards.

2026DV2032 ; Photographs



Photo 1: Subject Site Viewed from East



Photo 2: Subject Site Viewed from South

2026DV2032 ; Photographs (continued)



Photo 3: Subject Driveway Access Viewed from South



Photo 4: Previous Garage at Subject Site (June 2024)

2026DV2032 ; Photographs (continued)



Photo 5: Adjacent Property to South



Photo 6: Adjacent Property to East

2026DV2032 ; Photographs (continued)



Photo 7: Proposed Garage Area Viewed from Property Line



Photo 8: Non-Conforming Detached Garage at 4575 Guilford Avenue (southeast of site)

2026DV2032 ; Photographs (continued)



Photo 9: Non-Conforming Detached Garage at 801 E 46th Street (southwest of site)



Photo 10: Non-Conforming Detached Garage at 721 E 46th Street (southwest of site)