STAFF REPORT

Department of Metropolitan Development
Division of Planning
Current Planning Section

Case Number:	**2023-UV1-026**
Address:	**6524 Dover Road (approximate address)**
Location:	**Washington Township, Council District #3**
Zoning:	**D-S**
Petitioner:	**Larry Rockafellow, by Melissa Iannucci**
Request:	**Variance of Use and Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the temporary location of an accessory building without a primary building (not permitted) and the construction of a single-family dwelling on a .60-acre, 120-foot-wide lot (minimum 150-foot lot width and area of one acre required), resulting in a 33.5-foot aggregate side yard setback (35-foot aggregate required).**

January 9, 2024

This petition was automatically continued and transferred from the December 5, 2023 hearing to the January 9, 2024 hearing.

December 5, 2023

RECOMMENDATIONS

Staff **recommends approval** of the request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

D-S	Metro	Residential accessory garage (no primary structure)

SURROUNDING ZONING AND LAND USE

North	D-S	Single-Family residential
South	D-S	Single-Family residential
East	D-S	Single-Family residential
West	D-S	Single-Family residential

COMPREHENSIVE PLAN — The Comprehensive Plan recommends Suburban Neighborhood development.

◊ The subject site is a 0.60-acre, 120-foot-wide lot, developed with a residential accessory structure (no primary structure). The site is part of a single-family residential development in the Allisonville neighborhood.

(Continued)

STAFF REPORT 2023-UV1-026 (Continued)

VARIANCE OF DEVELOPMENT STANDARDS

◊ This request would provide for the temporary location of an accessory building without a primary building, and the construction of a single-family dwelling on a 0.60-acre, 120-foot-wide lot, resulting in a 33.5-foot aggregate side yard setback.

◊ The accessory structure is an existing garage that was permitted in 1987; at that time, the subject parcel was combined with the parcel to the south. A prior variance permitted the accessory structure to be on its own lot without a primary structure, on a 0.689-acre lot with a 120-foot width per 2007-UV1-025. Staff had recommended denial of the request. The Board of Zoning Appeals granted the variance subject to commitments proposed by the petitioner, Instrument No.2008-0004273. Commitment #1 of the prior variance state that the variance would expire in 2012, and the petitioner would sell the parcel to an adjacent property.

◊ Staff typically would not support a variance of use to permit an accessory structure without a primary structure; however, this is an existing condition created by a prior variance approval. Staff would not be opposed where the existing site conditions of the site create a practical difficulty. Staff would also note that this portion of the request is temporary and dependent on the grant of variance to allow construction of a primary dwelling.

◊ This request would legally establish a non-compliant lot with 0.60 acres where one acre minimum is required, and 120-feet wide where a 150-foot-width is required. The ordinance allows development for single-family dwellings on lots with less than the minimum area and width if the lot was recorded prior to December 20, 1989 per Section 744-202.C. The subject parcel was created in 2004 and is therefore ineligible for this exception; however, the property exists in non-compliance and would be undevelopable for a primary dwelling without the grant of a variance. The strict application of the ordinance would result in practical difficulty for the use of this property. Staff would support a variance for reduced lot size and width where there is a practical difficulty related to an otherwise permitted primary use.

◊ Staff would note that there are examples of lots in the vicinity with less than one acre; multiple lots that front on Dover Road one block to the south are approximately 0.6 acre or smaller.

◊ The proposed dwelling would create an aggregate of 33.5 feet where 35 feet is required. Staff would note that each structure, existing and proposed, would meet the required side setbacks and aggregate individually, as shown on the site plan. This request would only reduce the aggregate setback by 1.5 feet. Staff would not oppose a slight reduction to the aggregate setback where the setbacks are otherwise compliant.

GENERAL INFORMATION

THOROUGHFARE PLAN	Dover Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 50-foot existing and foot proposed right-of-way.
SITE PLAN	File-dated October 16, 2023
FINDINGS OF FACT (DEVELOPMENT STANDARDS)	File dated October 16, 2023
FINDINGS OF FACT (USE)	File-dated November 13, 2023

(Continued)

STAFF REPORT 2023-UV1-026 (Continued)

ZONING HISTORY – SITE

2007-UV1-025, variance to legally establish a 1,536-square foot detached accessory building and accessory uses on a lot without a primary use, on a 0.6-acre lot, with a 120-foot lot width, **approved**.

ZONNIG HISTORY -- VICINITY

2017-DV2-001, 6450 Allisonville Road, variance to provide for an 8.33-foot-tall freestanding sign within approximately 50 feet of a dwelling district, **approved**.

2012-DV3-011, 6735 Dover Road, variance to provide for a 1,680-square foot, 17.5-foot-tall pole barn, with a 448-square foot porch, creating an accessory building area of 2,240 square feet or 106.46% of the main floor area of the primary dwelling and an accessory use area of 3,466 square feet or 164.7% of the total floor area of the primary dwelling, **approved**.

2001-SE1-007, 4321 East 65th Street, special exception to provide for religious uses, including associate pastor's residence, church meetings, and Sunday school in the D-2 district, **approved**.

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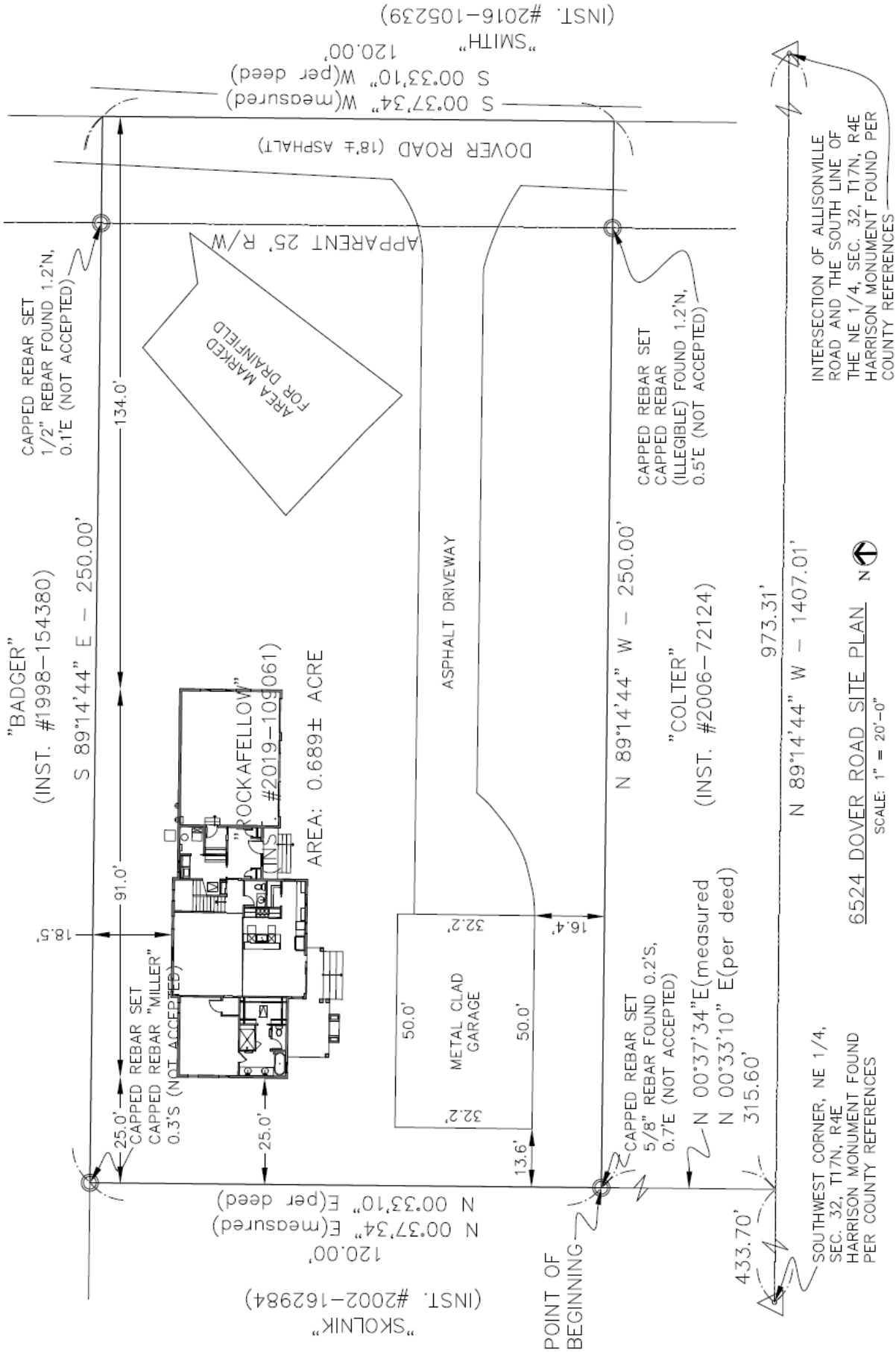
2023-UV1-026; Aerial Map

2023-UV1-026; Site Plan



2023-UV1-026; Findings of Fact

METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division _____
OF MARION COUNTY, INDIANA

PETITION FOR VARIANCE OF USE

FINDINGS OF FACT

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

while this is a non-conforming lot, it is not particuarly unusual to this zoning district. On Dover Road, just south of 65th street, there are several lots around this size and at least two that are even smaller (6420 and 6424 Dover Road). Before the lot was split from the property to the south, an accessory structure was built on the property and thus has always existed on this lot. Building a single family home on it will create further continuity in the nieghborhood.

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 proposed single family home that would occupy the lot will be of a much higher price per square foot value than its' neighbors (due to its' smaller size) and thus add to the overall value of the neighborhood. The design fits within the confines of allowable covered space of this smaller lot.

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

the City allowed for an illegal property to be created in 2007 to a prior property owner. The current owner has attempted to sell the lot to both the property owner to the north and the property owner to the south for what he paid for the lot without success.

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

The current owner has since been told the lot is not in compliance and thus he must either sell the property or build a single family home on it. He is attempting to sell the lot to an owner who will build a single family home.

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

numerous non-conforming lots exist in the surrounding properties and the proposed single family home fits the intent of the D-S zoning.

METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division _____
OF MARION COUNTY, INDIANA

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

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

the proposed lot was established in 2007 and has existed without problem since then.

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 proposed single family home that would occupy the lot will be of a much higher price per square foot value than its' neighbors and thus add to the overall value of the neighborhood.

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

the subject property was created by separating it from a larger parcel into two parcels with two different owners. There is no other land available to create the minimum one acre plot or meet the minimum lot frontage. Without a variance, this lot will remain with only an accessory building built on it.

2023-UV1-026; Photographs

Subject frontage, looking north on Dover Road

Site viewed from Dover Road, looking west. Existing garage shown left. Adjacent (north) property shown right.

Site frontage, looking south on Dover Road

Adjacent property south of site

East of site

Southeast of site