

BOARD OF ZONING APPEALS DIVISION I

August 5, 2025

Case Number: 2025-DV1-032

Property Address: 7986 North College Avenue (*approximate address*), Town of Williams Creek

Location: Washington Township, Council District #2

Petitioner: Brian Marie and Lauren Riley, by Mark and Kim Crouch

Current Zoning: D-S (TOD)

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a garage addition with a two-foot south side yard setback (15 feet required), resulting in an open space of 81 percent (85 percent required) and encroachment into an easement (encroachment of easements not permitted).

Current Land Use: Residential

Staff Recommendations: Staff recommends **denial** of this petition.

Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

A timely automatic continuance request was filed by a registered neighborhood organization to continue this petition from the July 1st hearing date.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

- 7986 North College Avenue is currently improved with a single-family home that is largely screened from public view, a half-moon drive that creates two (2) vehicles access points from College Avenue, and an existing two-car garage on the southern portion of the property. Surrounding land uses are also residential, and the site is located within the included town of Williams Creek. This lot and surrounding properties were platted in 1925.
- The permit application ILP25-00431 was made in February to allow for an addition to the existing residence. After demolition of the existing two-car attached garage was completed, the building's footprint would be expanded and a two-story addition incorporating a new two-car attached garage would be constructed per the site plan and elevation below within the Exhibits. This work would require issuance of both the ILP and a wrecking permit.

- For this work to be legally allowed, a Variance of Development Standards would need to be granted for the following reasons: (a) the resulting side setback would be 2 feet from the southern property line and the existing non-conforming setback would be extended by over 50%; (b) the resulting open space at the site would be 81% and the minimum for the D-S zoning district is 85%; and (c) the building addition would partially encroach into the existing southern-yard easement. Staff would also note that residential building code would require fire-rating of the southern walls and would place limits on the placement of windows within two feet of the southern property line.
- The property is zoned D-S to allow for suburban areas of extreme topography, conducive to estate development, or desirable to permit only low-density development. Generous front yards with trees along roadways are typical for the district. It also falls within the Transit-Oriented Development Secondary District due to its proximity to the proposed College and 91st station of the Red Line. Finally, the Marion County Land Use Plan Pattern Book assigns it the Rural or Estate Neighborhood typology and places it within an Environmentally Sensitive overlay, which indicates that development should minimize impact on the natural environment and should preserve or add at least 30% of the entire parcel as tree canopy or naturalized area.
- During the review process, staff indicated to the petitioner that since the proposed development would involve construction inside of a platted easement, a vacation petition to allow for encroachment would be a more appropriate zoning remedy than a variance since neither variances nor consent of encroachment agreements would offer protection to license-holders against damages to what they build there. Although staff could not compel an application for any zoning petition to be made, a vacation petition would require notification of relevant agencies that utilize easements, and a zoning variance (a) might not offer recourse if access to the easement were needed in the future and (b) would not guarantee issuance of an encroachment license from DBNS. The applicant chose to proceed with this variance.
- Findings of Fact provided by the applicant indicate that the proposed addition would be consistent with development on surrounding properties and that the existing lot is undersized. The applicant is correct that the D-S zoning district currently requires a minimum lot size of 43560 square feet (1 acre) and the subject lot is only 18204 square feet (0.42 acres). However, despite the existence of some practical difficulty from the size of the existing lot, staff does not feel that this should justify relief from any and all ordinance standards and would note that (a) the proposed setback of 2 feet would be only 13% of the 15-foot setback required by the district and (b) the existing northern setback of 30 feet might allow for some room for expansion within Ordinance constraints.
- To conclude, staff does not feel that adequate site-specific practical difficulty has been established since the need for a variance is self-imposed from the applicant's desire to expand the existing property, which could either continue to operate as a legal non-conformity without the need for petition relief or expand into the northern yard without additional easement encroachment or setback violation. Additionally, despite the issuance of an encroachment consent from AES Indiana on June 24th, staff still feels that legalization of a building addition via a vacation of a platted easement petition would be more appropriate and legally binding than having it approved via variance. Staff recommends denial of the requested variances.

GENERAL INFORMATION

Existing Zoning	D-S (TOD)	
Existing Land Use	Residential	
Comprehensive Plan	Rural or Estate Neighborhood	
Surrounding Context	<u>Zoning</u>	Surrounding Context
North:	D-S	North: Residential
South:	D-S	South: Residential
East:	D-2	East: Residential
West:	D-S	West: Residential
Thoroughfare Plan		
North College Avenue	Primary Arterial	90-foot existing right-of-way and 80-foot proposed right-of-way
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	Yes	
Wellfield Protection Area	No	
Site Plan	06/02/2025	
Site Plan (Amended)	06/11/2025	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	05/15/2025	
Findings of Fact (Amended)	06/11/2025	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book
- Red Line Transit-Oriented Development Strategic Plan

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends this site to the Rural or Estate Neighborhood living typology to allow for both rural or agricultural and historic, urban areas with estate-style homes on large lots. Development should work with existing topography as possible, and detached housing should preserve open space on deep and narrow lots with deep setbacks.
- The property is also within an environmentally sensitive area overlay intended for areas containing high quality woodlands, wetlands, or other natural resources that should be protected. Development

should minimize impact on the natural environment and should preserve or add at least 30% of the entire parcel as tree canopy or naturalized area.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Given the site's proximity to the proposed College & 91st station, the Red Line Transit-Oriented Development Strategic Plan recommends this site to the Walkable Neighborhood typology to allow for walkable areas that are primarily residential but may have a commercial node of one to two city blocks. This typology contemplates building heights of 2-4 stories and discourages off-street parking (should be limited to garages).

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

2025DV2005 ; 8063 Broadway Street (northwest of site), Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the addition of a covered porch and detached garage, resulting in an open space of 76 percent (85 percent required), a ten-foot north side yard setback and an aggregate setback of 23.33 feet (15-foot minimum side yard, 35-foot aggregate side yard setback required), **approved**.

2010HOV044 ; 710 Forest Boulevard (southeast of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to legally establish a storage barn with a 10-foot front setback from Forest Boulevard and a pool/deck with a 24-foot front setback from Forest Boulevard, both being within the established front yard of Forest Boulevard and with the storage barn being within the established front yard of North College Avenue (25-foot front setback from Forest Boulevard, 40-foot front setback from College Avenue, accessory structures not permitted in front of the established building line), with the dwelling having a 3.7-foot north side setback and a brick patio with a zero-foot north side setback (minimum seven-foot north side setback required), **approved**.

2009DV1028 ; 641 E 80th Street (west of site), Variance of Development Standards of the Dwelling Districts Zoning Ordinance to provide for an addition to a single-family dwelling with a 7.5-foot west side setback (minimum fifteen-foot side setback required), **approved**.

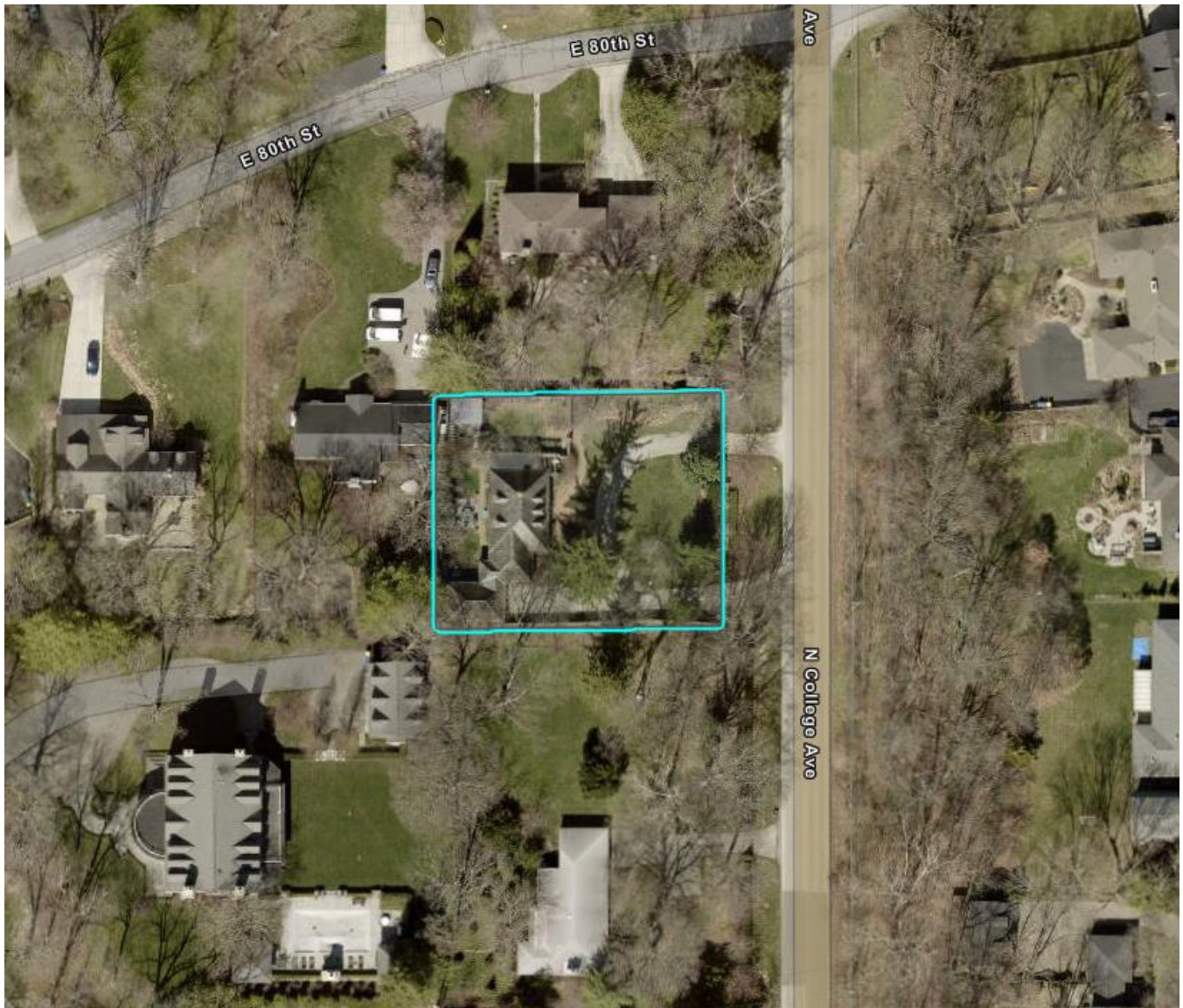
2005DV1062 ; 8028 Morningside Drive (west of site), provide for the construction of an addition to an existing single-family dwelling with an 8.7-foot west side yard setback (minimum fifteen-foot side yard setback required), resulting in a 24.4-foot aggregate side yard setback (minimum 35-foot aggregate side yard setback required), and to legally establish a storage shed with a 0.6-foot rear yard setback (minimum five-foot rear yard setback for accessory buildings required) in D-S, **approved**.

2005DV3043 ; 636 E 80th Street (northwest of site), provide a building reconstruction and expansion along an existing non-conforming 7.5-ft. east side yard setback in D-S (min. 15-ft. side setback req.), and legally establish a 28-ft. aggregate side setback and a 21.5-ft. rear setback (min. 35-ft. aggregate side yard; min. 25-ft. rear yard req.), **approved**.

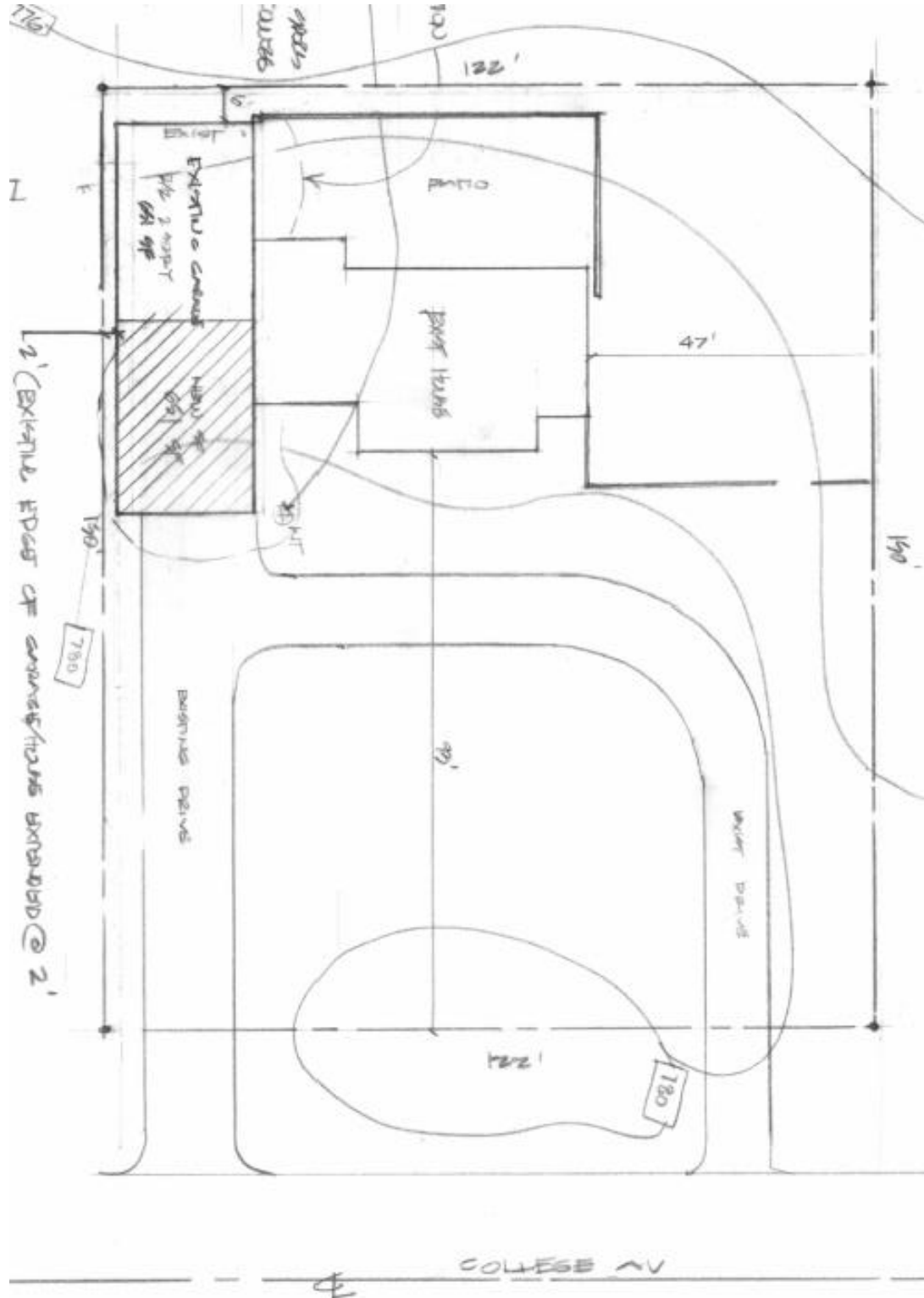
2000VAR827 ; 8008 Morningside Drive (northwest of site), Variance of use and development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a 3,380 square-foot single-family dwelling on a lot containing 80% of open space, **approved**.

EXHIBITS

2025DV1032 ; Aerial Map



2025DV1032 ; Site Plan

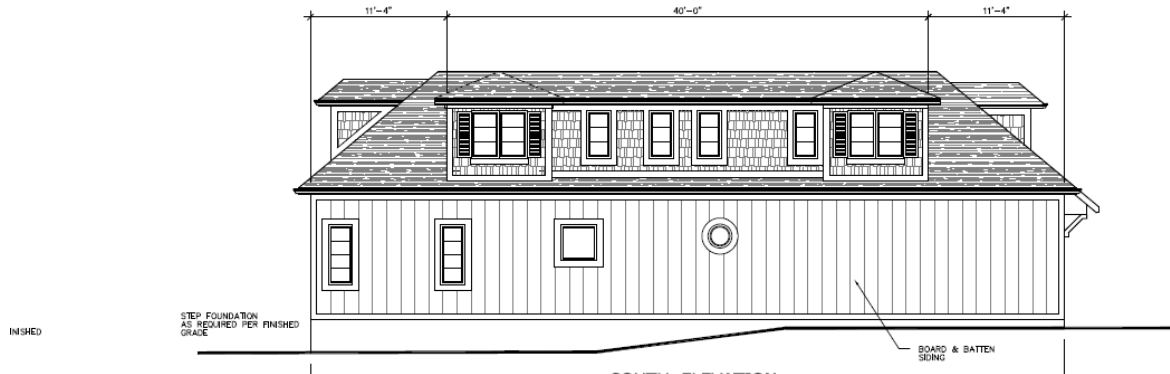


2025DV1032 ; Elevations (submitted with ILP25-00431)



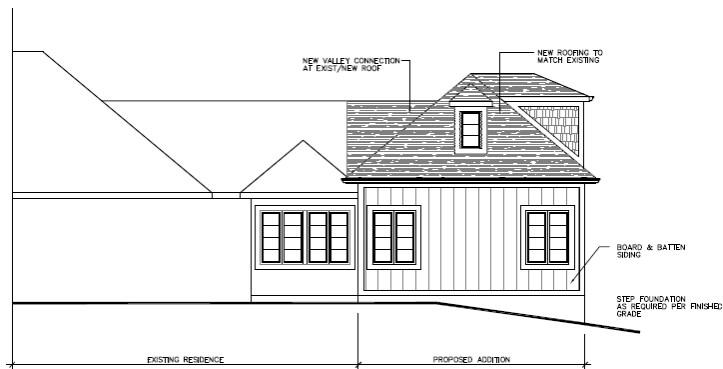
EAST ELEVATION

SCALE: 1/8"=1'-0" (11x17 PRINTS)
 SCALE: 1/4"=1'-0" (24x36 PRINTS)



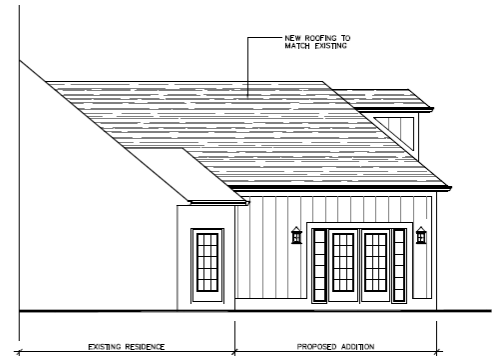
SOUTH ELEVATION

SCALE: 1/8"=1'-0" (11x17 PRINTS)
 SCALE: 1/4"=1'-0" (24x36 PRINTS)



WEST ELEVATION

SCALE: 1/8"=1'-0" (11x17 PRINTS)
 SCALE: 1/4"=1'-0" (24x36 PRINTS)



NORTH ELEVATION

SCALE: 1/8"=1'-0" (11x17 PRINTS)
 SCALE: 1/4"=1'-0" (24x36 PRINTS)

2025DV1032 ; Findings of Fact

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

the grant will legalize the footprint of the existing residence and allow for the construction of proposed attached garage and addition for private residential use.

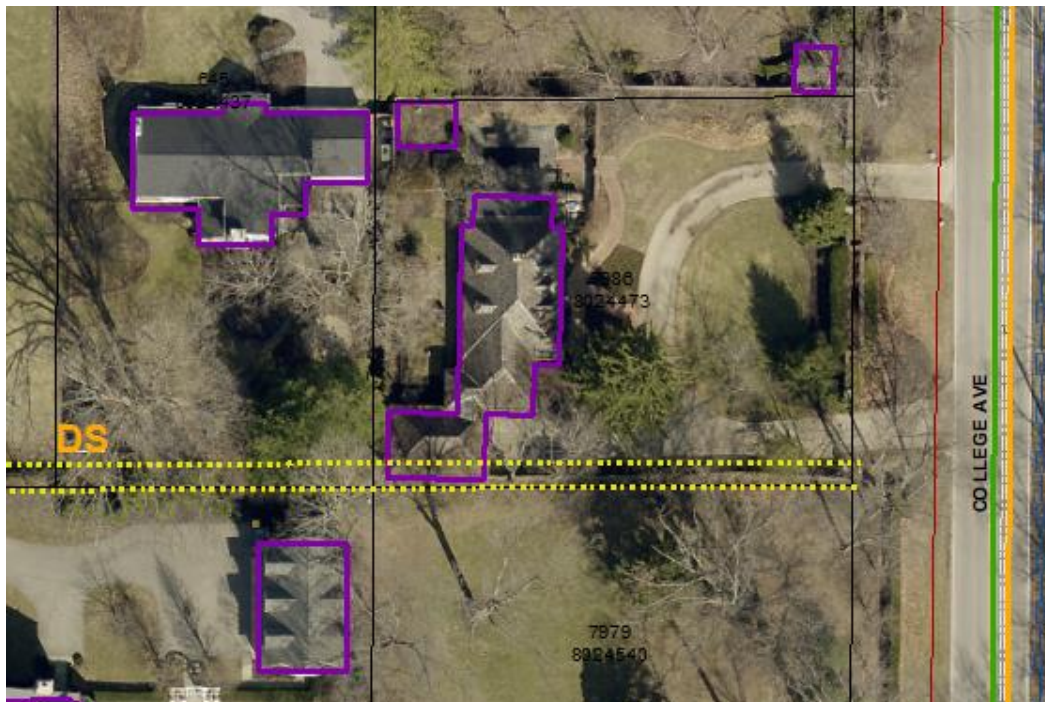
2. The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:

the residence is existing and proposed attached garage and addition will be consistent with development in the area and adjacent area.

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

lot is smaller than zoning minimum requirements and existing residence is within the AES easement resulting in a need for easement encroachment approval, a reduction of open space requirement & side setback to allow for the construction of proposed attached garage and addition. Without variance approval, proposed attached garage and addition will not be built.

2025DV1032 ; Easement Location (yellow dashes)



2025DV1032 ; AES Consent to Encroachment

MARION COUNTY

MAP 237--

WASHINGTON TOWNSHIP

CONSENT TO ENCROACHMENT

THIS INDENTURE WITNESSETH:

WHEREAS, Indianapolis Power & Light Company d/b/a AES Indiana (hereinafter referred to as the "Company"), has an interest in the following described real estate located in Marion County, Indiana, to-wit:

Lot 12 in Williams Creek Estates, Meridian Hills, an addition to the City of Indianapolis,
Now in the town of Williams Creek, as per Instrument Number A202200038798 in the
Office of the Recorder of Marion County, Indiana

Parcel #8024473
State ID # 49-03-23-122-107.000-817

Commonly known as:
7986 North College Avenue, Indianapolis, IN, 46240

because of the existence of a platted Utility Strip (hereinafter referred to as "easement") adjoining
the east side of said Lot 12, and

WHEREAS, a room addition to be built upon said real estate and extending into and encroaching
upon said easement, as shown on the drawing attached hereto, made a part hereof and marked
"Exhibit A" (hereinafter referred to as the "encroachment"), and

WHEREAS, the encroachment does not interfere with the operation of the Company insofar as
such operations involve the use of said easement;

NOW, THEREFORE, in consideration of the premises and other valuable consideration, receipt of
which is hereby acknowledged, the Company, by and through its duly authorized officials, does
hereby grant unto Brian J. Maire and Lauren Riley, husband and wife, the present owners of record
of said real estate per Warranty Deed recorded as Instrument Number A202200038798, in the
Office of the Recorder of Marion County, Indiana, their successors and assigns, its consent to the
encroachment; provided, that the encroachment shall be limited to that as described above and on
Exhibit A, attached hereto and made a part hereof, except that repairs and maintenance may be
performed so long as the height and area thereof within said easement is not increased or otherwise
extended; that such limitation shall be construed also as a condition upon which this grant is made
and accepted, for breach of which the Company may recover damages and, without prejudice
thereto, may compel by injunction or otherwise the removal of all or any part of the
encroachment.

The owners of said real estate, by acceptance of this instrument hereby agree for themselves, their
successors and assigns, to indemnify and save harmless the Company, its successors and assigns,
from and against any and all damages and loss that may result to the facilities and equipment or
any property owned or used by the Company upon said easement, and from and against any and all
legal and other expenses, claims, costs, losses, suits and judgment for damages or injuries resulting
to persons or property by reason of the encroachment.

This instrument shall not be construed as a release or waiver of any rights of the Company in the
aforesaid easement other than the right to object to the encroachment as proposed to be built and
described.

IN WITNESS WHEREOF, Indianapolis Power & Light Company d/b/a AES Indiana, has caused
this indenture to be executed by its duly authorized officials this 24th day of
June, 2025.

Indianapolis Power & Light Company,
d/b/a AES Indiana


Blane E. Boyd
Manager, T&D Real Estate

2025DV1032 ; Photographs



Photo 1: Subject Site Viewed from West (July 2023)

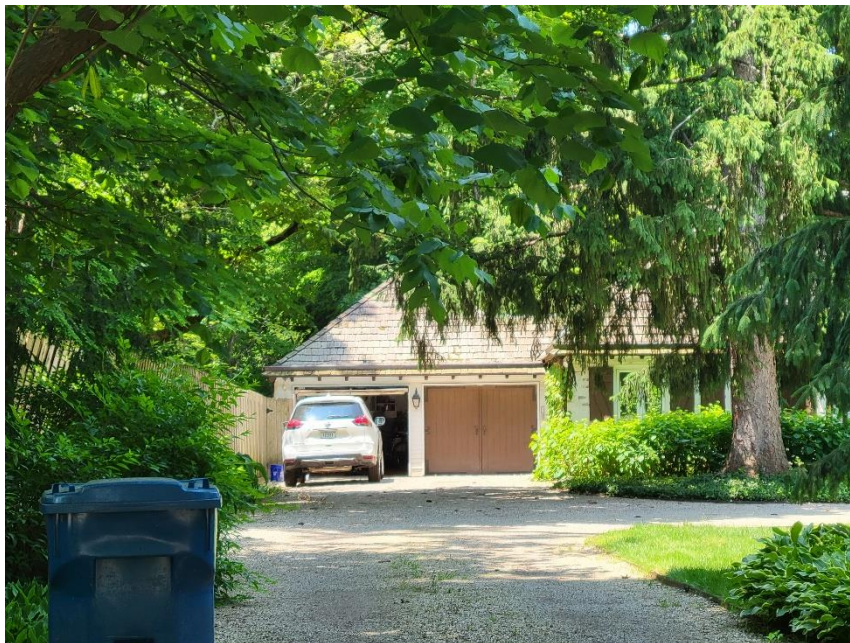


Photo 2: Existing Attached Garage

2025DV1032 ; Photographs (continued)



Photo 3: Existing Residence Viewed from Southern Vehicle Access Point



Photo 4: Easement Area Viewed from West (July 2023)

2025DV1032 ; Photographs (continued)



Photo 5: Adjacent Property to North (viewed from west)



Photo 6: Adjacent Property to South (viewed from west)