



BOARD OF ZONING APPEALS DIVISION I

December 2, 2025

Case Number: 2025-UV1-015 (Amended)
Address: 488 South Rochester Avenue (approximate address)
Location: Wayne Township, Council District #17
Zoning: D-5 (TOD)
Petitioner: Kandy Salazar & Leonor Medina, by Kandy Salazar
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the conversion of an entire garage and proposed addition into a second primary dwelling (not permitted) with a zero-foot rear yard setback, a one-foot south side setback, and a 16.75-foot tall building height (five-foot rear yard setback and five-foot side yard setback required, second primary dwelling cannot be taller than the first primary dwelling).

Current Land Use: Single-family dwelling

Staff Recommendation: Staff recommends denial of the amended request.

Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

This petition was continued from the September 2, 2025, hearing, to the October 7, 2025, hearing, and from the October 7, 2025, hearing, to the November 7, 2025, hearing, to provide for an amended request and new legal notice.

This petition was continued from the November 7, 2025, hearing, to the December 2, 2025 hearing at the request of the petitioner.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

Variance of use

- ◇ The Ordinance does not permit more than one primary dwelling per parcel in those zoning districts that generally permit single-family detached development. Since the proposed garage conversion into a second dwelling is much larger than a Secondary Dwelling Unit, it is considered a second primary dwelling.

- ◇ The Ordinance does not permit two dwelling units on the same lot for several reasons. First, two units on one single-family lot would increase the density above the acceptable, typical density for the zoning district. The subject site is zoned D-5, which would have a typical density of 4.5 dwelling units per acre. The resulting density, with the proposed second primary dwelling, would be 11.9 dwelling units per acre for the site, or a 250 percent increase in the gross density envisioned by the Ordinance.
- ◇ Health and safety is the second reason the Ordinance prohibits more than one dwelling unit on a lot. A dwelling unit in a detached garage creates two safety hazards. First, emergency personnel may not be able to quickly find the dwelling unit. Even if the dwelling unit were addressed, there may be confusion as to where the emergency is located, because its structural orientation indicates that it is merely a garage.
- ◇ Second, the detached garage would have been constructed to different building codes than the converted dwelling unit which was converted presumably without proper permits prior to the variance request. Residential fire codes, approved construction materials, emergency egress, climate control and insulation, ventilation, required windows in habitable rooms, floor area provided for sleeping quarters, power supply, and sanitary and cooking facilities requirements must meet minimum standards before a dwelling can be occupied. No evidence that the second dwelling unit complies with the requirements of the Health and Hospital Code, or the Indiana Building Code has been submitted by the petitioner.
- ◇ The Ordinance does allow Secondary Dwelling Units in certain dwelling districts and mixed-use districts within the Compact Context Area, as long as certain use-specific standards are met. In this instance none of the use-specific standards have been met.
- ◇ Staff believes that the regulations for Secondary Dwelling Units located above a garage should be followed. There is no practical difficulty on the site that necessitates a larger second primary dwelling structure than what is allowed by these standards.

Variance of Development Standards

- ◇ The reduced setbacks are a result of the conversion of the original built garage, along with a non-permitted addition for residential purposes. The addition also added the zero-foot rear setback. This addition is also very close to the overhead electric utility power lines, which may cause a safety hazard.
- ◇ Staff believes that the proposed second dwelling unit could be reduced in size, and still provide for a secondary dwelling unit, which would also allow the proposed structure to meet the required rear setback, and reduced height limit.
- ◇ Secondary Dwelling Units located above a garage in no instance may exceed the height of the primary building. The maximum size of a Secondary Dwelling Unit is also limited to 720 square feet.

- ◇ The reduced south side setback would be considered legally non-conforming as long as the structure remained a garage as built. Once the use was changed, then the structure is required to be zoning complaint.
- ◇ Any deviation from the minimum standards should be related to the property, and not to the individual's needs. There is no inherent practical difficulty caused by the terms of the Ordinance upon the subject site. This proposed use would consist of new construction that could be designed to meet the terms of the Ordinance.
- ◇ No peculiar condition exists on site for staff to be supportive of the request. Instead, this is a self-imposed difficulty since the proposed structure could be designed in a way to meet the required setbacks and limited to the maximum size for a secondary dwelling unit without the need for variances.

GENERAL INFORMATION

Existing Zoning	D-5	
Existing Land Use	Single-family dwelling	
Comprehensive Plan	Recommends 3.5-5.0 Residential Units per acre	
Surrounding Context	Zoning	Surrounding Context
North:	D-5	Single-Family dwelling
South:	D-5	Single-Family dwelling
East:	D-5	Single-Family dwelling
West:	D-5	Single-Family dwelling
Thoroughfare Plan		
South Rochester Avenue	Local Street	48-foot existing and proposed right-of-way.
Context Area	Compact area	
Floodway / Floodway Fringe	No	
Overlay	Blue Line Transit Oriented Development overlay	
Wellfield Protection Area	N/A	
Site Plan (Amended)	September 16, 2025	
Elevations	N/A	
Landscape Plan	N/A	
Findings of Fact Revised	November 19, 2025	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- The Comprehensive Plan recommends 3.5-5.0 Residential Units per acre.

Pattern Book / Land Use Plan

- Not Applicable to the Site.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- This site falls within the Blue Line Bus Rapid Transit Oriented Development (TOD) overlay. The TOD overlay is intended for areas within walking distance of a transit station. The purpose of this overlay is to promote pedestrian connectivity and a higher density than the surrounding area.

Neighborhood / Area Specific Plan

- Recommends 3.5-5.0 dwelling units per acre.

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

2011-DV2-009; 494 South Luett Street (west of site), requested a Variance of Development Standards to provide for the construction of a 135-square foot addition to an existing 192-square foot garage, with a side setback of two feet and a seven-foot front setback from Henry Street, creating an accessory building area of 714.5 square feet or 76.5% of the main floor area of the primary building, **granted**.

2006-UV1-048; 458 South Livingston Avenue (west of site), requested a Variance of Use to legally establish the conversion of a 720-square foot detached garage into a dwelling unit, being the second dwelling unit on the lot, with a five-foot rear setback with a main floor area of 720 square feet, **granted**.

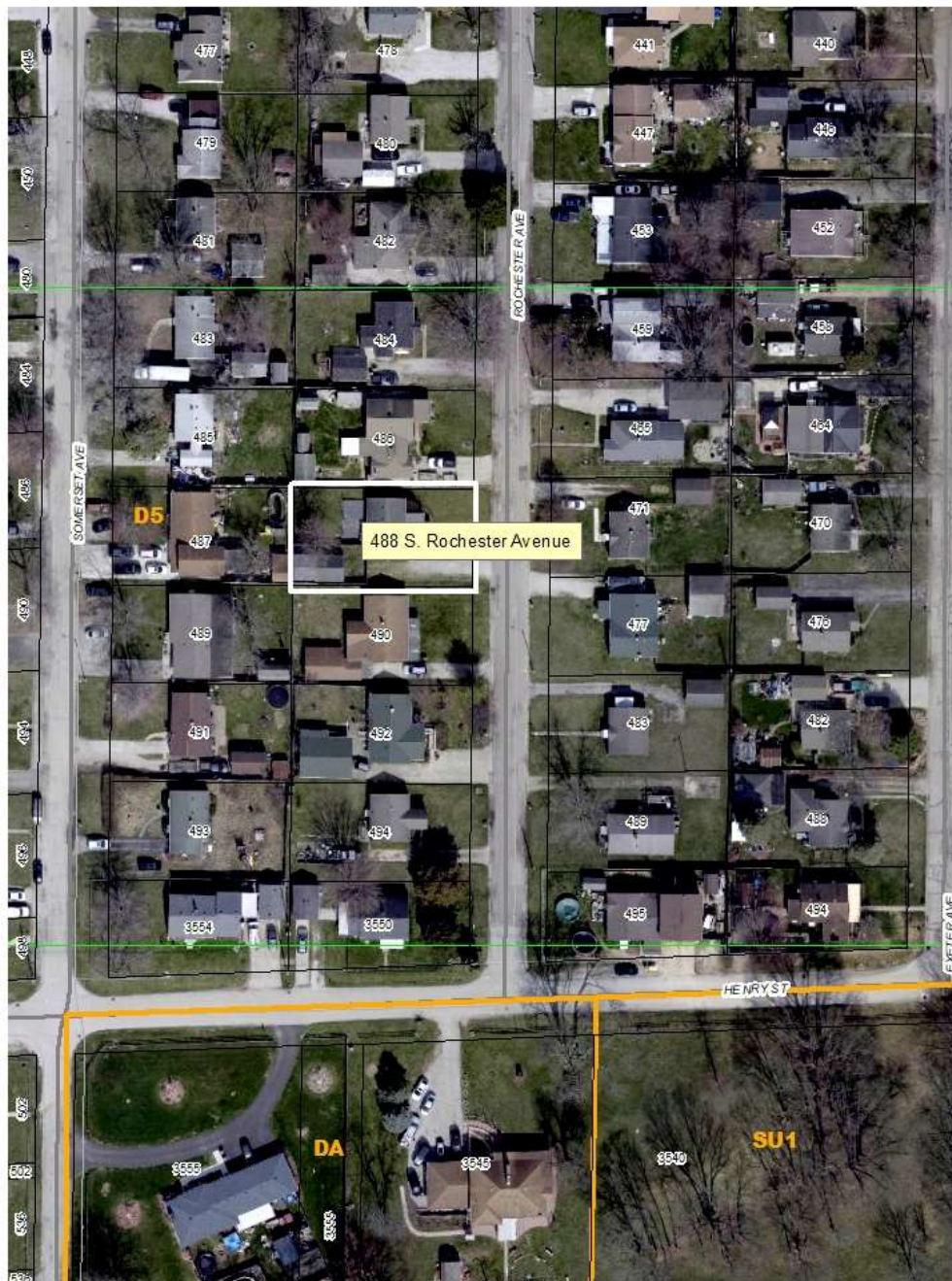
91-V3-43; 502 South Holt Road (west of site), requests variance of development standards of the Dwelling Districts Zoning Ordinance to permit the continued use of a modular home with 840 square feet of living space, **granted**.

2002-DV2-048; 509 South Luett Avenue (west of site), requests variance of development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a 1,425-square foot detached garage:

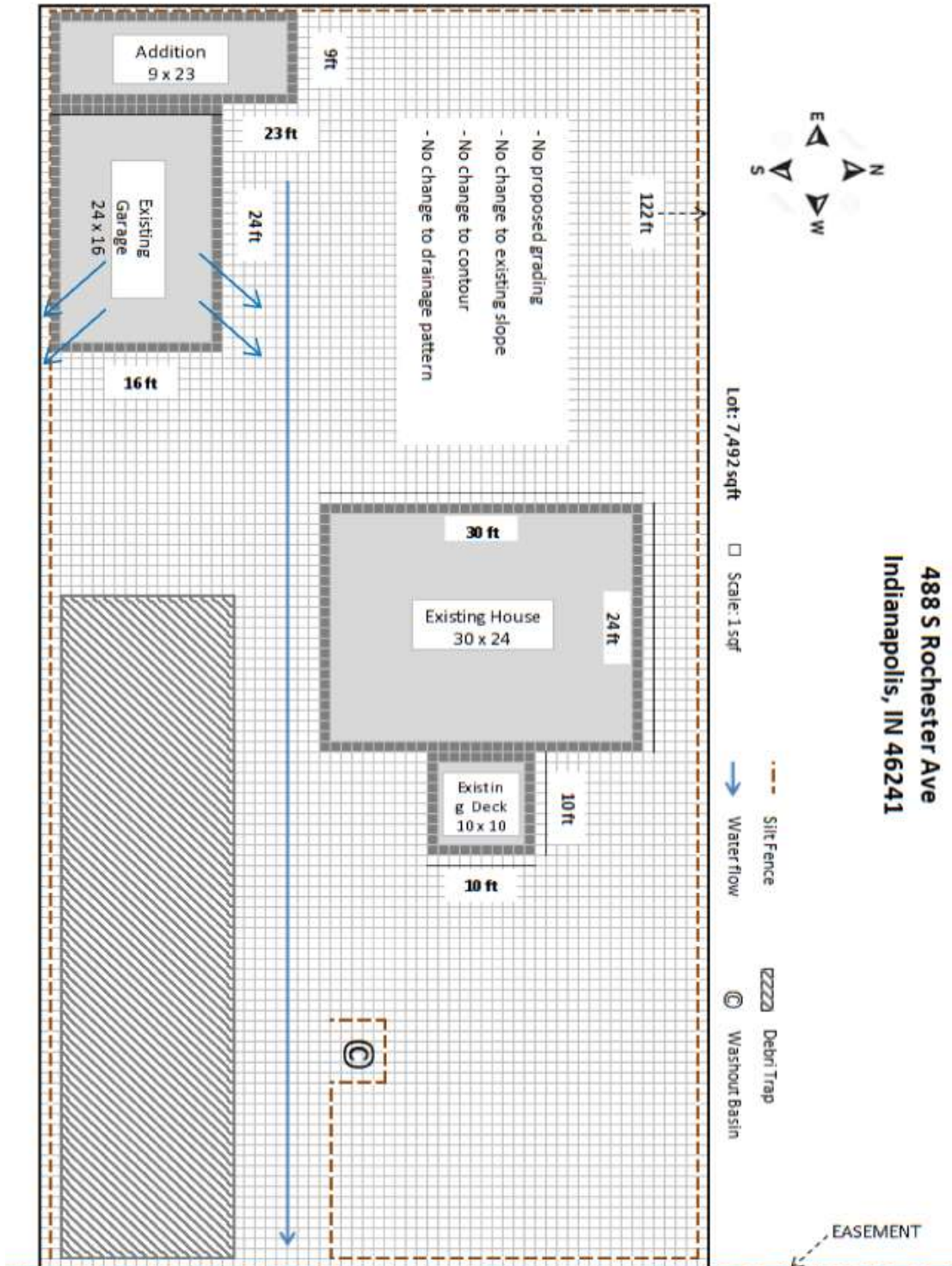
- 1) with a height of 23.5 feet,
- 2) being greater than the height of the primary structure,
- 3) resulting in an accessory structure area of 79.06% of the main floor area of the dwelling, and
- 4) resulting in an accessory use area of 105.45% of the total floor area of the dwelling, **granted**.

EXHIBITS

Location Map



Site Plan



Findings of Fact

Petition Number _____

**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

The accessory building extension is not impeding any platted easements impacting the community in general. Though the accessory building is taller than the primary structure it is still within the maximum height limitation of 20' and not the first of its kind in the community.

Zone ordinance: 743-306 (A-4-b.) accessory building shall not be located closer to any rear lot line than five feet

Zone ordinance: 731-202. D-S (b-5-b) no accessory building shall be higher than the primary building

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

This improvement is not the first of its kind in the community. Precedence setting, 495 S Rochester Ave has a secondary structure (garage) has a second story which is taller than the primary structure. Use and value impacts would be limited as a result. However, structural improvement generally add value to the property and community.

Zone ordinance: 743-306 (A-4-b.) Zone ordinance: 731-202. D-S (b-5-b)

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

This would limit adding affordable housing at time when there is a critical shortage. Strict application of the zoning ordinance would force forfeiture of sunk costs requiring abandonment of the project ultimately resulting in the loss of affordable housing.

Zone ordinance: 743-306 (A-4-b.)

Zone ordinance: 731-202. D-S (b-5-b)

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 zoning ordinance would create hardship on an individual and community basis. Individually, the financial loss would be difficult to recover let alone the additional cost to reverse its current state. On a community level, this would limit attempt to provide additional affordable housing which there is a substantial demand.

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

It falls in line with the general goals of the city's comprehensive plan, such as neighborhood revitalization, housing and development.

Additionally, assisting in ensuring adequate, affordable, and diverse housing options across different neighborhoods falling in line with its policies and strategies.



Petition Number

**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 accessory building extension is not impeding any platted easements impacting the community in general. Though the accessory building is taller than the primary structure it is still within the maximum height limitation of 20' and not the first of its kind in the community.

Zone ordinance: 743-306 (A-4-b.) accessory building shall not be located closer to any rear lot line than five feet

Zone ordinance: 731-202. D-S (b-5-b) no accessory building shall be higher than the primary building

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 improvement is not the first of its kind in the community. Precedence setting, 495 S Rochester Ave has a secondary structure (garage) has a second story which is taller than the primary structure. Use and value impacts would be limited as a result. However, structural improvement generally add value to the property and community.

Zone ordinance: 743-306 (A-4-b.)

Zone ordinance: 731-202. D-S (b-5-b)

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

This would limit adding affordable housing at time when there is a critical shortage. Strict application of the zoning ordinance would force forfeiture of sunk costs requiring abandonment of the project ultimately resulting in the loss of affordable housing.

Zone ordinance: 743-306 (A-4-b.)

Zone ordinance: 731-202. D-S (b-5-b)

Photographs



Photo 1 - Subject property looking west.



Photo 2 - Subject property existing garage addition with a zero foot rear setback, looking north.



Photo 3 – Subject property existing garage and addition with a one-foot south side setback, looking west.



Photo 4 - Adjacent property to the south, looking west.



Photo 5 - Adjacent properties to the east.



Photo 6 - Adjacent property to the north, looking west.