



BOARD OF ZONING APPEALS DIVISION II

July 9, 2024

Case Number: 2024-UV2-008
Address: 6135 Furnas Road (approximate address)
Location: Decatur Township, Council District #21
Zoning: D-A
Petitioner: Eduardo E Guzman & Nydia Botero
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a landscaping contractor, including the storage of nine commercial vehicles and the placement of a commercial shipping container (not permitted) with a 12-foot west side yard setback (15-feet required) and a 50-foot wide parking area within the front yard (30-foot width permitted).

Current Land Use: Single Family Dwelling

Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

This petition was previously automatically continued at the request of a registered neighborhood organization, from the June 11, 2024, hearing, to the July 9, 2024, hearing.

STAFF RECOMMENDATION

Staff recommends **approval** of this petition subject to the following commitments:

1. The variance grant shall be subject to the plan of operation, file dated May 16, 2024.
2. The variance grant shall be subject to substantial compliance with the site plan, file-dated March 19, 2024.

PETITION OVERVIEW

- ◇ The request would provide for the operation of a landscaping contractor, including the storage of nine commercial vehicles and the placement of a commercial shipping container with a 12-foot west side yard setback and a 50-foot wide parking area within the front yard.
- ◇ The purpose of the D-A district is to provide for a variety of agricultural enterprises, with a secondary intent for the development of large estate or rural single-family dwellings. Because no agricultural enterprise exists on the subject site, development of the site would be considered a large estate or rural single-family dwelling



- ◇ The Comprehensive Plan recommends suburban neighborhood uses for the subject site. The proposed use would be permitted in the C-5, General Commercial Zoning District. The C-5 district is designed to provide areas for those retail sales and service functions whose operations are typically characterized by automobiles, outdoor display, or sales of merchandise; by major repair of motor vehicles; by outdoor commercial amusement and recreational activities; or by activities or operations conducted in buildings or structures not completely enclosed. The types of uses found in this district tend to be outdoor functions, brightly lit, noisy, etc. Therefore, to provide a location where such uses can operate in harmony with the vicinity, the C-5 district should be located on select heavy commercial thoroughfares and should avoid locating adjacent to protected districts.
- ◇ The proposed use, being a landscaping contractor, with the number of vehicles and equipment limited by the plan of operation, would be similar to agricultural operations that are permitted in the D-A District. Therefore, the request would be a minor deviation from the Ordinance, and the impact would not be an increase in intensity in Staff's opinion
- ◇ To limit the intensity of the proposed use, staff is recommending approval subject to the site plan, file dated March 19, 2024, and the plan of operation file dated May 16, 2024. Limiting the proposed use to these commitments prevents future expansions and increases in intensity without proper vetting through the public hearing process.

GENERAL INFORMATION

Existing Zoning	D-A	
Existing Land Use	Single Family Dwellings	
Comprehensive Plan	Suburban Neighborhood	
Overlay	No	
Surrounding Context	Zoning	Surrounding Context
	North: D-A	North: Single-family dwellings
	South: D-A	South: Undeveloped
	East: D-A	East: Undeveloped
	West: D-A	West: Undeveloped
Thoroughfare Plan		
Furnas Road	Local Street	40-foot existing right-of-way and 50-foot proposed right-of-way.
Context Area	Metro	
Floodway / Floodway Fringe	N/A	
Wellfield Protection Area	No	
Elevations	N/A	
Landscape Plan	N/A	
Plan of Operation	May 16, 2024	
Site Plan	March 19, 2024	
Commitments	Proposed	
Findings of Fact	March 19, 2024	



COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- The Comprehensive Plan recommends Suburban Neighborhood uses.

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends the Suburban typology for this site. This typology is predominantly made up of single-family housing but is interspersed with attached and multifamily housing where appropriate. This typology should be supported by a variety of neighborhood-serving businesses, institutions, and amenities. Natural Corridors and natural features such as stream corridors, wetlands, and woodlands should be treated as focal points or organizing systems for development. Streets should be well-connected, and amenities should be treated as landmarks that enhance navigability of the development. This typology generally has a residential density of 1 to 5 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

- 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

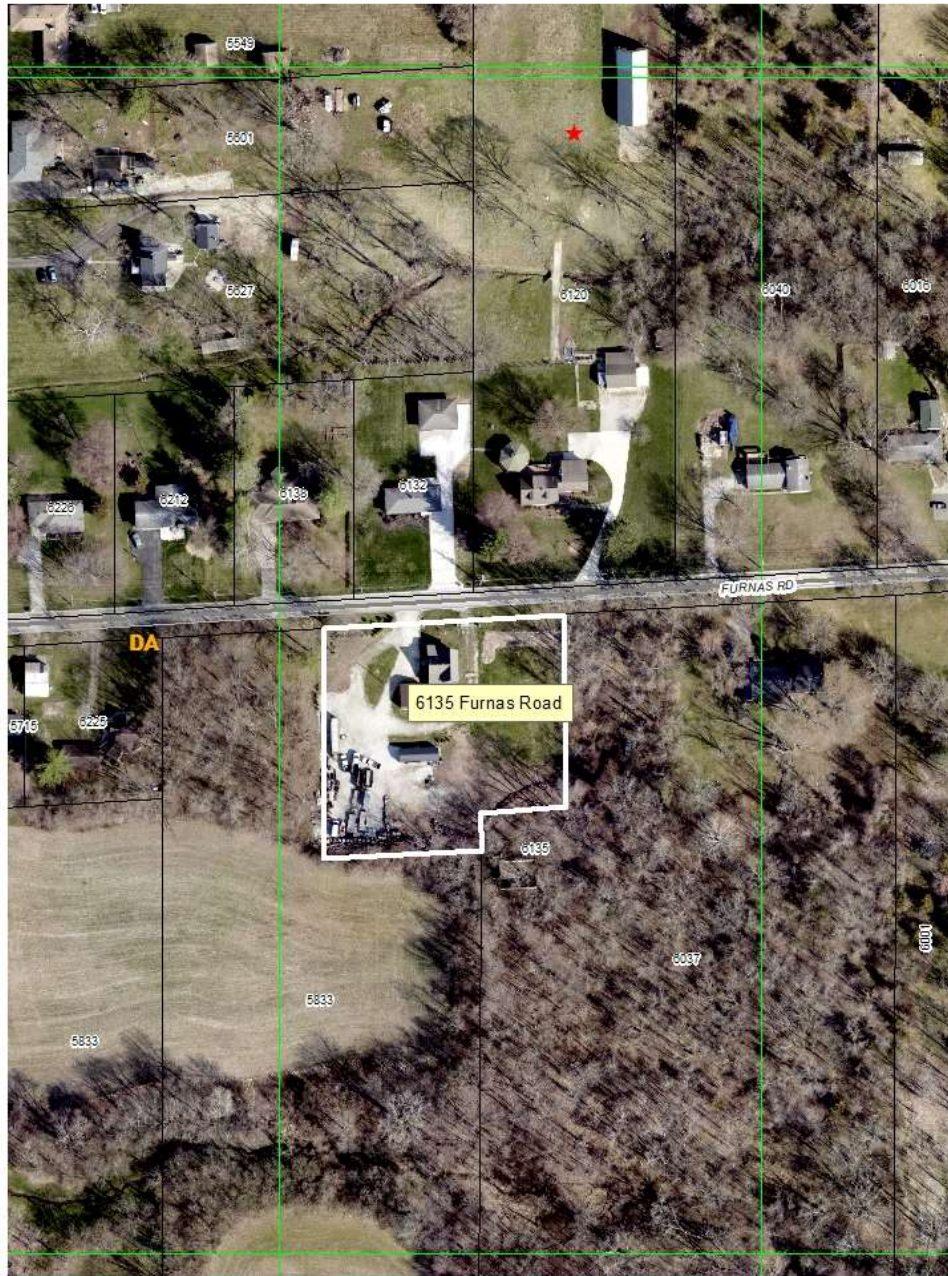
2007-LNU-026; 6120 Furnas Road (north of site), requested a certificate to legally establish a front yard fence height exceeding forty-two (42) inches, granted.

2006-DV3-056; 5801 Wheelhorse Drive (east of site), requested a variance of development standards to legally establish a six-foot tall fence in the required front yard, **denied**.

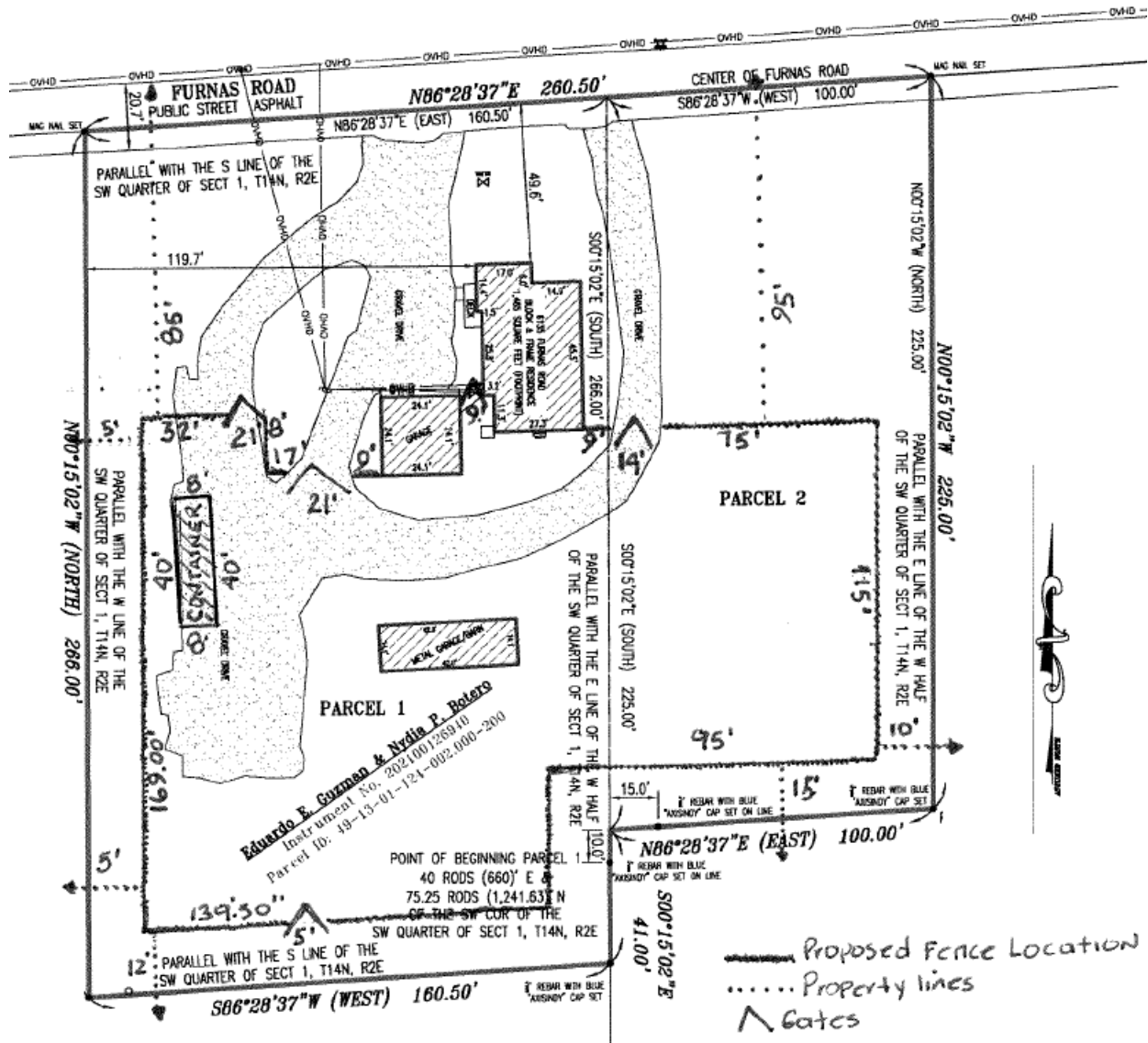
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EXHIBITS

Location Map



Site Plan - file dated March 19, 2024



Plan Of Operation – file dated May 16, 2024

E.G. Gardens Maintenance Services-Plan of Operations.

As responsible members of the community, we understand the importance of adhering to local regulations and obtaining proper permits for conducting business activities.

Business Details:

Business Name: E.G. Gardens Maintenance Services

Owners: Eduardo Guzman and Nydia Botero

Address: 6135 Furnas Road, Indianapolis, IN 462

Services Offered:

Planting and Garden Maintenance: Installation of trees, shrubs, flowers, and ongoing care such as mulching, pruning, watering, and seasonal planting.

Hardscaping: Design and installation of patios, walkways, retaining walls, and outdoor living spaces to enhance property functionality and beauty.

Seasonal Cleanup: Leaf removal, snow plowing, and seasonal transitions to ensure landscapes are well-maintained year-round.

Days and Hours of Operation:

Days: Monday to Saturday.

Hours: 8:00 AM to 6:00 PM (Extended hours during peak seasons may apply)

Emergency Services: Available upon request outside regular hours for urgent landscaping needs.

Maximum Number of Employees:

Regular Crew: Up to 3 employees.

Morning Routine:

Arrival and Briefing: Team members arrive at 6135 Furnas Rd location park their cars in the back of the property.

Equipment Check: Ensure all landscaping equipment, tools, and vehicles are in good working condition and fully stocked with necessary supplies.

Travel to Job Sites: Crews travel to scheduled job sites with equipment and materials.

Duration: 30-45 mins maximum

End-of-Day Routine:

Cleanup: 1 employee stays to clean and organize work areas, load equipment onto trucks and storage equipment.

Site Cleanup: Ensure work areas are tidy, tools are cleaned and stored properly.



Department of Metropolitan Development
Division of Planning
Current Planning

Duration: 15 mins

Commercial Vehicles: (2) dump pick-up trucks; (2) Corn pro. Trailers 16'x84"x54" ; (1) corn pro trailer 16'x84"x96", (1) Blazer enclosed trailer 21'x84"x24", (1) corn pro utility trailer 25'x96"x36", (1) corn pro utility trailer 20'x84"x36", (1) PJ dump trailer for transportation of equipment, materials, and waste.

Work Vehicles: (3) pickup trucks and (1) cargo van for on-site work, deliveries, and client consultations.

Equipment: Commercial-grade mowers, trimmers, blowers, skid steers, and hand tools for landscaping operations.

Equipment Storage: Secure storage of landscaping equipment and tools on-site to facilitate daily operations. Equipment is storage in the garage, the barn, and the shipping container which eventually will be converted into a shed.

Minimal Traffic Impact: Clients will communicate via phone, email, or scheduled appointments at their property. Our landscape business is categorized as a BUSINESS, CONTRACTOR - A business engaged in the provision of a service OFF premises. The business, functioning as a contractor, offers specific services that are delivered outside of its own physical location. Instead of customers coming to a fixed business location, the contractor engages with clients or customers at their respective sites.

Noise and Environmental Impact: Implementing quiet operation practices during early morning and evening hours to respect the peace of the neighborhood.

Legal and Regulatory Compliance:

Business structure: Registered as an INCORPORATED business for liability protection and tax advantages.

Liability Insurance: Maintaining comprehensive liability insurance coverage to protect against potential risks associated with business operations.

Beautification: Contributing to the aesthetic appeal and upkeep of residential properties in the neighborhood.

We are asking the board to keep in mind that this property is ongoing efforts to transition into our primary residence. Our recent focus has been on the crucial cleanup stage, which marks a significant step towards realizing our goal. Our priority during the cleanup stage has been to address safety hazards, ensure basic utilities were functional, and create a clean environment.

We are committed to operating our landscaping business in a responsible and compliant manner, taking into consideration the well-being of neighbors and the environment. We kindly request your review and approval of our and appreciate your attention to this matter.

Thank you for your time and consideration. Please let us know if there are any additional requirements or information needed to facilitate this request.

Sincerely,

Eduardo Guzman & Nydia Botero



Findings of Fact

Petition Number _____

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division II _____
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 grant, has undergone through assessment and scrutiny to ensure that all proposed activities comply with relevant regulations, adhere to ethical standards, and contribute positively to the well-being of the community. Additionally, measures are in place to mitigate any potential negative impacts and to maximize the positive outcomes for all stakeholders involved.

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 variance has been carefully evaluated to ensure that it does not significantly diminish the use and value of the surrounding area. Comprehensive considerations are in place to assess potential impacts, and measures are in place to mitigate any adverse effects on neighboring properties. Additionally, the variance aims to enhance the overall quality and functionality of the area, contributing positively to its value and ensuring its continued benefit to the community.

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

The unique characteristics or circumstances of the property requires the variance. These conditions include D-A zoning requirements that are difficult to meet without a variance. Therefore, granting the variance is essential to address these specific challenges and enable reasonable use of the property while still maintaining compliance with relevant regulations and standards.

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 strict application of the zoning ordinance would impose undue hardship on the property due to unique circumstances that make compliance impractical or unreasonably burdensome. These circumstances included constraints that limit the petitioners' ability to use the land in accordance with the ordinance. Granting the variance would alleviate this hardship preserving the integrity of the zoning ordinance while still maintaining the intent and purpose of the zoning regulations.

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

It is aligned with the broader objectives and community goals. The grant has been carefully assessed to ensure that it complements the vision set forth in the comprehensive plan, rather than conflicting with it. Any proposed developments or activities associated with the grant have been evaluated to ensure they contribute positively to the long-term growth and sustainability outlined in the comprehensive plan. Additionally, measures are in place to mitigate any potential conflicts and to promote consistency with the overall community's goals.

Photographs



Subject site single family dwelling, looking southeast



Subject site proposed storage area for nine commercial vehicles and a commercial shipping container, looking south.



Subject site, existing landscping providing screening of storage area, looking south.



Subject site, existing landscping providing screening of storage area, looking south.



Adjacent undeveloped property to the west



Adjacent single family dwelling to the north