

**BOARD OF ZONING APPEALS DIVISION II**

**July 9, 2024**

**Case Number:** 2024-DV-2021

**Property Address:** 5797 Sunset Lane, Town of Crow’s Nest (approximate address)

**Location:** Washington Township, Council District #2

**Petitioner:** David & Victoria Schneider Temple, by Misha Rabinowitch

**Current Zoning:** D-S

**Request:** Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a single-family dwelling with a 50-foot front yard setback from Sunset Lane (93-foot required) and a 135-foot wide driveway within the front yard (30-foot width permitted).

**Current Land Use:** Residential

**Staff Recommendations:** Staff **recommends approval** of the 135-foot driveway, but **recommends denial** of the 50-foot front yard setback

- Staff would recommend approval of an 83-foot front yard setback

**Staff Reviewer:** Noah Stern, Senior Planner

**PETITION HISTORY**

**ADDENDUM FOR JULY 9, 2024 BZA DIVISION II HEARING**

- This petition was automatically continued by a known remonstrator from the June 11, 2024 BZA Division II hearing to the July 9, 2024 BZA Division II hearing.

**STAFF RECOMMENDATION**

- Staff **recommends approval** of the 135-foot driveway, but **recommends denial** of the 50-foot front yard setback
  - Staff would recommend approval of an 83-foot front yard setback

**PETITION OVERVIEW**

- This petition would provide for the construction of a single-family dwelling with a 50-foot front yard setback from Sunset Lane (93-foot required) and a 135-foot wide driveway within the front yard (30-foot width permitted).
- Staff would note that the required front setback figure listed on the public legal notice was mistakenly listed as 107.5 feet. Upon further review by Staff, it has been determined that, per available surveys and Staff calculation, the correct front setback standard is 93 feet. This was calculated by measuring the existing front setback of the two houses adjacent to the subject site, being at 5791 and 5799

Sunset Lane. The residence at 5791 sits at approximately 102.5 feet from the front property line, and 5799 sits 83.5 feet from the property line, for an average of 93 feet.

- The existing house on site was built after obtaining permits from the Department of Business and Neighborhood Services. These permits were issued mistakenly, as it was later determined that the proposal need variances of development standards for the front setback and the driveway width.
- The site is of an unconventional shape, and also contains a substantial amount of topographic change at the middle and rear portions of the lot. The shape of the lot, as well as the topography present on site do represent a degree of practical difficulty with regards to meeting the front setback standard of 93 feet, as the size of feasible buildable area on the lot becomes greatly reduced. Staff acknowledges that meeting the 93-foot front setback standard would be very difficult given the nature of the site. However, Staff also finds the change in character from the surrounding context that the existing front setback of 50-feet creates to be noteworthy and not without a degree of aesthetic impact. With most of the houses sitting 100 or more feet from the right-of-way on Sunset Lane, this variance request does represent a significant deviation from the normal pattern of development.
- Given these points, Staff recommends denial of the 50-foot front setback, but would be supportive of a variance request of approximately 83-feet, which Staff believes represents a reasonable middle ground that would allow for development that minimizes difficulty with regard to the topography and shape of the lot, but would also be more in line with the development pattern of the adjacent residences.
- With regards to the driveway width, Staff finds this request to be reasonable in nature, being that there are numerous other residences on Sunset Lane with horseshoe-style driveways that are as wide or wider than 135 feet. Likewise, with Sunset Lane disallowing all on-street parking, there would be no reduction of available on-street parking spaces as a result of the approval of the proposed driveway, meaning there would be no substantial impact of a driveway of this style at this location. Therefore, Staff is unopposed to the request for increased driveway width.

## GENERAL INFORMATION

<b>Existing Zoning</b>	D-S	
<b>Existing Land Use</b>	Residential	
<b>Comprehensive Plan</b>	Suburban Neighborhood	
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Surrounding Context</b>
	North:	North: Single-family residential
	South:	South: Single-family residential
	East:	East: Single-family residential
	West:	West: Single-family residential
<b>Thoroughfare Plan</b>		
Sunset Lane	Local Street	40 feet of right-of-way existing and 50 feet proposed
<b>Context Area</b>	Metro	
<b>Floodway / Floodway Fringe</b>	No	
<b>Overlay</b>	No	
<b>Wellfield Protection Area</b>	No	
<b>Site Plan</b>	5/16/24	
<b>Site Plan (Amended)</b>	N/A	
<b>Elevations</b>	N/A	
<b>Elevations (Amended)</b>	N/A	
<b>Landscape Plan</b>	5/30/24	
<b>Findings of Fact</b>	5/8/24	
<b>Findings of Fact (Amended)</b>	N/A	

## COMPREHENSIVE PLAN ANALYSIS

### Comprehensive Plan

- Marion County Land Use Plan Pattern Book
- Infill Housing Guidelines

### Pattern Book / Land Use Plan

- The Marion County Land Use Plan pattern Book recommends the Suburban Neighborhood living typology for this site.

### 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

- With regards to front setbacks and new housing, the Infill Housing Guidelines document recommends:
  - When setbacks are different, build in the setback range
  - Be sensitive to street context
  - Be coordinated, but not matching

#### 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

**2008DV1057; 5763 Sunset Lane (south of site)**, VARIANCE OF DEVELOPMENT STANDARDS of the Dwelling Districts Zoning Ordinance to provide for a 3,106-square foot pool house, an 832-square foot detached garage, a 4,790-square foot pool and pool terrace and a 1,600-square foot accessory parking area, resulting in an accessory building area of 4,816 square feet or 129.81 percent of the main floor area of the primary dwelling (maximum 2,782.5 square feet or 75 percent of the main floor area of the primary structure permitted), and resulting in an accessory use area of 11,861 square feet or 159.38 percent of the total living area of the primary structure (maximum 7,442 square feet or 99.99 percent of the total living area of the primary structure permitted), having an additional eight space surface parking lot, **approved**.

**96-V2-50; 5858 Sunset Lane and 521 Kessler Boulevard West Drive (north of site)**, variance of development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a single-family residence being 38 feet in height (maximum 35 feet in height permitted), **approved**.

**89-UV1-20; 5801 Sunset Lane (north of site)**, variance of use of the Dwelling Districts Zoning Ordinance to provide for a temporary Decorator's Show House with two temporary advertising signs, **approved**.



EXHIBITS









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 home is located 50 ft. from the edge of the right-of-way of Sunset Lane in a location that is only 8 ft. in front of where the home previously on the site was located and 31 ft. 6 in. behind the tennis court and improvements (including 10 ft. fence) located on the adjacent property to the north. The home is well designed to fit in context with the neighborhood, represents a substantial improvement from the home previously on the site that was deteriorating, in poor condition, and vacant for 14 years, and appropriate landscaping will be installed as screening to adjacent properties. Ordinance required side yard setbacks have been maintained. Granting the variance will permit preservation of the historically significant landscape features in the rear of the property designed by well-known landscape architect Frits Loonsten approximately 50 years ago.

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 home is located 50 ft. from the edge of the right-of-way of Sunset Lane in a location that is only 8 ft. in front of where the home previously on the site was located and 31 ft. 6 in. behind the tennis court and improvements (including 10 ft. fence) located on the adjacent property to the north. The home is well designed to fit in context with the neighborhood, represents a substantial improvement from the home previously on the site that was deteriorating, in poor condition, and vacant for 14 years, and appropriate landscaping will be installed as screening to adjacent properties. Ordinance required side yard setbacks have been maintained. Granting the variance will permit preservation of the historically significant landscape features in the rear of the property designed by well-known landscape architect Frits Loonsten approximately 50 years ago.

3. THE STRICT APPLICATION OF THE TERMS OF THE ZONING ORDINANCE WILL RESULT IN PRACTICAL DIFFICULTIES IN THE USE OF THE PROPERTY BECAUSE:

the lot is unusually configured in that there is adequate width at the Sunset Lane right-of-way, then the lot narrows significantly to the east, while at the same time the topography slopes considerably, making the lot virtually undevelopable if a 95 ft. setback is required. The previous home on the site was setback 58 ft. from the Sunset Lane right-of-way. The 95' setback would be located behind the rear of the home previously located on the site and would be well below the top grade elevation of the front of the previous home, which further establishes practical difficulty in complying with the ordinance. Also, taking into account the tennis court and improvements located on the adjacent property to the north, which are 18 ft.





**Department of Metropolitan Development  
Division of Planning  
Current Planning**

6 in. from the Sunset Lane right-of-way, the average front setback of the adjacent properties is 50 ft., consistent with what is being proposed. Requiring a 95 ft. setback would substantially interfere with the intricate and historically significant landscape features designed by well-known landscape architect Frits Loonsten approximately 50 years ago.

**DECISION**

IT IS THEREFORE the decision of this body that this VARIANCE petition is APPROVED.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

_____	_____
_____	_____
_____	_____



















