

BOARD OF ZONING APPEALS DIVISION III

October 21, 2025

Case Number: 2025-UV3-029

Property Address: 5950 South Belmont Avenue (approximate address)

Location: Perry Township, Council District #22

Petitioner: Milestone Contractors LP, by Misha Rabinowitch

Current Zoning: I-3 / I-2 / SU-23 (GSB) (FF)

Request: Variance of Use and Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a building resulting in a 60-foot front yard setback from Belmont Avenue (150 feet required), a zero-foot landscape buffer yard (50 feet required), deficient landscaping and screening, and an exemption from conformity with the General Regulations, including fencing, gates and signage, topsoil management, as well as subsections F-M of the Gravel Sand Borrow overlay District (conformity with General Regulations, Operating Regulations, Blasting, Operations plan, Reclamation plan, Reclamation standards, Assurance of completion reclamation and maintenance, Annual reports, and License permit required).

Current Land Use: Industrial

Staff

Recommendations: Staff recommends **approval** of the petition.

Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff recommends **approval** of the petition.

PETITION OVERVIEW

- 5950 South Belmont Avenue is an industrial parcel that is currently improved with three storage building and extensive outdoor storage areas that are associated with a construction contractor that has been active at the site since the grant of the Special Exception 95-HSE-2. A larger structure on the site was removed around 2021 because of the expansion of State Road 37. Surrounding land uses include a building materials supplier to the south, the expanded highway to the east, and what appear to be uses related to mining, gravel extraction and concrete processing on land to the north and west of the property.

- Although the subject site does not contain any operations related to mining, it is located within the Gravel, Sand and Borrow Secondary Zoning District which is intended for areas prime for the mining, quarrying, or excavating of sand, gravel, borrow or other earthen materials. This Secondary District also permits temporary processing plants for those materials which are subject to numerous added dimensional and compliance standards beyond what would be required by the primary zoning district. Since this designation is based on geographic factors, it could not be removed from the site via a rezoning petition.
- The current contractor use is seeking to add a new storage building onto the property in a similar location to the previously removed structure with an area of 9,600 square feet, per the below site plan. Since the property has a GSB zoning designation, it would be subject to a front setback of 150 feet (instead of 60 feet), would require a landscape buffer and fencing beyond standard I-3 requirements, and would be subject to subsections F through M from the GSB regulations found within 742-206 of the Ordinance. These exemptions are extensive and would involve regulations related to blasting, which is why this request includes a Variance of Use in addition to Variances of Development Standards.
- Approval of this variance petition would also allow for relief for standard landscaping rules that would be applicable for development within I-3 zoning but *not* within the GSB district: this would include the placement of frontage trees along Belmont Avenue. Additionally, although the construction of a new building would typically trigger the need for the installation of sidewalk along the frontage in the amount of 5 (five) linear feet per 100 square feet of new building, the Administrator has previously approved a waiver of that requirement for this project on the condition that a contribution to the City's sidewalk fund be made in lieu of that installation.
- Although small portions of the site are zoned I-2 and SU-23, most of the parcel (including the location of the proposed building) is zoned I-3 (Medium Industrial District) to allow for industries that present moderate risks to the public and that should be isolated from protected districts and buffered by intervening lighter industrial districts. As described above, it also falls within the Gravel, Sand and Borrow secondary zoning district for mining operations. The Comprehensive Plan recommends this site for Office Commercial uses (which does not appear to match surrounding land use patterns), and small portions of the site along the western boundary are located within the Floodway Fringe and within an Environmentally Sensitive overlay per the Comprehensive Plan.
- Given that the proposed front setback would comply with requirement for standard I-3 zoning and that the proposed building and use don't involve mining activity, staff finds the requested reduction reasonable and recommend approval of the setback request. For similar reasons, relief from the specific landscaping and fencing requirements that would be applicable for GSB operations would be supportable. Additionally, staff would support exemptions from the subsections listed within the variance request language with the understanding that this would not allow for the conducting of any mining uses or operations at the site in the future that didn't comply with these standards, and that any work at the site involving blasting or explosives would likely require a variance.

- Findings of Fact provided by the applicant related to the request for relief from landscaping rules generally applicable for I-3 zoning mention the surrounding context of heavy industrial uses lacking any sort of plantings, the impact of the interstate relocation on site functionality, and other site-specific restrictions that result from the placement of existing gas lines and other utilities along the frontage. Staff feels that these findings have established adequate practical difficulty to recommend approval of this variance as well.

GENERAL INFORMATION

Existing Zoning	I-3 / I-2 / SU-23 (GSB) (FF)	
Existing Land Use	Industrial	
Comprehensive Plan	Office Commercial	
Surrounding Context	Zoning	Surrounding Context
North:	SU-23 GSB	North: Mining / SR 37
South:	I-3	South: Industrial
East:	I-3 GSB	East: SR 37
West:	I-3 GSB	West: Mining
Thoroughfare Plan		
Belmont Avenue	Local Street	Recently Relocated from SR37 Expansion
Context Area	Metro	
Floodway / Floodway Fringe	Yes	
Overlay	Yes	
Wellfield Protection Area	No	
Site Plan	09/15/2025	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	09/15/2025	
Findings of Fact (Amended)	10/7/2025	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book

Pattern Book / Land Use Plan

- The Land Use Plan Pattern Book recommends this site to the Office Commercial working typology to allow for single and multi-tenant office buildings. It is often a buffer between land uses of differing intensities and can range from a small freestanding office to a major employment center. Intended uses might include medical and dental facilities, insurance, real estate, financial institutions, , legal services, or hair and body care salons. Industrial uses are not contemplated for this typology.
- A portion of this site also falls within an Environmentally Sensitive overlay to allow for areas containing high quality woodlands, wetlands, or other natural resources that should be protected from potential damage by development.

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

ZONING HISTORY – SITE

95-HSE-2, special exception of the Wellfield Protection Zoning Ordinance to provide for the construction of the Wellfield Protection Zoning Ordinance to provide for the construction and operation of a facility to service, store, repair and maintain vehicles and equipment associated with a construction/contractor use, including an above ground fueling island; a waiver of the provision requiring construction to prevent potential containment release (specifically to provide for a gravel or stone surface on the portion of the site used for tracked equipment storage and travel; and a waiver of the provision requiring that all vehicle or equipment repair be conducted in enclosed buildings (specifically to provide for occasional minor service and repair outside on a hardsurfaced area), **approved**.

72-Z-233, rezoning of 281 acres from the A-2, I-3-S, and I-2-S districts to the Gravel, Sand and Borrow (Secondary) district to permit extraction of mineral, gravel and sand, **approved**.

ZONING HISTORY – VICINITY

2022CVR807 ; 5540 S Belmont Avenue (west of site), Variance of Use of the Consolidated Zoning and Subdivision Ordinance to provide for the relocation of two concrete plants (not permitted), **approved**.

2022CZN807 ; 5540 S Belmont Avenue (west of site), Rezoning of 10 acres from the D-A (GSB) (FF) to the SU-23 (GSB) (FF) district to provide for sand and gravel extraction and concrete processing plant, **approved**.

2008UV2012 ; 5540 S Belmont Avenue (north of site), VARIANCE OF USE of the Special Districts Zoning Ordinance to provide for the location of a 10,000 gallon above-ground, outdoor storage tank for diesel fuel storage (not permitted), **approved**.

2005ZON089 ; 5950 S Belmont Avenue (south of site), rezoning of 14.653 acres from I-2-S to I-3-S to allow for a building supply business with outdoor storage of galvanized building studs, **approved**.

2000UV2004 ; 5320 S Belmont Avenue (north of site), variance of use of the Special Districts Zoning Ordinance to provide for a temporary concrete plant (not permitted), **approved**.

99-Z-199 ; 5719 S Concord Street (west of site), rezone 30.0 acres from D-A to SU-23 to provide for a permanent sand and gravel processing facility and associated accessory uses, **approved**.

98-UV1-41 ; 5504 S Belmont Avenue (north of site), variance of use of the Special Districts Zoning Ordinance to provide for a concrete processing facility (not permitted), **approved**.

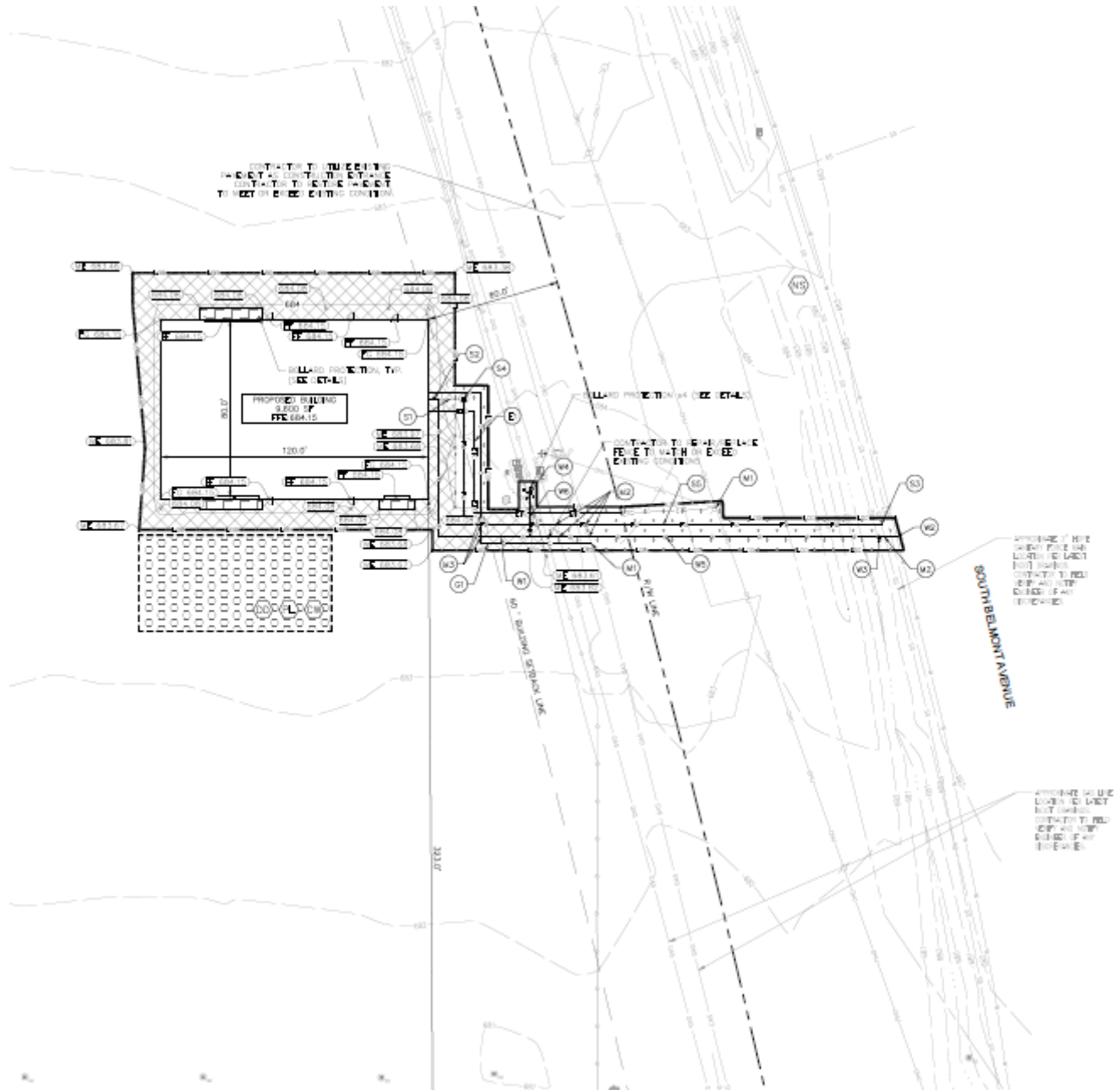
87-Z-91 ; 5100 S Concord Street (north of site), rezoning of approximately 25 acres to the SU-23 (GSB) district to provide for the location of permanent processing plants for aggregate materials, **approved**.

EXHIBITS

2025UV3029 ; Aerial Map



2025UV3029 ; Site Plan



2025UV3029 ; Findings of Fact (Front Setback)

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

the reduced front yard setback is consistent with what would otherwise be required in the I-3 District where no mining activities are occurring.

Also, the property fronts along a high traffic interstate such that the reduced front yard setback, which is necessitated by relocation of the interstate by condemnation, will not negatively impact the community.

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 reduced front yard setback is consistent with what would otherwise be required in the I-3 District where no mining activities are occurring.

Also, the property fronts along a high traffic interstate such that the reduced front yard setback, which is necessitated by relocation of the interstate by condemnation, will not negatively impact adjacent properties.

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

the 150 ft. front setback is based upon the Gravel, Sand, and Borrow ordinance, however, the property is not being used for mining activities.

2025UV3029 ; Findings of Fact (GSB Sections)

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

The sections of the Gravel, Sand, and Borrow Ordinance sought to be avoided by this variance request relates to controls in mining activities, so because mining activities will not be conducted on the property, such provisions are not applicable.

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 sections of the Gravel, Sand, and Borrow Ordinance sought to be avoided by this variance request relates to controls in mining activities, so because mining activities will not be conducted on the property, such provisions are not applicable.

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

The sections of the Gravel, Sand, and Borrow Ordinance sought to be avoided do not have any relevance or applicability, where, as here, the property is not being used for mining activities.

2025UV3029 ; Findings of Fact (GSB Landscaping & Screening)

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

the property is surrounded by other heavy industrial uses and properties that have been assigned the Gravel, Sand, and Borrow secondary zoning classification where there is little to no landscaping and screening. Deficient landscaping on the subject property will not negatively impact the community.

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 adjacent properties are also occupied by similarly heavy industrial uses with little to no landscaping and screening.

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

the property, and all adjacent properties, are zoned and used for heavy industrial uses, where landscaping is neither appropriate nor is it sustainable. Moreover, the available landscape area within the subject property is already significantly restricted due to the reduction of original front yard area resulting from the relocation of the adjacent interstate by condemnation. The grassed area within the remaining front yard is further encumbered by relocated gas lines and associated utility provider restrictions that were installed by the aforementioned interstate relocation project.

2025UV3029 ; Findings of Fact (Landscape Buffering)

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

the property is located in the context of other heavy industrial uses that do not support landscape buffer areas due to the intensity of 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 adjacent uses also are intense industrial uses, including properties that have been assigned the Gravel, Sand, and Borrow secondary zoning classification.

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

the lack of area conducive to landscape bufferyard is, in large part, due to relocation of the adjacent interstate by condemnation, which significantly impacted the functionality of the property. Area conducive to landscape buffering is further restricted by existing gas line and other utility restrictions resulting from the aforementioned interstate improvements. These restrictions establish the required practical difficulty.

2025UV3029 ; Findings of Fact (Use)

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

The property will not be used for mining activities, therefore, the ordinance regulations specific to gravel, sand, and borrow activities do not apply. Moreover, the industrial storage activities to be conducted on site will be less impactful to the surrounding community than what would otherwise be permitted under the GSB Ordinance.

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 property will not be used for mining activities, therefore, the ordinance regulations specific to gravel, sand, and borrow activities do not apply. Moreover, the industrial storage activities to be conducted on site will be less impactful to the surrounding community than what would otherwise be permitted under the GSB Ordinance.

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

Due to the relocation of the highway by condemnation, the property is not large enough, or properly configured for, GSB uses.

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

None of the GSB Ordinance provisions for which a variance is sought apply to the industrial storage activities that will be occurring.

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

The property is designated office commercial so the current and proposed use (industrial storage) is more compatible with the current designation than mining activities permitted under the GSB Ordinance.

2025UV3029 ; Photographs



Photo 1: Approximate Location of Proposed Structure



Photo 2: Subject Site Viewed from Southeast

2025UV3029 ; Photographs (continued)



Photo 3: Subject Site Viewed from East



Photo 4: Subject Site Viewed from East (further north)

2025UV3029 ; Photographs (continued)



Photo 5: Subject Site Viewed from East (further north)



Photo 6: Subject Site Viewed from Northeast

2025UV3029 ; Photographs (continued)



Photo 7: Existing Access Drive to North of Site



Photo 8: Mining Operation to North Viewed from Belmont (April 2025)

2025UV3029 ; Photographs (continued)



Photo 9: Belmont Frontage Looking North



Photo 10: Belmont Frontage Looking South

2025UV3029 ; Photographs (continued)



Photo 11: Adjacent Property to South



Photo 12: Adjacent Property to East