

BOARD OF ZONING APPEALS DIVISION I

August 4, 2026

Case Number: 2026-DV1-013 (Amended)
Property Address: 2440 Lafayette Road (approximate address)
Location: Wayne Township, Council District #11
Petitioner: Lafayette Center LLC, by Sean Mastain
Current Zoning: C-4
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a six-foot-tall perimeter chain link fence (maximum 3.5-foot-tall fence permitted in front yards, chain link not permitted within front yards and requires coating in side yards).
Current Land Use: Commercial
Staff Recommendations: Staff recommends **denial** of the requested variances.
Staff Reviewer: Michael Weigel, Principal Planner I

PETITION HISTORY

7/7/26: At the July 7th hearing, the petitioner withdrew two variances related to barbed wire and encroachment of the fence into the rear easement. The petition received an indecisive 1-2 vote and was therefore automatically continued to the August 4th hearing date to be re-heard. Staff continues to recommend **denial** of the two remaining variances related to front-yard height and chain-link material.

6/2/26: A timely automatic continuance request was filed by a registered neighborhood group.

5/12/26: This petition was continued from the May 12, 2026 hearing date of Division I to allow for the mailing of amended notice that mentioned the need for a variance related to the easement.

STAFF RECOMMENDATION

Staff recommends **denial** of the requested variances.

PETITION OVERVIEW

2440 Lafayette Road is a 2.43-acre parcel currently improved with a multitenant commercial structure containing six (6) tenant bays. Current tenants appear to include an event center, several restaurants, and a clothing store. Surrounding land uses include residences to the southwest as well as other commercial uses to the northwest, southeast and on the other side of the street.

Between 2024 and 2025, 1225 linear feet of chain link fence was placed around the perimeter of the subject site, per the site plan within Exhibits. The fence appears to have a height of six (6) feet and is topped with barbed wire for entirety of the fence's length. Three (3) separate complaints were filed with the Mayor's Action Center in relation to the fence: the first two (2) complaints were from adjacent

homeowners expressing concern about barbed wire and encroachment of the fence into their properties' rear yards (see Photo 4 within Exhibits), and the third was from an adjacent business owner at 2450 Lafayette Road to the northwest indicating that the newly installed fence was built within an easement and was therefore negatively impacting trash service for their property.

As a result of those complaints, the violation case VIO25-009822 was opened in October of 2025 in relation to the fence height and material, as well as the condition of the parking area and a wall sign. Approval of these variances would allow for the fence to remain, but would not provide relief from the non-fence standards cited by the violation (full text within Exhibits). Specifically, four (4) variances would be required to allow for the fence: (a) the height would be limited to 3.5 feet in front-yard areas; (b) the usage of chain-link fencing in commercial zoning districts would be limited to side and rear yards when coated with dark-color vinyl; (c) barbed wire would not be permitted; and (d) the fence would be within the rear-yard electrical easement given proximity to overhead power lines.

Lafayette Road has traditionally been a commercial corridor with a mix of low- and medium-intensity commercial uses. Adjacent properties either do not have tall front-yard fences (see Photos 6-8 within Exhibits) or have had those fences added within the past few years in a manner that does not appear to comply with current Ordinance and could potentially be citable (see Photos 9-14 within Exhibits). Additionally, no adjacent properties appear to contain barbed wire along their fences.

This property is zoned C-4 (Community-Regional District) to allow for the development of major business groupings and regional-size shopping centers to serve a population ranging from a community to neighborhoods to a major segment of the total metropolitan area. Similarly, the Comprehensive Plan recommends the site to the Community Commercial typology to allow for low-intensity commercial and office uses that serve nearby neighborhoods. These uses are usually in freestanding buildings or small, integrated centers. Neither the zoning nor the Plan contemplate tall front-yard fences with barbed wire placed between frontages and business entry points, and Plan recommendations are directly based on neighborhood input and feedback for their vision for communities (in addition to the three adjoining who lodged complaints with the Mayor's Action Center about this specific fence).

The circumstances where barbed-wire or razor-wire fencing is permitted by the Ordinance are narrow: it is prohibited throughout the City except for when being used to enclose livestock on agricultural sites or when associated with correctional or penal institutions. The use of a multitenant commercial center bears no similarity to either of those exceptions, and creates a direct and negative visual impact for potential customers seeking the services of businesses within the center (see photo 3 of Exhibits). Rules limiting chain link and fence height are based on a similar logic of creating vibrant and pedestrian-friendly store fronts. The presence of multi-use path along Kessler Blvd NDR to the east of the site implies potential for future increased walkability along this corridor, and a tall barbed-wire fence would likely have a negative impact on both foot traffic and vehicle traffic for businesses within the center. In addition to aesthetic commercial impacts, the rear-yard portions of the fence in particular would be likely to cause a negative impact for any needed maintenance on existing power lines running along the southern border of the property (see Photo 5 within Exhibits).

Findings of Fact provided by the petitioner cite the need for security around the perimeter of the site and a surrounding context of front-yard fencing. The second paragraph on this page provides additional

information about surrounding properties and why this should not be considered legal continuation of a trend, and staff also feel that alternate security measures could be put in place beyond the placement of fencing in violation of multiple Ordinance rules. On the contrary, the usage of barbed wire would likely *reduce* public safety given the risk of cuts or lacerations for either pedestrians wildlife, or potential AES maintenance workers.

The fence runs directly counter to Plan and Ordinance guidance, and the multiple filed complaints from neighboring properties indicate direct negative impact on both residential neighbors, the commercial property to the northwest who indicated difficulties with trash pickup, and with maintenance of power lines within the easement area. The gates placed along the rear-yard access drive as well as the placement of barbed wire could complicate efforts to restore power in the event of outages, and no written consent was provided by AES indicating their approval of the fence encroaching into their easement. Given that none of the three state-required burdens of proof have been met by the Findings, staff recommends **denial** of the variances.

GENERAL INFORMATION

Existing Zoning	C-4	
Existing Land Use	Commercial	
Comprehensive Plan	Community Commercial	
Surrounding Context	<u>Zoning</u>	Surrounding Context
North:	C-4	North: Commercial
South:	D-5	South: Residential
East:	C-4 / D-4	East: Commercial
West:	D-5	West: Residential
Thoroughfare Plan		
Lafayette Road	Primary Arterial	90-foot existing right-of-way and 102-foot proposed right-of-way
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	01/20/2026	
Site Plan (Amended)	04/13/2026	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	01/20/2026	

**Findings of Fact
(Amended)**

N/A

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book

Pattern Book / Land Use Plan

- The Community Commercial typology provides for low-intensity commercial and office uses that serve nearby neighborhoods. These uses are usually in freestanding buildings or small, integrated centers. Examples include small-scale shops, personal services, professional and business services, grocery stores, drug stores, restaurants, and public gathering spaces.

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

87-UV1-130, variance of use of the Commercial Zoning Ordinance to provide for the outside display and sale of vehicles, **approved**.

86-SE3-12, Special Exception to provide for an amusement arcade with 20 machines, **approved**.

86-UV3-113, Variance of Use of the Commercial Special Exception Ordinance to provide for the operation of an amusement arcade within 500 feet of a residential zoning district, **approved**.

ZONING HISTORY – VICINITY

2023ZON053 ; 2500 Lafayette Road (northwest of site), Rezoning of 0.762 acres from the C-4 district to the C-5 district to allow for vehicle sales, **approved**.

2020DV1029 ; 3203 Roberta Drive (north of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a front porch addition to a single-family dwelling, with a five-foot front setback (25-foot front setback required), **approved**.

2011ZON052 ; 2405 Lafayette Road (east of site), Rezoning of 0.38 acre, from the D-4 (W-5) District to the C-4 (W-5) classification to provide for commercial uses, **approved**.

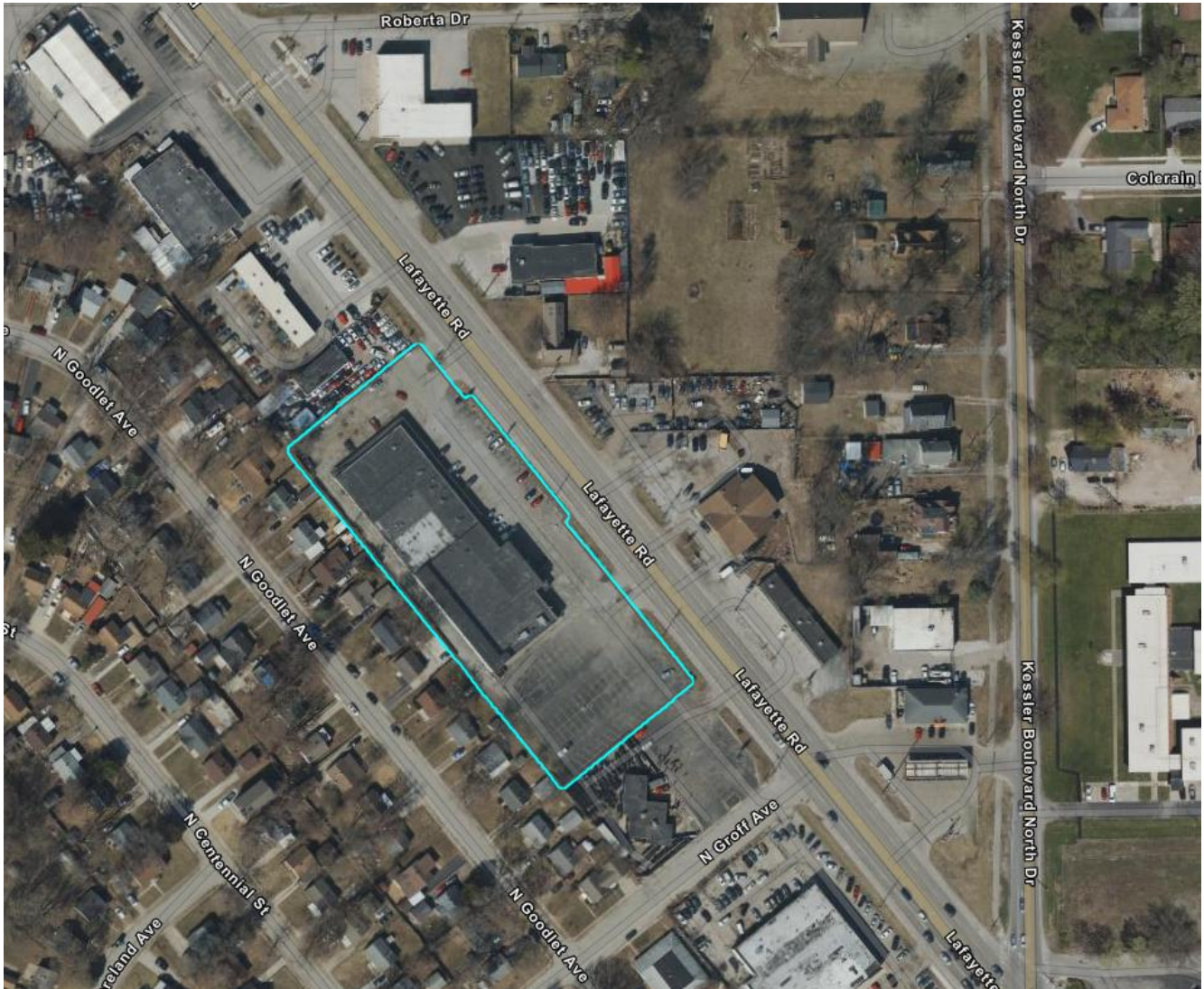
2011DV1034 ; 2409 Lafayette Road (east of site), Variance of development standards of the Commercial Zoning Ordinance to provide for carryout food service within 65 feet of a protected district (100-foot separation required) and to provide for a trash container in front of the established front building line along Lafayette Road (not permitted), **approved**.

2011HOV008 ; 2535 Lafayette Road (north of site), Variance of use of the Dwelling Districts Zoning Ordinance to provide for an office and storage inside an existing building and storage shed at 2535 Lafayette Road (not permitted), related to automobile sales and display at 2545 Lafayette Road, **approved**.

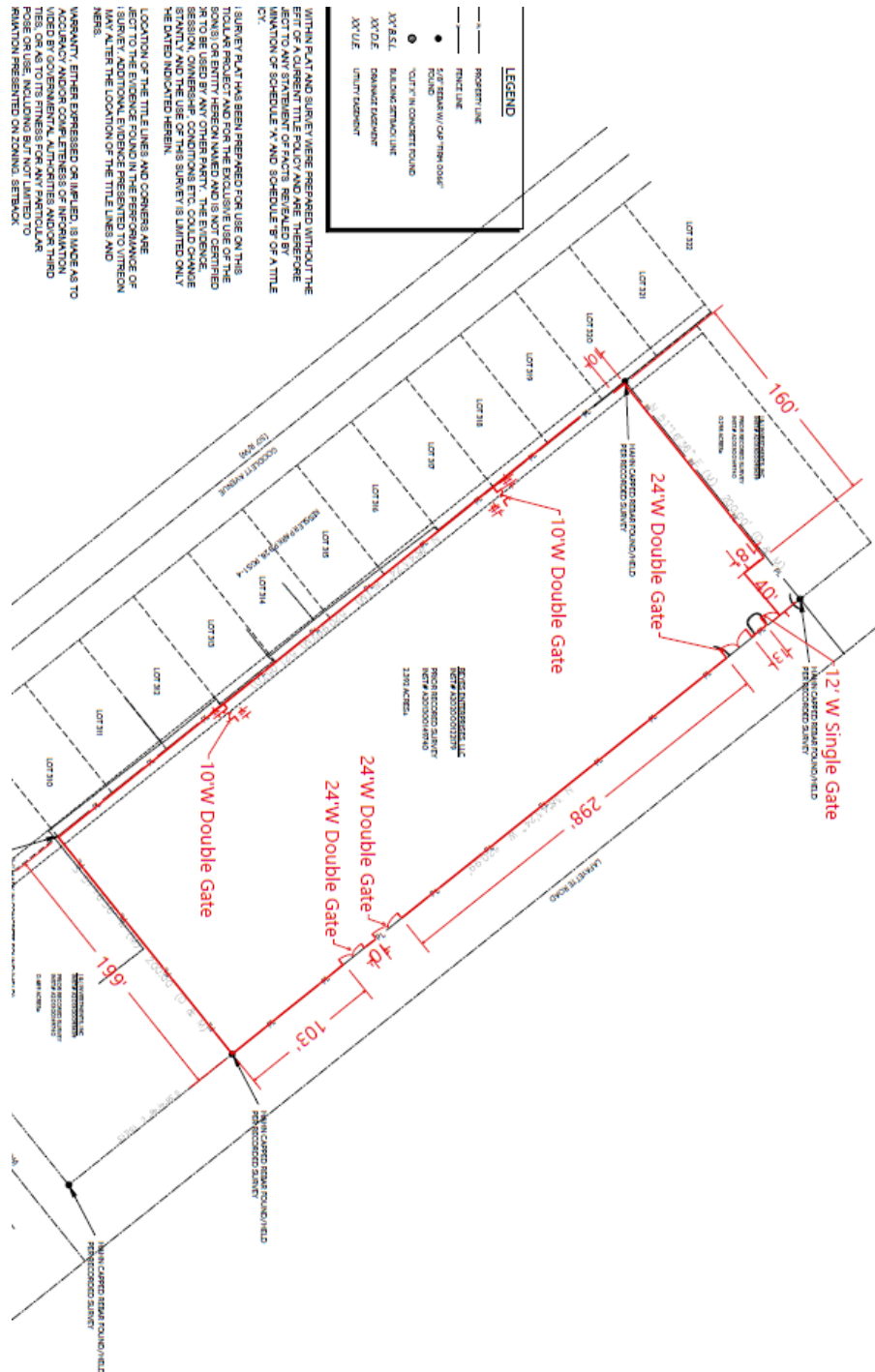
2003UV1050 ; 2366 Lafayette Road (southeast of site), variance of use and development standards of the Commercial Zoning Ordinance to provide for a 10,458 square foot expansion to an existing food distribution warehouse (not permitted) resulting in a zero-foot south transitional yard, and with parking and a trash container within the fifteen-foot west transitional yard (parking and trash containers not permitted in the required transitional yard, minimum twenty-foot transitional yard required when abutting a protected district), **approved**.

EXHIBITS

2026DV1013 ; Aerial Map



2026DV1013 ; Site Plan



2026DV1013 ; Findings of Fact

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

Public Health – It should not pose risks such as injury, disease transmission, or environmental hazards.

Safety – The fence will not create a hazard to people (especially children), vehicles, or emergency access

Morals – It shouldn't offend community standards, for example, excessively intimidating structures.

General Welfare – It should not negatively impact the overall well-being, enjoyment, or property values in 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 installation of a 6-foot-tall fence with barbed wire along the applicant's property line will not substantially adversely affect the use,

the proposed fence is designed primarily for security and safety purposes and will be located entirely within the property boundaries.

The height and materials are consistent with similar security fencing found in the area and will not obstruct existing access, visibility,

or light for neighboring parcels. No evidence has been presented indicating that the fence will diminish adjacent property values or interfere

with current lawful uses. Therefore, the requested variance will not result in any substantial negative impact to surrounding 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 strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because a 6-foot tall fence with barbed wire is necessary to ensure adequate security, privacy, and protection of the premises. Without the ability to install this fence the property cannot be reasonably used for its intended purpose due to heightened risks of trespass, theft, vandalism, or liability. The unique conditions of this site such as its location, existing security challenges, adjacent land uses create a practical difficulty that does not generally apply to other properties in the same zoning district. Therefore, adherence to the ordinance would deprive the owner of a reasonable and functional use of the property

2026DV1013 ; Notice of Violation (VIO25-009822)

Section 740 -1005.A.1. Civil Zoning Violation

Specific Violation: The location, erection, or maintenance of any sign not specifically permitted by the Zoning Ordinance; (744-904.A. - All signs and sign structures including all supports, braces, guys and anchors, shall be kept in good repair and maintained in a safe and legible condition at all times, including the replacement of defective or damaged parts, painting, repainting, cleaning, and other services required for maintenance of the signs. Unmaintained signs shall be removed or brought into compliance...wall sign with missing sign copy area).

Section 740 -1005.A.8. Civil Zoning Violation

Specific Violation: Failure to comply with use-specific standards and zoning district development standards for the C-4 district; (744-404.A.6.e – Parking lots used for access or maneuverability shall be maintained in good condition and free of chuckholes, weeds, dirt, trash and debris).

Section 740 -1005.A.8. Civil Zoning Violation

Specific Violation: Failure to comply with use-specific standards and zoning district development standards for the C-4 district; (744-510.A.1. - Barbed/razor wire fences are prohibited).

Section 740 -1005.A.8. Civil Zoning Violation

Specific Violation: Failure to comply with use-specific standards and zoning district development standards for the C-4 district; (Table 744-510-2: - Fence height exceeding 42 inches in the front yard).

2026DV1013 ; Photographs



Photo 1: Subject Fence Viewed from Southeast



Photo 2: Subject Fence Viewed from Northwest

2026DV1013 ; Photographs (continued)



Photo 3: Close-Up of Barbed Wire Fence



Photo 4: Subject Site Viewed from East (July 2024)

2026DV1013 ; Photographs (continued)



Photo 5: Fencing in Rear Yard + Adjacent Property to West



Photo 6: Adjacent Property to South

2026DV1013 ; Photographs (continued)



Photo 7: Adjacent Property to Southeast



Photo 8: Adjacent Property Further Southeast

2026DV1013 ; Photographs (continued)



Photo 9: Adjacent Property to Northwest (November 2016)



Photo 10: Adjacent Property to Northwest

2026DV1013 ; Photographs (continued)



Photo 11: Adjacent Property to North (August 2009)



Photo 12: Adjacent Property to North

2026DV1013 ; Photographs (continued)



Photo 13: Adjacent Property to East (July 2019)



Photo 14: Adjacent Property to East