

BOARD OF ZONING APPEALS DIVISION I

May 12, 2026

Case Number:	2026-DV1-015
Property Address:	5607 West 38 th Street (<i>approximate address</i>)
Location:	Wayne Township, Council District #5
Petitioner:	Palmetto Indianapolis-West 38 th Street LLC, by Ed Williams
Current Zoning:	C-4
Request:	Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a monument sign, being the fourth primary freestanding sign along the 38th Street frontage (maximum two freestanding signs per frontage) and with a separation of 165 feet, 244 feet and 246 feet from other primary freestanding signs (300-foot separation required).
Current Land Use:	Commercial
Staff Recommendations:	Staff recommends denial of this petition.
Staff Reviewer:	Michael Weigel, Principal Planner I

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

5607 West 38th Street is a 1.04-acre outlot parcel with frontage along 38th Street to the north that is currently developed with a drive-through and walk-up beverage business built in 2025. The property is part of an integrated commercial center with several businesses and a medical clinic to the east. Three other signs exist along the shared frontage: one for a Jack in the Box restaurant 246 feet to the west, one multitenant integrated center sign 165 feet to the east, and one for the medical clinic 244 feet to the east (see Photos 1-2 within Exhibits for precise locations in relation to the subject site and frontage).

A sign permit was approved for this property in 2025 to allow for a mixture of wall signs, drive-thru signs and secondary incidental signage (20 signs in total). The permit application originally included a request for a pole sign along the 38th Street frontage but was removed from the scope of work to allow for permit issuance and the installation of the other 20 signs with the potential of seeking a later zoning variance to allow for a primary freestanding sign for the site to be included within a separate sign permit.



Approval of this zoning petition would allow for placement of a primary freestanding sign along the 38th Street frontage. The sign rendering provided by the applicant indicates placement of an 8-foot sign approximating the shape of a coffee cup (within Exhibits). This sign would require variance to allow for violation of Ordinance regulations on both the number of signs allowed along an integrated center (this would be the fourth) as well as the proximity of the freestanding sign to others along the frontage (300-foot separation required and other signs are between 165 and 246 feet away). The off-premises billboard sign on the medical clinic parcel would not count toward the total of signs along the shared frontage.

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.

Findings of Fact provided by the applicant indicate that approval of the variance would be a minimal deviation from Ordinance requirements and that this sign would be necessary for motorists to see the business from the road. Staff would disagree given the number of signs already existing within 300 feet of the existing sign and would not feel that the burden of site-specific practical difficulty has been met. The business is already open and appears to be easily viewable for traffic approaching from both the east and west given the 20 existing signs already placed on and around the building.

Regulations on the placement of signage along shared frontages exist to allow for reasonable accommodation of advertising material while also limit sign proliferation along busy commercial corridors for reasons related to both safety and aesthetics. Staff would note that the Ordinance contemplates a separation of at least 300 feet is contemplated for signs in shared shopping center areas, and that approval of this petition would result in *four (4)* signs placed in that radius (the billboard would even be a fifth). Additionally, alternative options to advertise the business that wouldn't contribute to sign proliferation might existing, including but not limited to usage of the multitenant sign to the east, online advertising through Google Maps or similar technology, or the 20 signs already approved for the business. For these reasons, and the lack of difficulty beyond a desire to advertise beyond the limits of the Ordinance, staff recommends **denial** of the variance requests.

GENERAL INFORMATION

Existing Zoning	C-4	
Existing Land Use	Commercial	
Comprehensive Plan	Community Commercial	
Surrounding Context	Zoning	Surrounding Context
	North:	D-7 North: Residential Multifamily
	South:	C-4 South: Commercial
	East:	C-4 East: Commercial
	West:	C-4 West: Commercial
Thoroughfare Plan		
38 th Street	Primary Arterial	134-foot existing right-of-way and 134-foot proposed right-of-way

Context Area	Metro
Floodway / Floodway Fringe	No
Overlay	No
Wellfield Protection Area	No
Site Plan	01/23/2026
Site Plan (Amended)	N/A
Elevations	03/31/2026
Elevations (Amended)	N/A
Landscape Plan	N/A
Findings of Fact	01/23/2026
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

N/A

ZONING HISTORY – VICINITY

2014DV3055 ; 5515 West 38th Street (east of site), Variance of development standards of the Sign Regulations to provide for (a) a 20.1-foot tall, 74-square foot freestanding sign, within approximately 80 feet of an existing freestanding sign to the west along 38th Street (minimum separation of 300 feet required), being the fifth sign along the approximately 1,250-foot 38th Street frontage (minimum 1,500 feet of frontage required for five signs); and (b) a 12.1-foot tall, 53.4-square foot freestanding sign, within approximately 290 feet of an existing freestanding sign to the north along Moller Road (minimum 300 feet of separation required), being the third sign along an approximately 775-foot frontage (900 feet of frontage required for three signs), **approved**.

2013DV1041 ; 5615 West 38th Street (south of site), Variance of development standards of the Commercial Zoning Ordinance to legally establish a shopping center with (a) 325 parking spaces (421 parking spaces required); (b) zero-foot west side and south rear transitional yards (20-foot side and rear transitional setbacks required); and (c) carryout food service within 50 feet of a D-4 protected district to the south (100-foot separation required), **approved**.

2012DV1010 ; 5613 West 38th Street (west of site), Variance of development standards of the Sign Regulations to provide for a 40-foot tall, 100-square foot pole sign within 80 feet of an existing sign to the west and within approximately 240 feet of an existing sign to the east, being the fifth sign on a frontage of approximately 1,100 feet (minimum 300-foot sign separation required, maximum three freestanding signs permitted and 1,500 feet of frontage needed for five signs), **approved**.

90-V3-96 ; 5519 West 38th Street (east of site), variance of development standards of the Sign Regulations of Marion County to permit the temporary 5 year placement of an electronic message center on an existing advertising sign which will result in an overall vertical height of 20 feet 3 inches (14 feet permitted), **approved**.

89-V3-114 ; 5521 West 38th Street (east of site), variance of development standards of the Sign Regulations of Marion County to permit an advertising sign within 250 feet of a protected district, 1000 feet of another advertising sign, oriented to the same street frontage and within 500 radial feet of another advertising sign, **approved**.

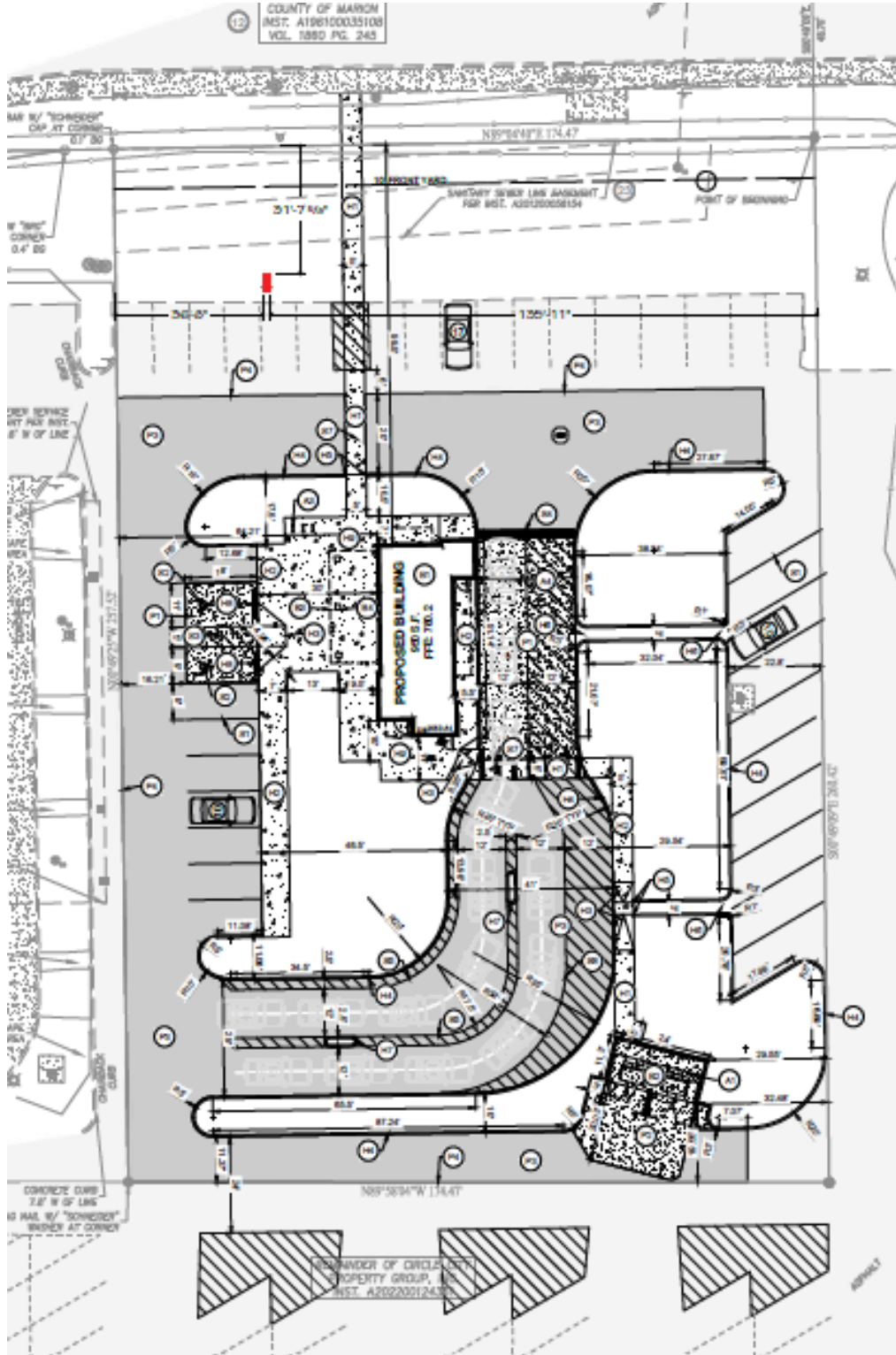
83-UV2-54 ; 5635 West 38th Street (west of site), variance of use and of Sign Regulations to provide for the erection of 32 ft. tall pole sign for a fast-food within 100 feet of a residential zoning district, **denied**.

EXHIBITS

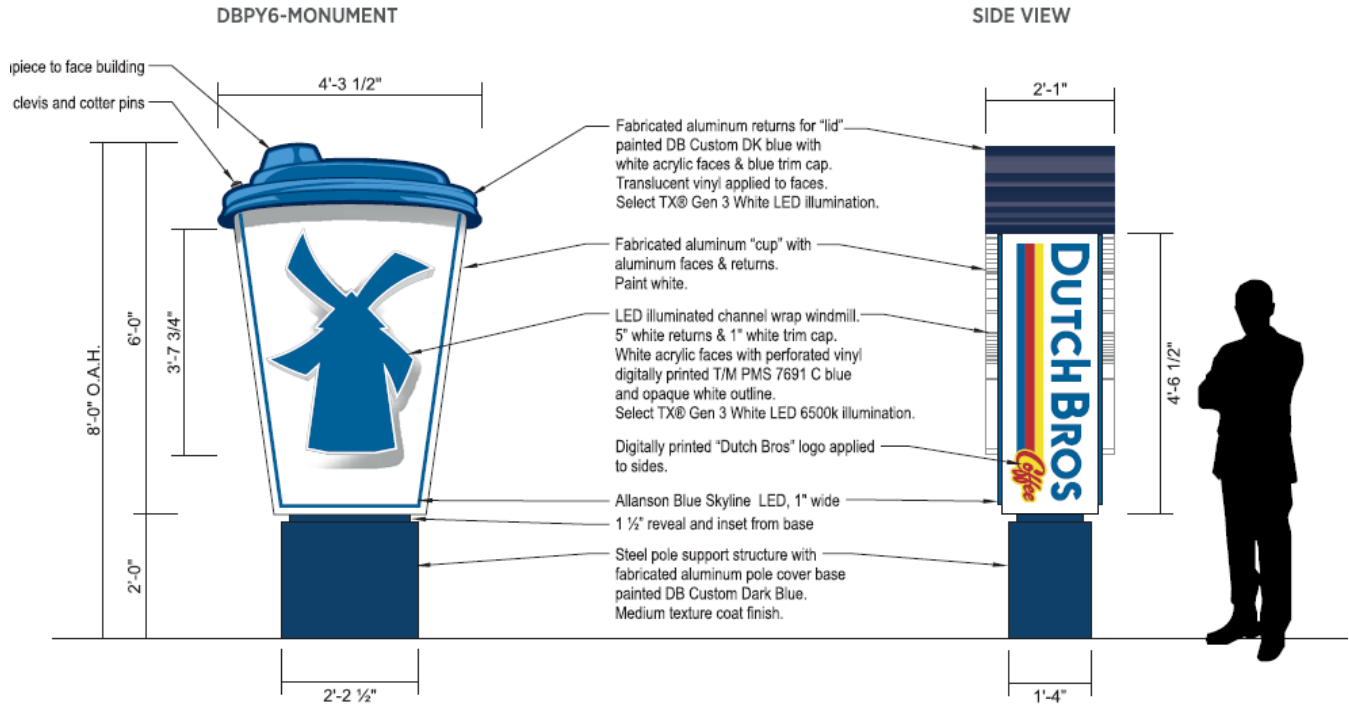
2026DV1015 ; Aerial Map



2026DV1015 ; Site Plan



2026DV1015 ; Elevations



2026DV1015 ; Findings of Fact

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

The size and location of the proposed sign will presents minimal deviation from the development standards applicable to freestanding signs and will not, therefore, be injurious to the public health, safety, morals and general welfare of 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 property is situated in the midst of a long-established commercial development. In that the request is such a minimal deviation from the development standards applicable for such development, the use and value of surrounding properties will not be so minimal as to not rise to a level that could be described as "substantially adverse."

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

The successful use of the property as a drive-up coffee business is very dependent upon drive-by traffic. The requested minimal deviation from the development standards applicable to the separation between freestanding sign ensures that traffic has sufficient lead time to visually locate the business and then locate and safely negotiate to ingress to the site. Without that lead time, statistics prove that the business will suffer. For this reason, the strict application of the ordinance clearly imposes practical difficulties on any the use of the property.

2026DV1015 ; Photographs



Photo 1: Adjacent Signs to East



Photo 2: Adjacent Sign to West

2026DV1015 ; Photographs (continued)



Photo 3: Subject Site from North



Photo 4: Adjacent Property to North