



## BOARD OF ZONING APPEALS DIVISION II

April 9, 2024

**Case Number:** 2024-UV2-004  
**Address:** 4117 East New York Street (approximate address)  
**Location:** Center Township, Council District #13  
**Zoning:** C-3 (TOD)  
**Petitioner:** Manjit Singh and Sharma Mohit, by Epifanio Carbajal  
**Request:** Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to legally establish an existing duplex (not permitted) with a zero-foot front yard setback from New York Street (10-feet required).

**Current Land Use:** Duplex dwelling

**Staff Recommendation:** Staff recommends approval of this petition.

**Staff Reviewer:** Robert Uhlenhake, Senior Planner

## PETITION HISTORY

This is the first public hearing for this petition.

## STAFF RECOMMENDATION

Staff recommends **approval** of this petition.

## PETITION OVERVIEW

- ◇ The request would legally establish an existing duplex with a zero-foot front setback, in the C-3 district.
- ◇ The records of the Assessor's Office indicate that the duplex was constructed in 1913 and appears to have been continuously used as a duplex since.
- ◇ The subject site is adjacent to other residential developed properties in the D-5 and C-3 Districts. In Staff's opinion, the request would be consistent with surrounding residential properties.

- ◇ Development Standards of the Consolidated Zoning and Subdivision Ordinance, specifically those relating to setbacks and building separation, are intended to ensure orderly development and protect surrounding property values by providing for open buffer areas along lot lines, and to ensure adequate access around buildings.
- ◇ The original duplex was constructed with a zero-foot front setback prior to the current ordinance and would have been considered legally non-conforming. The requested zero-foot front setback is similar to what has previously existed and would allow for the structure to be redeveloped as originally developed. Staff believes that the reduced front setback would have no impact on the streetscape or the surrounding property owners.
- ◇ Generally, staff supports property improvements if their location and characteristics do not negatively impact adjoining residential areas by causing a nuisance to the surrounding neighborhood. Staff believes that this would be true for this particular variance request, and additionally that no public safety or health risks would come from the grant of this variance.

## GENERAL INFORMATION

<b>Existing Zoning</b>	C-3										
<b>Existing Land Use</b>	Duplex										
<b>Comprehensive Plan</b>	Traditional Neighborhood uses										
<b>Surrounding Context</b>	<table> <tr> <td><b>Zoning</b></td><td><b>Surrounding Context</b></td></tr> <tr> <td>North: C-3</td><td>North: Vacant commercial building</td></tr> <tr> <td>South: C-3</td><td>South: Single-Family dwelling</td></tr> <tr> <td>East: C-3</td><td>East: Duplex</td></tr> <tr> <td>West: C-3</td><td>West: Parking lot / undeveloped</td></tr> </table>	<b>Zoning</b>	<b>Surrounding Context</b>	North: C-3	North: Vacant commercial building	South: C-3	South: Single-Family dwelling	East: C-3	East: Duplex	West: C-3	West: Parking lot / undeveloped
<b>Zoning</b>	<b>Surrounding Context</b>										
North: C-3	North: Vacant commercial building										
South: C-3	South: Single-Family dwelling										
East: C-3	East: Duplex										
West: C-3	West: Parking lot / undeveloped										

<b>Thoroughfare Plan</b>		
East New York Street	Primary Arterial	60-foot existing right-of-way and 78-foot proposed right-of-way.
<b>Context Area</b>	Compact area	
<b>Floodway / Floodway Fringe</b>	No	
<b>Overlay</b>	Transit Oriented Development	
<b>Wellfield Protection Area</b>	No	
<b>Site Plan</b>	February 28, 2024	
<b>Elevations</b>	N/A	
<b>Landscape Plan</b>	N/A	
<b>Findings of Fact</b>	February 28, 2024	

## COMPREHENSIVE PLAN ANALYSIS

### Comprehensive Plan

- The Comprehensive Plan recommends traditional neighborhood uses for the site.

### Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends the Traditional Neighborhood typology includes a full spectrum of housing types, ranging from single family homes to large-scale multifamily housing. The development pattern of this typology should be compact and well-connected, with access to individual parcels by an alley when practical. Building form should promote the social connectivity of the neighborhood, with clearly defined public, semi-public, and private spaces. Infill development should continue the existing visual pattern, rhythm, or orientation of surrounding buildings when possible. A wide range of neighborhood-serving businesses, institutions, and amenities should be present. Ideally, most daily needs are within walking distance. This typology usually has a residential density of 5 to 15 dwelling units per acre.

### Red Line / Blue Line / Purple Line TOD Strategic Plan

- This site is located within ½ mile of the Linwood Stop in the Blue Line TOD Strategic Plan.

### 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

**2010-UV1-015; 4120 East New York Street (north of site)**, requested a variance of use to provide for an automobile sales establishment with automobile repair, **granted**.

**2007-LNU-022; 4210-4212 East New York Street (east of site)**, requests a Certificate of Legal Non-Conforming Use to legally establish a two-unit residential structure, in C-3, **granted**.

**2005-UV2-012; 4021 East New York Street (west of site)**, requests a Variance of Use and Development Standards of the Commercial Zoning Ordinance to legally establish a printing and sign-making facility, within an existing 1,318.8-square-foot commercial building, and to provide for the construction of a 2,040-square foot addition to the existing building to expand the business, with three off-street parking spaces without proper maneuvering area, and with a twelve-foot by eighteen-foot off-street loading space located in the front yard of Grand Avenue, in C-3, **granted**.

**98-NC-51; 136 North Gladstone and 4121 East New York Street (east of site)**, requests a Certificate of Legal Non-Conforming Use to legally establish five dwelling units in a building, in C-3, **granted**.

**91-UV3-79; 4021 East New York Street (west of site)**, requests a Variance of Use of the Commercial Zoning Ordinance to provide for a continued use of a ten-unit apartment building, in C-3, **granted**.

**88-V1-82; 4107 East New York Street (west of site)**, requested a variance of development standards to provide for the development of a gasoline filling station and convenience store with a transitional yard setback of two feet, and a pump island canopy setback of six feet, **granted**.

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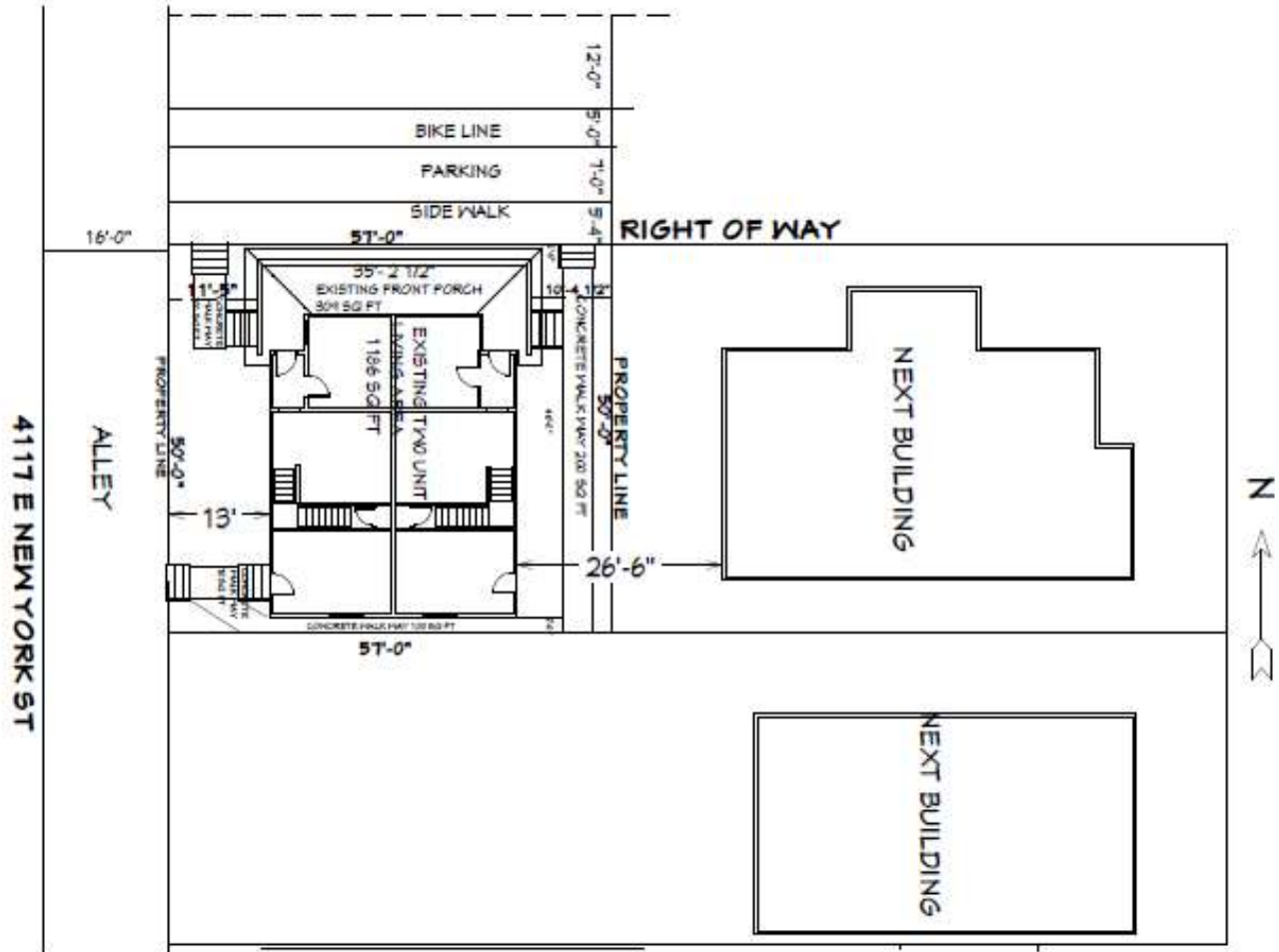
## EXHIBITS

### Location Map





Site Plan





**Findings of Fact**

Petition Number \_\_\_\_\_

**METROPOLITAN DEVELOPMENT COMMISSION  
HEARING EXAMINER  
METROPOLITAN BOARD OF ZONING APPEALS, Division \_\_\_\_\_  
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 SUBJECT DWELLING IS EXISTING.

THE SUBJECT DWELLING HAS BEEN USED AS RESIDENTIAL.

THERE WILL BE NO CHANGES TO HABITATION.

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 REMODEL OF THE SUBJECT DWELLING WILL INCREASE ITS VALUE AND CURB APPEAL.

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

THE SUBJECT PROPERTY IS IN C-3 ZONE WICH DOES NOT PERMIT RESIDENTIAL USE

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 SITE IS RESIDENTIALLY DEVELOPED AND COULD NOT CONTINUE TO BE USED AS SUCH WITHOUT THE VARIENCE.

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

THE SUBJECT DWELLING IS EXISTING

THE PROPOSED USE WOULD BE CONSISTENT WITH THE COMPREHENSIVE PLAN RECOMENDATION.



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 SUBJECT DWELLING IS EXISTING WITH 2'-0" FRONT SET BACK, 2'-0" REAR SETBACK.

10'-4 1/2" EAST SIDE SET BACK AND 11'-5" WEST SIDE SETBACK

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 REMODEL OF THE SUBJECT DWELLING WILL INCREASE ITS VALUE AND CURB APPEAL.

THERE WILL BE NO ADDITIONS TO THE EXISTING STRUCTURE.

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

WITHOUT THE GRANT OF THE REQUEST WOULD NOT BE POSSIBLE TO LEGALIZE

THE EXISTING TWO STORY TWO FAMILY DWELLING

**DECISION**



**Photographs**



Photo of the Subject Property existing duplex, after on-site fire, looking south.



Photo of adjacent duplex dwelling to the east, looking south.



Photo of adjacent single-family dwelling to the south, looking west.



Photo of adjacent undeveloped lot to the west, looking south.