

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER**

May 23, 2024

Case Number: 2024-ZON-036 (Amended) / 2024-VAR-006

Property Address: 365 South Franklin Road

Location: Warren Township, Council District #20

Petitioner: Just Add Water, by Russell L. Brown and Elizabeth Bentz Williams

Current Zoning: D-2

Request: Rezoning of three acres from the D-2 district to the I-2 district to provide for light industrial uses including indoor storage of boats, trailers, and other recreational vehicles within a proposed 11,760-square foot storage building

Current Land Use: Single-family dwelling and outdoor storage

Staff Recommendations: Variance of Use and Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a caretaker or on-site employee within the existing single-family dwelling and a 15-foot south transitional yard for the storage building (50-foot south transitional yard required).

Staff Reviewer: Approval, subject to the commitments noted below:
Kathleen Blackham, Senior Planner

PETITION HISTORY

The Hearing Examiner continued these petitions from the April 25, 2024 hearing, to the May 23, 2024 hearing, at the request of staff to provide additional time for preparation of the required legal notice.

STAFF RECOMMENDATION

Approval, subject to the following commitments being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

1. A 45-foot half right-of-way shall be dedicated along the frontage of South Franklin Road, as per the request of the Department of Public Works (DPW), Engineering Division. Additional easements shall not be granted to third parties within the area to be dedicated as public right-of-way prior to the acceptance of all grants of right-of-way by the DPW. The right-of-way shall be granted within 60 days of approval and prior to the issuance of an Improvement Location Permit (ILP).
2. The site and improved areas within the site shall be maintained in a reasonably neat and orderly manner during and after development of the site with appropriate areas and containers / receptacles provided for the proper disposal of trash and other waste.
3. Development of the site shall be in accordance with the Plan of Operation, file-dated March 21, 2024, and the updated site plan, file-dated April 29, 2024.

PETITION OVERVIEW

Rezoning

This 3.0-acre site, zoned D-2, is developed with a single-family dwelling and outdoor storage. It is surrounded by industrial uses to the north, zoned I-2; vacant land to the south, zoned D-2; a single-family dwelling to the east, zoned D-2; and undeveloped land to the west, across South Franklin Road, zoned I-2.

The request would rezone the site to the I-2 district to provide for light industrial uses. “The I-2 district is for those industries that present minimal risk and typically do not create objectionable characteristics (such as dirt, noise, glare, heat, odor, etc.) that extend beyond the lot lines. Outdoor operations and storage are completely screened if adjacent to protected districts and are limited throughout the district to a percentage of the total operation. Wherever possible, this district is located between a protected district and a heavier industrial area to serve as a buffer. For application to the older industrial districts within the central city, standards specifically accommodate the use of shallow industrial lots.”

The Plan of Operation, file-dated March 21, 2024, describes the proposed use of the site, hours of operation, employee status, site plan, maximum number of stored units, and lighting. Additionally, changes to the Plan of Operation would be subject to Administrator Approval.

The Comprehensive Plan recommends suburban neighborhood typology.

As proposed, this request would provide for light industrial uses including indoor storage of boats, trailers, and other recreational vehicles within a proposed 11,760-square foot storage building.

The request would not be consistent with the Plan recommendation of suburban neighborhood typology, which is comprised primarily of single-family dwellings with a variety of neighborhood serving commercial businesses.

Staff, however, supports this request because proposed development of the site would have minimal impact on and serve as a buffer to the residential land uses to the east and south. The single-family residence would remain and support the suburban neighborhood typology recommendation. The proposed storage building would be located on the site to allow for a landscaped buffer along the southern and eastern boundaries that abut the protected district. Furthermore, the impact of the building would be mitigated by the north facing overhead doors away from the residential uses. Staff would note that the updated site plan, file-dated April 29, 2024, provides for all overhead doors to be located on the north building façade.

Staff would also note that the rezoning would be compatible with the industrial uses to the north and west.



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

Department of Public Works

The Department of Public Works, Traffic Engineering Section, has requested the dedication and conveyance of a 45-foot half right-of-way along South Franklin Road. This dedication would also be consistent with the Marion County Thoroughfare Plan.

Environmental Public Nuisances

The purpose of the Revised Code of the Consolidated City and County, Sec.575 (Environmental Public Nuisances) is to protect public safety, health and welfare and enhance the environment for the people of the city by making it unlawful for property owners and occupants to allow an environmental public nuisance to exist.

All owners, occupants, or other persons in control of any private property within the city shall be required to keep the private property free from environmental nuisances.

Environmental public nuisance means:

1. Vegetation on private or governmental property that is abandoned, neglected, disregarded or not cut, mown, or otherwise removed and that has attained a height of twelve (12) inches or more;
2. Vegetation, trees or woody growth on private property that, due to its proximity to any governmental property, right-of-way or easement, interferes with the public safety or lawful use of the governmental property, right-of-way or easement or that has been allowed to become a health or safety hazard;
3. A drainage or stormwater management facility as defined in Chapter 561 of this Code on private or governmental property, which facility has not been maintained as required by that chapter; or
4. Property that has accumulated litter or waste products, unless specifically authorized under existing laws and regulations, or that has otherwise been allowed to become a health or safety hazard.

Staff would request a commitment that emphasizes the importance of maintaining the site in a neat and orderly manner at all times and provide containers and receptacles for proper disposal of trash and other waste.

Variance of Use and Development Standards

The use variance request would provide for a caretaker or on-site employee within the existing single-family dwelling, which would support the residential character of the site and be consistent with the Plan recommendation of suburban neighborhood typology. It would also serve as a buffer from the storage building that would be located at the southeast corner of the site. Staff, therefore, supports this variance.

The development standard variance request would provide for a 15-foot transitional yard for the storage building when the Ordinance requires a 50-foot setback. Given the vacant lot to the south and the undeveloped area of the lot to the east, staff believes the reduced setback would have minimal impact on those abutting uses. Furthermore, activity related to the use of the property would be limited towards the north and west, thereby mitigating impact on the residential uses.

GENERAL INFORMATION

Existing Zoning	D-2	
Existing Land Use	Single-family dwelling / outdoor storage	
Comprehensive Plan	Suburban Neighborhood	
Surrounding Context	Zoning	Land Use
	North:	I-2 Industrial uses
	South:	D-2 Vacant land
	East:	D-2 Single-family dwelling
	West:	I-2 Industrial uses
Thoroughfare Plan		
South Franklin Road	Primary Arterial	Existing 40-foot right-of-way and proposed 90-foot right-of-way.
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	March 21, 2024	
Site Plan (Amended)	April 29, 2024	
Elevations	March 21, 2024	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	April 29, 2024	
Findings of Fact (Amended)	N/A	
C-S/D-P Statement	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- The Comprehensive Plan recommends Suburban Neighborhood typology.

- The Suburban Neighborhood typology is predominantly made up of single-family housing but is interspersed with attached and multifamily housing where appropriate. This typology should be supported by a variety of neighborhood-serving businesses, institutions, and amenities. Natural Corridors and natural features such as stream corridors, wetlands, and woodlands should be treated as focal points or organizing systems for development. Streets should be well-connected, and amenities should be treated as landmarks that enhance navigability of the development. This typology generally has a residential density of 1 to 5 dwelling units per acre, but a higher density is recommended if the development is within a quarter mile of a frequent transit line, greenway, or park.

Pattern Book / Land Use Plan

The Comprehensive Plan consists of two components that include the Pattern Book and the land use map. The Pattern Book provides a land use classification system that guides the orderly development of the county and protects the character of neighborhoods while also being flexible and adaptable to allow neighborhoods to grow and change over time.

The Pattern Book serves as a policy guide as development occurs. Because industrial uses are not a recommended land use in the suburban neighborhood typology, there are no recommendations.

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)

- The Marion County Thoroughfare Plan (2019) “is a long-range plan that identifies the locations classifications and different infrastructure elements of roadways within a defined area.”
- The following listed items describes the purpose, policies and tools:
 - Classify roadways based on their location, purpose in the overall network and what land use they serve.
 - Provide design guidelines for accommodating all modes (automobile, transit, pedestrians, bicycles) within the roadway.
 - Set requirements for preserving the right-of-way (ROW)
 - Identify roadways for planned expansions or new terrain roadways
 - Coordinate modal plans into a single linear network through its GIS database

ZONING HISTORY

2022-CZN-864A / 2022-CZN-864B / 2023-CPL-864; 370 South Franklin Road (west of site), requested rezoning of 3.543 acres from the D-A district to the C-7 district and rezoning of 3.45 acres from the D-A district to the I-2 district; and approval of a Subdivision Plat to be known as M.B. Rapp Acres, dividing 6.82 acres into two lots, **approved and granted**.

2020-DV3-012, 375 South Franklin Road (south of site), variance to provide for additions to an existing single-family dwelling and garage with a 0.5-foot north side setback, **granted**.

2018-UV1-028; 370 South Franklin Road (west of site), variance to provide for the expansion of a maintenance and storage building for an adjacent boat sales business with a 28-foot south side setback, **granted**.

2015-UV1-041; 370 South Franklin Road (west of site), variance to provide for the construction of a 5,000-square foot maintenance storage building for an adjacent boat sales business, with paved off-street parking and gravel storage areas, **granted**.

2012-ZON-025, 416 South Franklin Road (south of site), rezoning of 3.9 acres from the D-A district to the I-2-S classification, **approved**.

2012-CZN-815 / 2012-CVC-815 / 2012-CVR-815, 416 South Franklin Road (south of site), rezoning of 12.41 acres from the I-2-S and D-A districts to the I-2-S district; a vacation of a portion of Beechwood Avenue, being 50 feet in width from the east right-of-way line of Interstate 465 to a point 271.96 feet to the east and variance to provide for a 31-foot-tall building addition, with a 45-foot front building setback and a zero-foot parking and access drive setback, with 45,000 square-feet of outdoor truck and trailer storage, **approved and granted**.

2002-DV2-011; 234 South Franklin Road (north of site), requested a variance of development standards to provide for a 14- by 48-foot advertising sign located 50 feet from an existing advertising sign and zero feet from a protected district, resulting in five signs within a one-mile portion of 1-465, **granted**.

99-UV3-98, 375 South Franklin Road (south of site), variance to provide for a plumbing contractor business, **denied**.

95-UV1-15; 333 South Franklin Road (north of site), requested a variance of use of the Industrial Zoning Ordinance to provide for the operation of a catering hall, within an existing warehouse for on-site and off-site catering, **granted**.



Department of Metropolitan Development
Division of Planning
Current Planning

83-HOV-99; 234 South Franklin Road (north of site), requested a variance of development standards of the Sign Regulations to provide for a 14- by 48-foot advertising sign, **granted**.

76-UV3-139, 7950 Beechwood Avenue (south of site), variance to permit occupancy of a trailer on rear of lot, for a period of two years, **granted**.

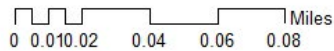
72-UV2-128, 7950 Beechwood Avenue (south of site), variance to permit an existing house trailer to remain on a permanent basis, limited to current occupant, **granted**.

EXHIBITS



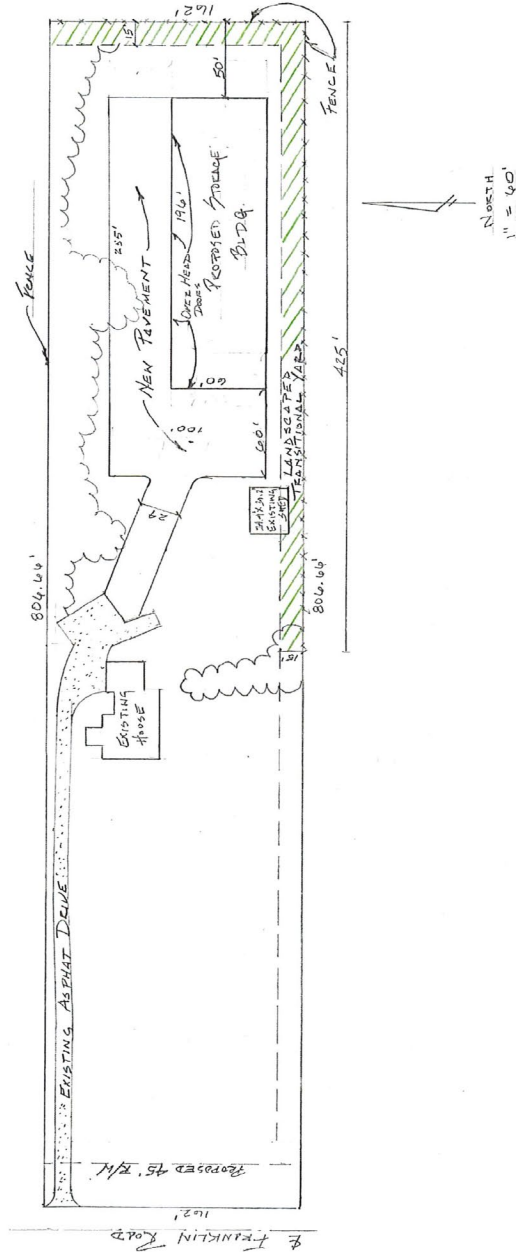
Source: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), SwH Korea, Esri (Thailand), NOAA, © OpenStreetMap contributors, and the ©2 User Community.

365 South Franklin Road



Updated Site Plan, April 29, 2024

345 S. FRANKLIN ROAD
 SITE PLAN



PLAN OF OPERATION

365 S. Franklin Road

Intent:

The property owner is also the owner of Just Add Water to the northwest of the site. Petitioner plans to keep the existing structures and provide for a mixed use on the property. The proposal would provide for light industrial use (indoor storage) and the existing residential use (care-taker / employee of owner).

Use:

Light Industrial: Indoor storage of boats, trailers and other recreational vehicles can be transported.

Residential: Single family dwelling for the use of a caretaker of the property or on-site employee.

Hours of operation:

The residential use will be on-going. The light industrial use would only be used to deliver a vehicle or pick one up. Access will utilize the existing curb cut. Hours to access the storage use will be limited to 8AM until 6PM

Employees:

The residential use will be on-going. There will be no on-site employees with the exception of coming and going with vehicles and maintenance of the site. It is anticipated there would be no more than 5 trips per day generated during the busiest season, with few or no trips during off-season.

Site Plan:


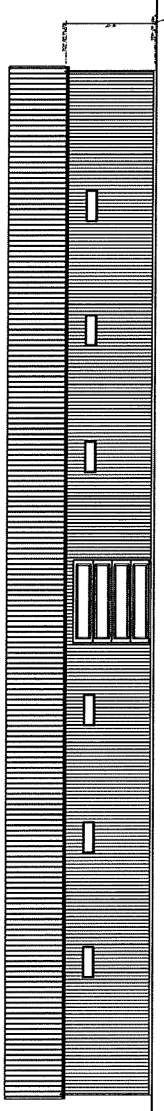
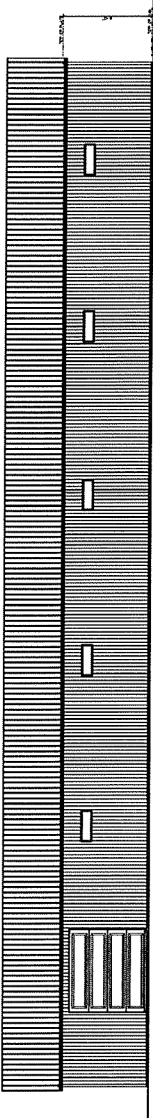
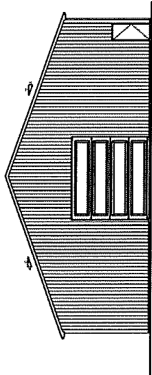
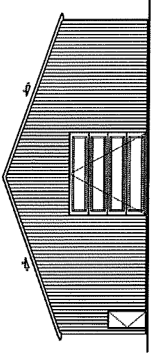
- Climate control: The facility will be heated , but no AC
- Capacity of indoor RV/boat/trailer parking: Maximum 45 units
- Keeping existing structures
- Dedicate 45' half right of way in compliance with the thoroughfare plan.
- Install sidewalk along the S. Franklin Rd. frontage.
- Landscaping and buffering shall be added as follows:
 - 15' transitional yards along the east border and 425' of the south border, measured from the SE corner of the property.
 - These yards will utilize both existing fencing and new fencing to provide screening and security for the site. Landscaping will be added to these yards.
 - If any future storage buildings are added, additional landscaping and fencing would be provided.

Lighting:

Limited to security lighting. All lighting would be shielded and down lit and measuring zero foot candle adjacent to residential zoning.

Future:

Any changes to the Plan of Operation or Site Plan shall be subject to Administrative review and approval.

<p>James Fritsch, Architect 410 N. Walnut St. PHONE: 812-934-8860 BURLINGTON, IN 47308 FAX: 812-934-6560 fritschfrtsch@gmail.com</p>		<p>Just Add Water 60x196' Pole Bldg</p>	<p>DATE: Wednesday, August 17, 2022</p>
 <p>NORTH ELEVATION SCALE: 1/16" = 1'-0"</p>		 <p>SOUTH ELEVATION SCALE: 1/16" = 1'-0"</p>	 <p>EAST ELEVATION SCALE: 1/16" = 1'-0"</p>
		 <p>WEST ELEVATION SCALE: 1/16" = 1'-0"</p>	<p>A - 3</p> <p>of EA Sheets Proj. Sect. 2022.18</p>



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 proposed side yard setback reduction will only effect the south property line. The doors of the proposed or any future building will not be oriented to the south. There will be little activity other than maintenance of the building and grounds on the south and will not be injurious to the public health, safety, morals and general welfare of the area .

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 property will not be negatively impacted, because the proposed development will provide a landscape buffer along 425' of the south property boundary starting from the rear (east) property line and a fence to screen the view from the south. In the event subsequent buildings are constructed, the landscaping and fence will be extended along the south line to the front (west) setback line.

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

The site is 3 acres in size, but only 162 feet in width. If the 50' transitional yard were met on the south property line, the overhead doors would be required to be on the south side of the building. By keeping the doors oriented to the north, there is more buffer in terms of a blank wall to the south and any activity loading and picking up vehicles is north of the building.

DECISION

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

Adopted this _____ day of _____, 20 _____



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 use has existing on the site for more than 80 years. It continues to be used for residential purposes for the benefit of an employee and/or care taker of the property. This is in keeping with the mix of uses in the area and will not be injurious to the public health, safety, morals or general welfare of the community.

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 residence is existing and does not affect the area in any adverse manner. The variance is required to permit the retention of the residence after the property is rezoned to light industrial zoning.

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

Historically the property was a farm. The property is currently owned by a business located across Franklin Rd. and the desire is to provide for a mixed use of the property to allow for indoor storage and retain the house for residential use by the business.

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 property is used for a residence, but is no longer a farm. The area is a mix of retail, industrial and residential uses. This permits the house to be used as shelter for an employee of the petitioner and or a care taker of the property.

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

The comprehensive plan recommends suburban neighborhood use. Retaining this residence fits that recommendation.

DECISION

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

Adopted this _____ day of _____, 20 ____



View looking north along South Franklin Road



View looking south along South Franklin Road



View of site looking southeast from adjacent property to the north



View of site looking east across South Franklin Road



View of site looking east across South Franklin Road



View of adjacent property to the south looking east across South Franklin Road



View from adjacent property to the north looking south across South Franklin Road