

BOARD OF ZONING APPEALS DIVISION III

July 15, 2025

Case Number: 2025-DV3-016

Property Address: 2360 Prospect Street (*approximate address*)

Location: Center Township, Council District #18

Petitioner: Linda Thompson, by Daniel Newton

Current Zoning: C-4

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a six-foot-tall perimeter chain link fence within the required clear-sight triangular area (maximum 3.5-foot-tall fence permitted in front yards, chain link not permitted within front yards, encroachment into the clear-sight triangle not permitted).

Current Land Use: Commercial

Staff Recommendations: Staff recommends **denial** of this petition.

Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

This petition received an indecisive 1-2 vote at the June 17th hearing of Division III, and was therefore automatically continued to the July 15th hearing date. Staff has not changed their recommendation and would clarify that (a) available photography provided by Google Street View seems to show that no fence existed along the eastern or southern property lines between 2007 and 2023, and (b) that the site plan submitted along with the 1995 variance only showed placement of fencing along the northern yard (signified by X's) and the western property line (shorter chain link fence removed between 2011 and 2015 per Google Street View).

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

- 2360 Prospect Street is a corner lot site currently developed with an automobile sales operation on the eastern half of the site closest to the intersection of Prospect Street and Keystone Avenue. Surrounding land uses include residences to the north, commercial uses on other sides, and a connector to the Pleasant Run Greenway to the east. The vehicle sales use was allowed by the petition 95-UV3-65, subject to a site plan which only showed fencing within the northern yard.

- Between August 2022 and July 2023, new fencing was added to the western, eastern, and southern yards of the property. The property is now fully enclosed by fencing except for two (2) electric gates to allow for vehicle access from the southern and eastern front yards. The new portions of fence are around 6-feet in height and are constructed from chain link material. Per the applicant, the previously existing portions of fence to the north are 8-feet in height (maximum of 10 feet allowed within the northern side yard).
- The recently installed sections of fence would require several variances in order to be legally established: (a) the fence height of six (6) feet exceeds the maximum of 3.5 feet allowed for fences within front yards in C-4 zoning; (b) the Ordinance prohibits chain link fencing within front yards for commercial districts; and (c) the fence encroaches into multiple clear-sight triangles created by the intersection of two primary arterials, the intersection of the northern alley and Keystone Avenue, and the intersection of the southern driveway and Prospect Street (see diagram within Exhibits).
- VIO23-005132 was opened at this property in July of 2023, and lists nine separate zoning violations (see full text within Exhibits). Approval of this variance is limited just to the height and material of the recent fencing and its encroachment into required clear-sight triangles. This variance request would not allow from relief from the other standards mentioned within the Notice of Violation (i.e. placement of banner signage, required dumpster enclosure, clearly painted lines for parking areas, outdoor storage of vehicle parts, etc.).
- Additionally, the 1995 Use Variance petition allowing the site to function as an automobile sales operation was subject to a submitted site and landscape plan which indicated placement of landscape strips with widths of 10 feet along both the Prospect and Keystone frontages as well as placement of trees along each frontage. The current site does not match this layout, and regardless of the result of the request for additional fencing, the owner would need to either bring the site into compliance or have a modification petition approved for the use to legally continue.
- This site is zoned C-4 (Community-Regional) to allow for the development of major business grouping and regional-size shopping centers to serve a population ranging from a community or neighborhoods to a major segment of the total metropolitan area. The ordinance specifies that even small freestanding uses within C-4 should have excellent access from major thoroughfares. The portion of the site containing the auto sales use and fence is also recommended for Community Commercial uses by the Marion County Land Use Plan Pattern Book.
- The Indianapolis Zoning Ordinance prescribes height and material limitations for fences to maintain visibility, orderly development, and the appearance of open space while also allowing for reasonable privacy. Additionally, restrictions on visual obstructions within required clear-sight triangle areas allow for pedestrians and motorists to safely navigate around street corners.
- Staff does not feel that the Findings of Fact provided by the applicant identify any site-specific practical difficulty to justify a 71% increase in height over Ordinance requirements. Additionally, this property is directly bordered by both a bike lane to the south and a greenway connection to

the east, and is within a mile of a Cultural Trail connection within the Fountain Square neighborhood to the west. Placement of fencing that would impede the view of pedestrians or cyclists attempting to navigate in an area with increasing walkability would be inappropriate both for the existing context at this intersection and for the Ordinance vision of vibrant and welcoming storefronts that don't impede site access for customers. Staff recommends denial of each request.

GENERAL INFORMATION

Existing Zoning	C-4	
Existing Land Use	Commercial	
Comprehensive Plan	Community Commercial / Traditional Neighborhood	
Surrounding Context	Zoning	Surrounding Context
North:	D-5 / I-3	North: Residential
South:	C-4	South: Commercial
East:	C-4	East: Commercial
West:	D-8	West: Residential
Thoroughfare Plan		
Prospect Street	Primary Arterial	56-foot right-of-way existing and 56-foot right-of-way proposed
Keystone Avenue	Primary Arterial	50-foot right-of-way existing and 56-foot right-of-way proposed
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	04/05/2025	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	04/05/2025	
Findings of Fact (Amended)	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends the eastern portion of this property where the fence is placed for the Community Commercial working typology to allow for low-intensity commercial and office uses that serve nearby neighborhoods. The western portion of the property is recommended for the Traditional Neighborhood living typology.

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

2024DV3005, Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a six-foot-tall perimeter chain link fence within the required clear-sight triangular area (maximum 3.5-foot-tall fence permitted in front yards, chain link not permitted within front yards, encroachment into the clear-sight triangle not permitted), **dismissed for lack of payment**.

95-UV3-65, variance of use of the Commercial Zoning Ordinance to legally establish a used automobile sales operation (not permitted), with a 10 foot landscape strip along both Prospect Street and Keystone Avenue, **approved**.

ZONING HISTORY – VICINITY

2021CVR807 ; 2326 Prospect Street (west of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a single-family dwelling with an 18-foot front setback from Prospect Street (25-foot front setback required), **approved**.

2011CVR815 ; 2401 Prospect Street (southeast of site), Variance of development standards of the Commercial Zoning Ordinance and the Sign Regulations to provide for the construction of a 3,502-square foot convenience store / gasoline station, (a) with a 10-foot east side transitional setback for the building and parking lot (20-foot transitional setback required), (b) with a canopy having a 64-foot setback from the centerline of Prospect Street and a 55.5-foot setback from the centerline of Keystone Avenue (70-foot setback from the centerline required), (c) with carryout food service within ten feet of a protected district (100-foot separation required), and (d) with two pylons signs within eight feet of a protected district to the east and south (50-foot side setback required for freestanding signs), **approved**.

2010CVR805 ; 1035 S Keystone Avenue (northeast of site), Special Exception and variance of development standards of the Industrial Zoning Ordinance to provide for an automobile crushing business, (a) with a 10-foot tall wood privacy fence, a storage area for crushed automobiles and vehicle parking, with a one-foot setback, without landscaping, from Keystone Avenue (100-foot front setback from the centerline of Keystone Avenue, with landscaping, required), and (b) with existing buildings with one and five-foot south side setbacks, without landscaping (20-foot side setback, with landscaping required), **approved**.

2004UV3036 ; 2347 Prospect Street (south of site), variance of use of the Commercial Zoning Ordinance to legally establish a 1,082-square foot single-family dwelling with a 72-square foot front porch (not permitted), **approved**.

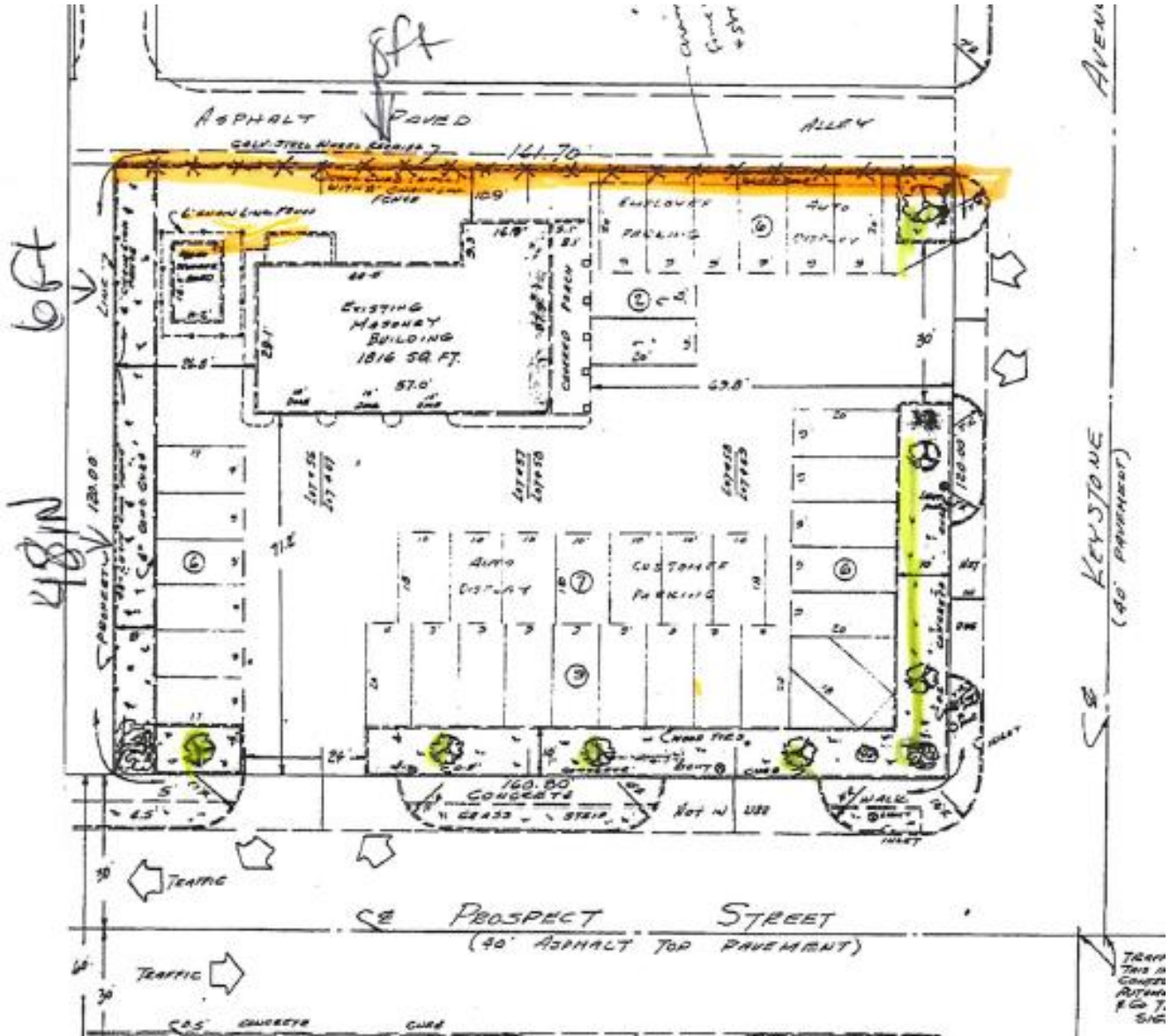
98-NC-25 ; 2332 Prospect Street (west of site), legally establish nonconforming use of 5 apartments within C-4 zoning, **denied**.

EXHIBITS

2025DV3016 ; Aerial Map

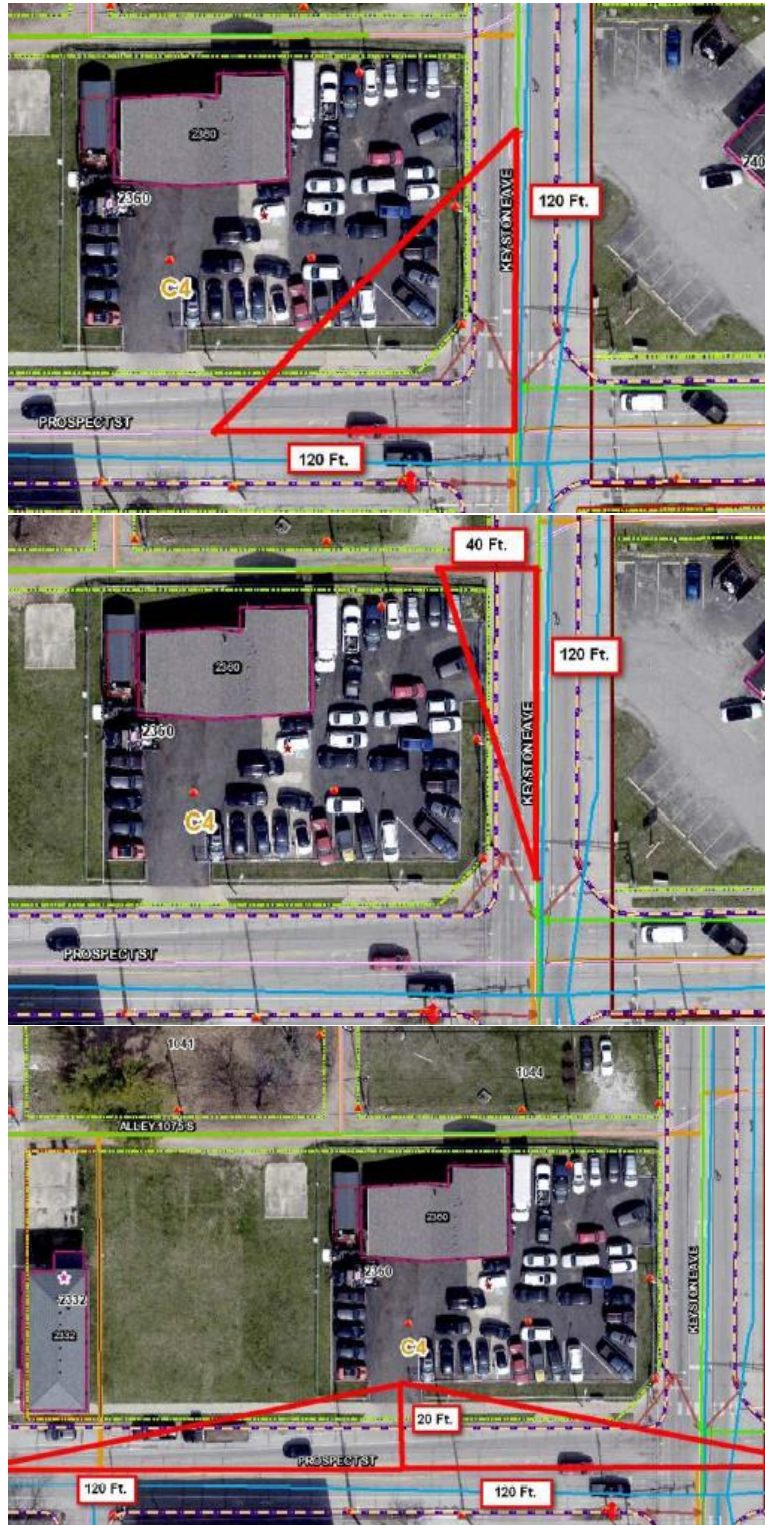


2025DV3016 ; Site Plan



(note: all portions of the current front-yard fence appear to have been installed at a height of around 6 feet or 72 inches; not 48 inches as the site plan indicates. Additionally, landscape plantings shown on this site plan that were a condition for approval of 95-UV3-65 do not currently exist)

2025DV3016 ; Clear Sight Triangle Encroachments



2025DV3016 ; Notice of Violation (VIO23-005132)

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; (744-903.G.5. - Portable signs are prohibited...banners).

Section 740 -1005.A.4. Civil Zoning Violation

Specific Violation: The outdoor storage of vehicle parts in any zoning district, the provisions of which do not specifically permit such a use; (Vehicle tires, brake parts, and other miscellaneous vehicle parts throughout the property).

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

Specific Violation: Failure to comply with the use-specific standards and zoning district development standards for the C-4 district; (740-304. - No obstructions shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede visibility between the heights of 2.5ft. and 8ft. above grade level of the adjoining right-of-way within a Clear Sight Triangular Area...chain link fence).

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

Specific Violation: Failure to comply with the 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).

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.D.7.a. - The parking spaces lack 4 inch durable painted lines, curbs or signage).

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; (744-508.B.1.a. - Failure to enclose dumpster with a solid wall at least the height of the service area on 3 sides with the 4th side having a solid gate).

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 744-402-2: - Failure to provide the required ADA parking... 1 handicap parking space is required).

Section 740 -1005.A.9. Civil Zoning Violation

Specific Violation: The failure to comply with the terms, provisions, conditions or commitments of a variance grant, special exception, ordinance, or other approval grant; (740-1005.A.9 - The failure to comply with the terms, provisions, conditions or commitments of a variance grant, special exception, ordinance, or other approval grant #95-UV3-65 decision letter; specifically, a 10 foot landscaping strip along both Prospect Street and Keystone Avenue).

Section 740 -1005.A.9. Civil Zoning Violation

Specific Violation: The failure to comply with the terms, provisions, conditions or commitments of a variance grant, special exception, ordinance, or other approval grant; (740-1005.A.9 - The failure to comply with the terms, provisions, conditions or commitments of a variance grant, special exception, ordinance, or other approval grant #95-UV3-65 site plan; specifically, the parking spaces lack durable painted lines, curbs or signage indicated in the approved site plan and missing landscaping).



Department of Metropolitan Development
Division of Planning
Current Planning

2025DV3016 ; Findings of Fact

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

it was already approved for a fence at 48" and a 60" will be better for the line of site than a 4' fence

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:

they are empty lots which i own and there is asn alley behind me whitch was already approved for an 8' fence

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

i can not keep my lot secure with the 4' fence there are homeless all around me resulting in many problems with keeping my lot secure

2025DV3016 ; Photographs



Photo 1: Subject Site Viewed from South (March 2024)



Photo 2: Subject Site Viewed from South (August 2019)

2025DV3016 ; Photographs (continued)



Photo 3: Subject Site Viewed from East (March 2024)



Photo 4: Subject Site Viewed from East (August 2019)

2025DV3016 ; Photographs (continued)



Photo 5: Subject Site Viewed from Southeast (March 2025)



Photo 6: Subject Site Viewed from West (March 2024)

2025DV3016 ; Photographs (continued)



Photo 7: Prospect/Keystone Clear-Sight Area Viewed from Southwest (January 2025)



Photo 8: Prospect/Keystone Clear-Sight Area Viewed from Northeast (January 2025)

2025DV3016 ; Photographs (continued)



Photo 9: Fence from Prospect Driveway Looking East (January 2025)



Photo 10: Fence from Prospect Driveway Looking West (January 2025)

2025DV3016 ; Photographs (continued)



Photo 11: Northern Alley and Older Fence (March 2024)



Photo 12: Adjacent Property to East (March 2024)