

BOARD OF ZONING APPEALS DIVISION II

September 10, 2024

Case Number: 2024-UV2-011 (Amended)
Property Address: 1237 Evison Street (approximate address)
Location: Center Township, Council District #18
Petitioner: Rachel & Cory Alban, by Justin Kingen
Current Zoning: D-5
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of an 875-square-foot secondary dwelling unit (720 square feet permitted).
Current Land Use: Residential
Staff Recommendations: Staff recommends denial for this petition
Staff Reviewer: Noah Stern, Senior Planner

PETITION HISTORY

ADDENDUM FOR SEPTEMBER 10, 2024 BZA DIVISION II HEARING

- This petition was continued to the August 13, 2024 BZA Division II hearing and then continued again to the September 10, 2024 BZA Division II hearing to allow for revisions to the request.

STAFF RECOMMENDATION

- Staff recommends denial of this petition

PETITION OVERVIEW

- This petition would provide for the location of an 875-square-foot secondary dwelling unit (720 square feet permitted).
- This petition was originally filed as a variance of use due to the proposed square footage being over 900 square feet, constituting the addition of a second primary residence. The proposal was revised to call for the square footage of the detached residential unit to be 875 square feet which Staff categorizes as a secondary dwelling unit. Therefore, this petition is now considered a variance of development standards and the use variance is no longer necessary.
- The requirement limiting secondary dwelling units to 720 square feet is in placement to maintain orderly development, to limit the chances of overdevelopment, and to maintain a clear primary use and structure on site. The Findings of Fact state the detached garage was built prior to the 720 square foot maximum Ordinance standard was put into place. However, Staff does not see this fact as

prohibiting the petitioner from building a secondary dwelling unit inside that structure that is less than 720 square feet. Staff believes that an Ordinance-compliant secondary dwelling unit is possible with the existing structure and, likewise, believes that future development should adhere to the modern standards for secondary dwelling units. Therefore, Staff recommends denial of this variance request, and encourages the petitioner to revise the proposal to allow for a properly-sized unit.

GENERAL INFORMATION

Existing Zoning	D-5	
Existing Land Use	Single-family residential	
Comprehensive Plan	Traditional Neighborhood	
Surrounding Context	Zoning	Surrounding Context
North:	D-5	North: Single-family residential
South:	PK-1	South: Parks and Recreation
East:	D-5	East: Single-family residential
West:	D-5	West: Single-family residential
Thoroughfare Plan		
Evison Street	Local Street	60 feet of right-of-way existing and 48 feet proposed
Orange Street	Primary Collector	60 feet of right-of-way existing and 56 feet proposed
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	6/7/24	
Site Plan (Amended)	6/25/24	
Elevations	6/7/24	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	6/7/24	
Findings of Fact (Amended)	8/8/24	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book
- Infill Housing Guidelines

Pattern Book / Land Use Plan

- The Marion County Land Use Plan pattern Book recommends the Traditional Neighborhood living typology for this site.

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

- With regards to accessory structures, the Infill Housing Guidelines recommends:
 - Don't overshadow primary buildings
 - Consider options when adding space, especially secondary dwelling units
 - Where secondary dwelling units are allowed, the Zoning Ordinance establishes a maximum square footage. If additional space is needed, another form of building, such as a duplex or triplex, might be more appropriate. An addition to an existing house may also be appropriate.
- This proposal exceeds the maximum square footage permitted.

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

2020DV1030; 1238 Evison Street (west of site), variance to legally establish driveway access to Orange Street, **denied**.

2020DV1080; 1238 Evison Street (west of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a driveway with a 1.9-foot setback from the right-of-way of Orange Street, a drive-way turnaround encroaching 7.5 feet into the front yard of Evison Street, and a fence within the clear sight triangle of the abutting streets (minimum two-foot side setback required for minor residential features, maximum six-foot encroachment into the front yard permitted for minor residential features, structures not permitted within the clear sight triangle), **approved**.

2020DV2005; 1321 Spruce Street (west of site), variance to provide for an addition to a single-family dwelling, with three feet between dwellings, a five-foot front setback and 50 percent open space, **approved**.

2018DV1005; 1513 Orange Street (west of site), variance to provide for a single-family dwelling, with an eight foot front setback and with nine feet between primary structures, with a 1,110-square foot secondary dwelling and 52 percent open space, **denied**.

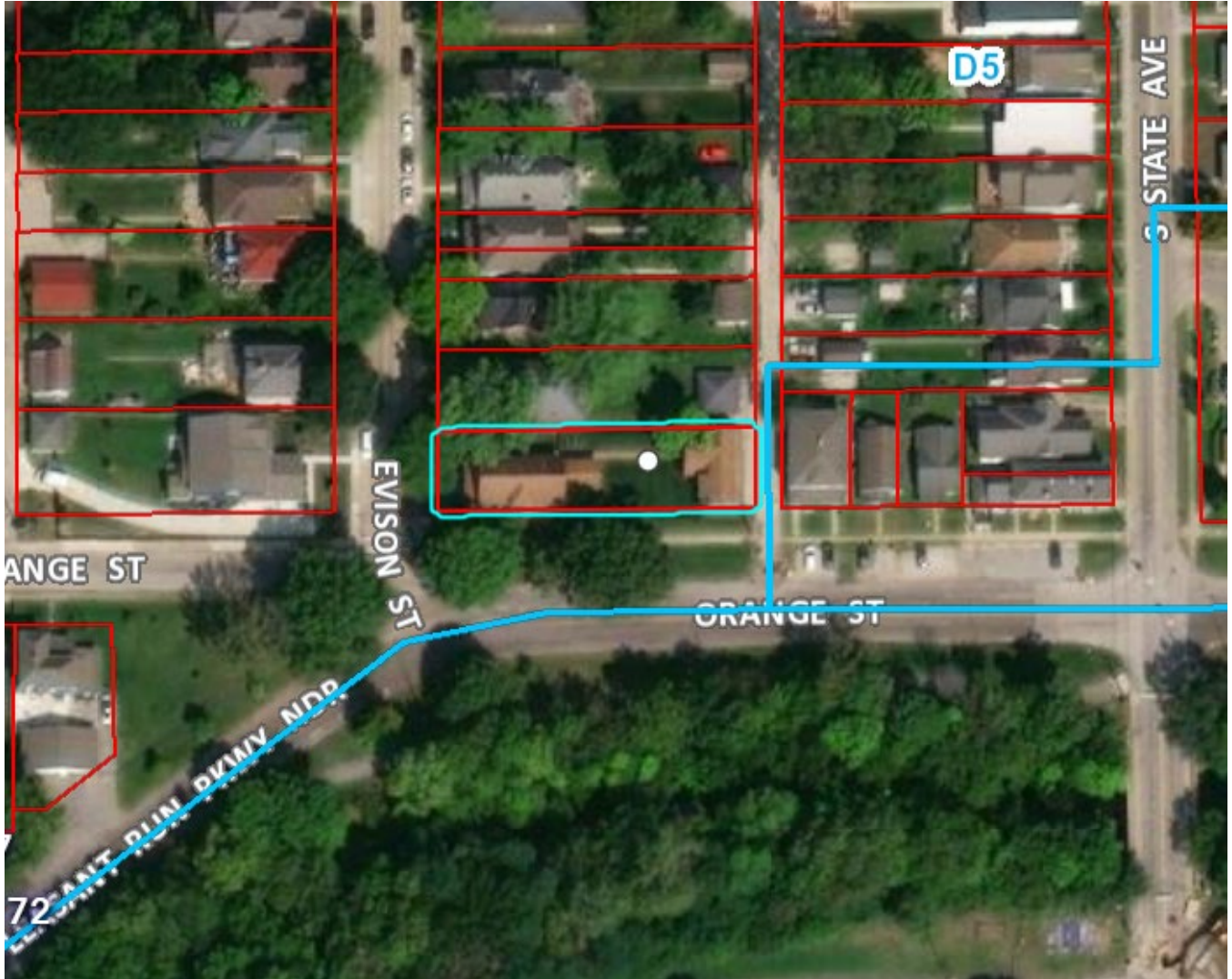
2016DV1019; 1305 Spruce Street (west of site), variance to provide for three single-family dwellings, with four foot front setbacks, two-foot side setbacks and three feet between buildings, and with 50 percent open space, **approved**.

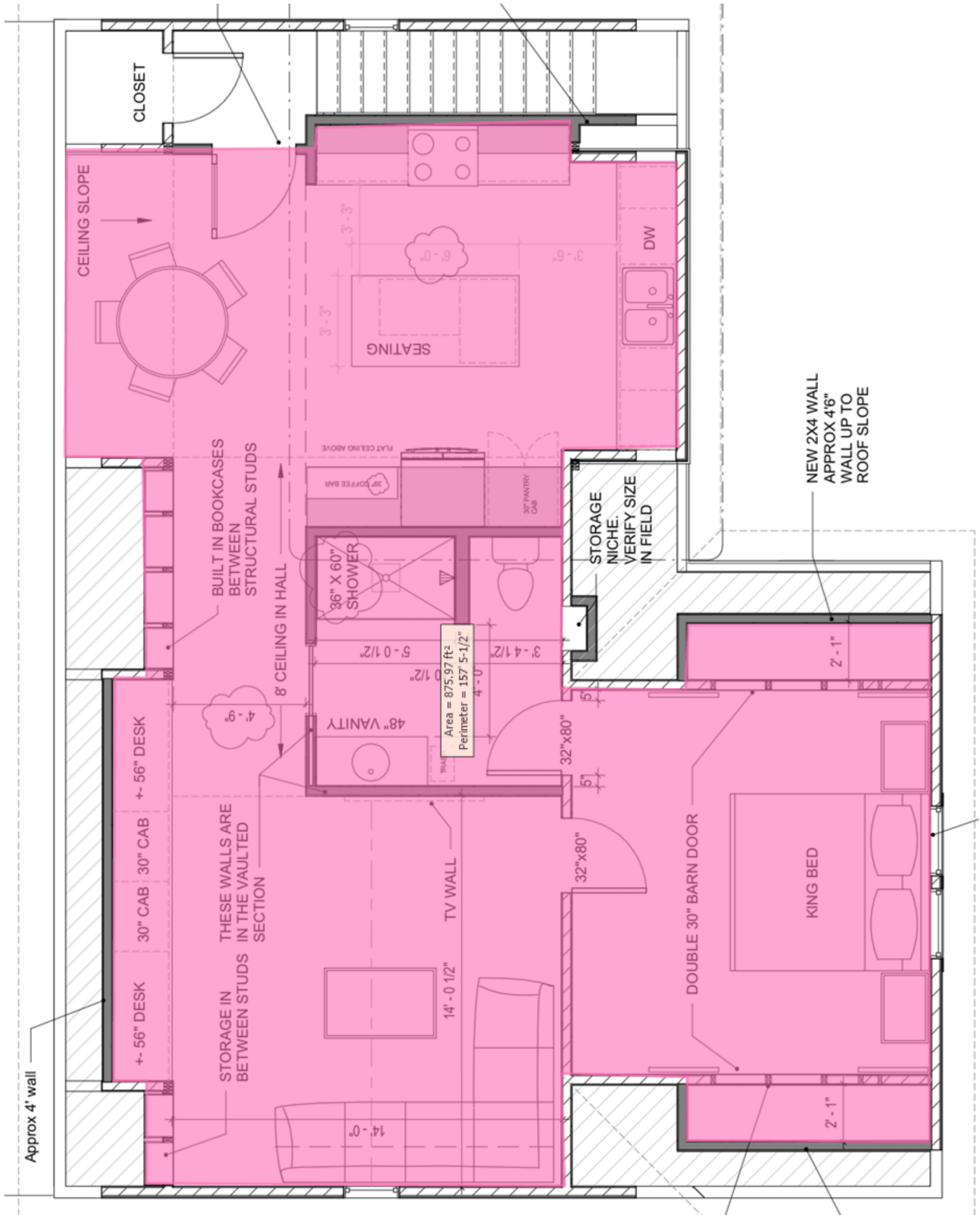
2009DV3046; 1225 S State Avenue (east of site), Variance of Development Standards of the Sign Regulations to provide for two ground signs, more specifically described as follows: a) a four-foot tall, 32-square foot sign along the State Avenue frontage, having a two-foot front setback (minimum 15-foot setback required) and, b) a four-foot tall, 32-square foot sign along the Orange Street frontage, having a two-foot front setback (minimum 15-foot setback required), **approved**.

96-UV3-10; 1218 S State Avenue (east of site), variance of use for 3 residential units in D-5 without off-street parking, **approved**.

96-UV2-8; 1238 S State Avenue (east of site), variance of use for 5 residential units without off-street parking, **approved**.

EXHIBITS







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:

This variance of development standards will allow the current 2nd story of existing detached garage to be finished out in order to be used as a secondary dwelling unit. Outside of an additional window and door, no other exterior alterations will be made to the detached garage, thus granting the variance will not be injurious to the public.

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 use and value of the area will not be affected, due to the fact that virtually all of the modifications made to the property, should this variance be granted will be done on the interior of 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:

This 2-story, detached garage was built prior to the ordinance standard that permitted a maximum square footage of 720 square feet for a secondary dwelling unit.

DECISION

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

Adopted this _____ day of _____, 20 ____









