

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-UV3-017
Address: 5420 McFarland Road (approximate address)
Location: Perry Township, Council District #24
Zoning: D-1
Petitioner: David Smithmeyer, by Jerry Hornback
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to allow:

On Parcel One

- a) Two primary dwellings (only one primary dwelling permitted per lot); and
- b) The westernmost dwelling maintaining a zero-foot northern side yard setback (eight-foot side yard setback required)

On Parcel Two

- a) An accessory structure without a primary dwelling (primary dwellings must be erected prior to accessory structures); and
- b) Legally establish a lot with a street frontage and width of 43-feet wide (minimum 45-foot-wide street frontage and lot width of 90 feet required).

ADDENDUM FOR OCTOBER 17, 2023

Staff recently determined that an additional variance may be needed due to possible inconsistencies with the submitted site plan. Therefore, **Staff is requesting this petition be continued to the November 28, 2023, hearing**, with possible new notice, to allow time to resolve the inconsistencies.

If additional information is not submitted in a timely manner prior to the November 28 hearing, then Staff may request dismissal of the petition at that time due to a lack of prosecution.

ADDENDUM FOR SEPTEMBER 19, 2023

This petition was continued from the August 15, 2023, hearing, to the September 19, 2023, hearing, at the request of the petitioner.

Due to being out of town at the time of the September 19, 2023, hearing, the petitioner is requesting this petition **be continued from the September 19, 2023, hearing to the October 17, 2023, hearing**.

Staff has no objection to this request but will not support any further continuances.

(Continued)

STAFF REPORT 2023-UV3-017 (Continued)

August 15, 2023

RECOMMENDATIONS

Staff **recommends denial** of this request.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

Compact	D-1	Single-family dwelling, barn, and a detached accessory dwelling.
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SURROUNDING ZONING AND LAND USE

North	D-5	Single-family dwelling / Two-family dwellings
South	C-3	Commercial Offices
East	SU-1	Religious use grade school athletic fields
West	D-5	Two-family dwellings

COMPREHENSIVE PLAN	The Comprehensive Plan recommends suburban neighborhood uses for the site.
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- ◇ The subject site was originally developed with a single-family dwelling and a barn. A detached accessory dwelling with a garage was added to the site sometime between 1972 and 1978 according to aerial photos. Living space was added to the barn around 1956, according to Assessor's records, however, the living space as a use appears to have been abandoned and vacant for a number of years. Therefore, it would no longer be considered legally non-conforming. The petitioner plans to renovate the living space within the barn and turn it into a second primary dwelling on parcel one.
- ◇ After a Staff site visit, it was determined that parcel two would have a single-family dwelling on it after the parcel split, as the structure was mislabeled on the submitted site plan as a garage. Therefore, the portion of the request to provide for a parcel with an accessory structure without a primary dwelling could be withdrawn. Another variance may be needed if the structure does not meet the minimum square footage required for a single floor single-family dwelling.

VARIANCE OF USE

- ◇ Per Table 743-1: Use Table, a single-family dwelling is permitted in the D-1 District. However, two single-family dwellings are not permitted on a single lot in this district.
- ◇ Staff believes that the site is large enough to be divided appropriately to provide for two single-family dwellings on separate lots without the need for variances, or provide for two-family dwellings if rezoned, similar to surrounding properties. However, with the variances as proposed, the site would negatively impact surrounding properties. In Staff's opinion, by granting the requested variances to allow two single-family dwellings on an original single-family lot, with reduced setbacks, with an increase in density over the previous structure's use on a single lot, would provide for increased intensity and negatively impact adjacent properties.

(Continued)

STAFF REPORT 2023-UV3-017 (Continued)

- ◇ There is no practical difficulty with the site, as the site is large enough to be split into two parcels while meeting all required development standards. The strict application of the Ordinance would not constitute an unnecessary hardship since there are multiple options for residential development without the need for a variance of use.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The grant of this petition would allow for the parcel to be split, with the westernmost dwelling maintaining a zero-foot northern side yard setback on parcel one and provide for a lot with a street frontage and width of 43-feet wide on parcel two after the split.
- ◇ Development Standards of the Consolidated Zoning and Subdivision Ordinance, specifically those relating to building setbacks and lot widths, are intended to ensure orderly development and protect surrounding property values, by providing for sufficient space, open buffer areas along lot lines and to ensure adequate access around buildings, as well as to prevent fires from spreading between buildings.
- ◇ There is no practical difficulty with the site, as the site is large enough to be split into two parcels while meeting all required development standards. The strict application of the Ordinance would not constitute an unnecessary hardship since there are multiple options for residential development on this site without the need for the requested variances.

GENERAL INFORMATION

THOROUGHFARE PLAN

This portion of McFarland Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary collector, with a 40-foot existing right-of-way, and a 90-foot proposed right-of-way.

SITE PLAN

File-dated July 10, 2023.

FINDINGS OF FACT

File-dated July 10, 2023.

ZONING HISTORY

2004-UV2-039; 2551 East Epler Avenue (west of site), requested a variance of use to provide for a two-family dwelling,

2003-DV1-044; 2551 East Epler Avenue (west of site), requested a variance of development standards to provide for a 4,000 square foot detached accessory structure resulting in 4,896 square feet of detached accessory building area or 331.93 percent of the main floor area of the primary dwelling and 4,896 square feet of total accessory use area or 331.93 percent of the total floor area of the primary dwelling,

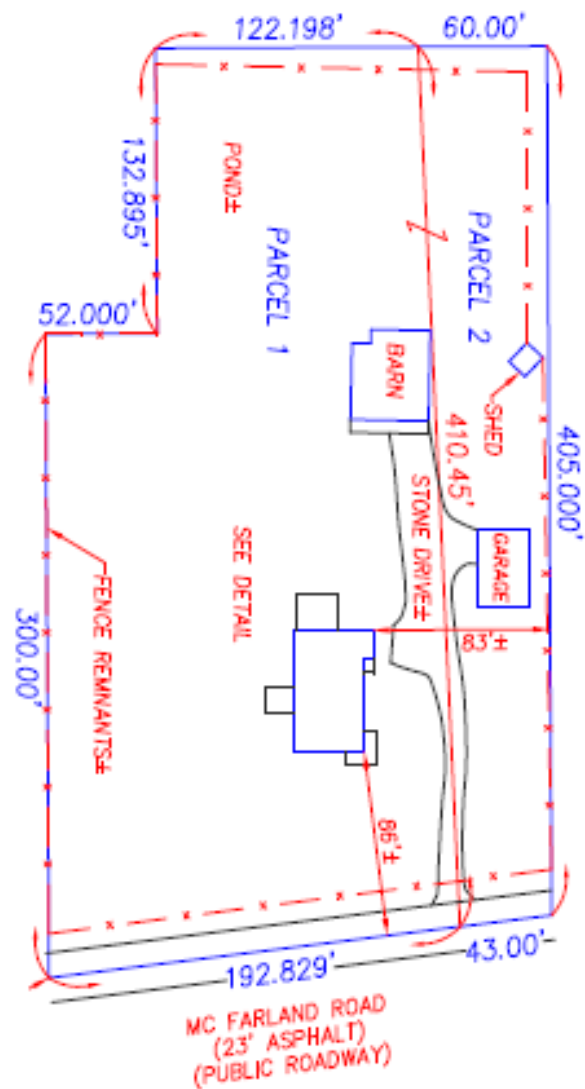
2002-UV2-005; 5424 McFarland Road (south of site), requested a variance of use to provide for automobile and transmission service in an existing 1,288 square-foot building, **granted**.

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2023-UV3-017; Location Map



2023-UV3-017; Site Plan



2023-UV3-017; Photographs



Photo of the subject site, primary dwelling on parcel 1, looking west



Photo of the subject site, south side yard on parcel 1, looking west



Photo of the subject site, second primary dwelling on parcel 1, looking west



Photo of the subject site, second primary dwelling proposed zero foot north side setback on parcel 1, looking west



Photo of subejct site parcel two frontage, looking west.



Photo of subejct site parcel two garage/Accessory dwelling, looking west.



Photo of adjacent property to the south, looking west.



Photo of adjacent property to the north, looking south.