

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-UV1-017
Address: 2352 Burke Street (approximate address)
Location: Wayne Township, Council District #22
Zoning: C-3
Petitioner: David & Valerie Ferguson
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of an automobile towing business, including the outdoor storage of inoperable vehicles and commercial vehicles (not permitted) with:

- a) A parking area without hard surfacing, durable painted lines and an ADA parking space (hard surfacing of parking areas, painted parking stalls and one ADA parking space required);
- b) An unenclosed trash dumpster (dumpster enclosure required); and
- c) A six-foot tall chain link, without required vinyl coating or equivalent treatment, perimeter fence with barbed wire (fence height limited to 3.5-foot tall within front yards, chain link must be vinyl coated, barbed wire fencing prohibited).

RECOMMENDATIONS

Staff **recommends denial** of the request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

C-3	Compact	Towing Operation
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SURROUNDING ZONING AND LAND USE

North	C-3	Single-family dwellings
South	C-3	Unknown Commercial Uses
East	C-3	Single-family dwellings
West	C-3	Single-family Dwellings

COMPREHENSIVE PLAN

The Comprehensive Plan recommends Traditional Neighborhood development.

- ◇ This 0.36-acre lot, zoned C-3, is currently improved with an automobile garage and outdoor storage and parking area.

(Continued)

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- ◇ To the west, north and east are single-family dwellings, all within the C-3 Districts. To the South are unknown commercial uses within the C-3 District. Due to a lack of signage and online presence, their uses are unknown.
- ◇ The property was granted a variance in 1962 that allowed for truck and automobile repair and storage.
- ◇ The site is currently subject to violation VIO-21-004031 by the Department of Business and Neighborhood Services, regarding non-permitted uses, unenclosed dumpsters, barbed wire fencing, lack of hard surfaced and painted parking areas.
- ◇ The C-3 District is the Neighborhood Commercial District of the Ordinance. It is intended to provide an extensive range of retail sales and personal and professional services for the immediate vicinity of a residential area. This zoning classification aligns with the comprehensive plan recommendation of Traditional Neighborhood. However, automotive uses are expressly discouraged from being located in areas recommended for Traditional Neighborhood Development.

VARIANCE OF USE

- ◇ The request would allow for the operation of a towing operation. This use would be classified as an Automobile and Vehicle Storage or Auction use within the Ordinance, and is permitted within the C-7, I-2, I-3 and I-4 Districts. These uses are typically characterized by large enclosed heavy outdoor storage areas and 24/7 operations given the unpredictability of the need for dispatch services. Because of these characteristics, this use is only permitted in the most intense districts afforded by the Ordinance, to help ensure that they are located with adequate separation from residential areas.
- ◇ According to the Plan of Operation, file-dated September 25, 2023, the operator of the business has recently purchased a new property located at 5312 Massachusetts Avenue where the business will be primarily operated from. The Plan of Operation also states:
 - The building located at 2352 Burke Street would only be used for the maintenance of tow trucks within the fleet and the repair of the business owner's personal vehicles. All maintenance related work would be done indoors.
 - The lot would be used for the parking of four tow trucks operated by employees who live closer to this location, their personal vehicles, and a two-car trailer used for the business. As proposed, there would never be more than 12 vehicles on the property. The tow trucks would only be dispatched between 8am and 8pm.
 - No towed or impounded vehicles would be stored at this location.
- ◇ While Staff acknowledges the history has a long history of automobile-oriented uses, Staff has concerns regarding the introduction of a more intense automobile use within an established residential neighborhood. In addition to the 1962 variance grant, the sites zoning allows for a wide range of commercial uses that would implement the vision of the Comprehensive Plan.

(Continued)

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- ◇ For that reason, Staff does not believe there to be a hardship warranting a favorable recommendation and that the request would negatively impact the viability of implementing the comprehensive plan.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The request would also allow for an unpaved and unstriped parking area that lacks an ADA compliant parking space. All commercial and industrial uses are required to have a hard surfaced parking area with striped parking spaces in order to promote orderly operation and to prevent dust and other particulate from negatively impacting air quality of adjacent properties.
- ◇ The request would also allow an existing trash dumpster to remain unenclosed. Enclosures are required in order to promote an enhanced aesthetic for commercial properties.
- ◇ The request would also allow for a six-foot chain link fence within the front yard, that does not incorporate vinyl coating, and is topped with barbed wire. Chain link fencing is not permitted within the front yard of commercial districts of the Ordinance. In side and rear yards, where they are permitted, they must be coated in black, brown, or dark green vinyl or an equivalent. This is intended to promote an enhanced aesthetic and prevent premature rusting of bare metal. The use of barbed or razor wire is prohibited throughout Marion County except for penal institutions or in association with public safety facilities.
- ◇ Staff believes these development standards to be self-imposed and that such a long standing commercial site should be brought into conformity

GENERAL INFORMATION

THOROUGHFARE PLAN

This portion of Burke Street is classified as a Local Street in the Official Thoroughfare Plan for Marion County, Indiana with an existing 40-foot right-of-way and proposed right-of-way of 50 feet.

This portion of Washington Street is classified as a Primary Arterial in the Official Thoroughfare Plan for Marion County, Indiana with an existing and proposed right-of-way of 102 feet.

SITE PLAN

File-dated June 29, 2023.

PLAN OF OPERATION

File-dated September 25, 2023

FINDINGS OF FACT

File-dated June 29, 2023.

ZONING HISTORY – SITE

62-V-141; 2352 Burke Street; variance of use to allow for repair of trucks and automobiles; **granted.**

(Continued)

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ZONING HISTORY – VICINITY

2006-UV2-034; 8704 West Washington Street; requests variance of use and development standards of the Commercial Zoning Ordinance to legally establish a single-family dwelling, with a 3.4-foot front setback, and having a 2.6-foot east transitional side setback, and to legally establish a 415.4-square foot detached garage with a two-foot east transitional side setback; **granted.**

99-HOV-29; 2329 Burke Street; requests variance of use of the Commercial Zoning Ordinance to provide for the construction of a 24 by 36 foot detached garage; **granted.**

87-UV1-76; 8734 West Washington Street; requests variance of use of the Commercial Zoning Ordinance to provide for an addition to an existing church; **granted.**

EDH

2023-UV1-017; Location Map



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

On The Fly Towing (OTF) has been operating in this location for four years. The same general type of businesses have been located at this location 2352 South Burke Street for nearly 50 years.

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 basic use of the property has not changed in nearly 50 years. The businesses that have operated at 2352 South Burke St. include auto repair shops, utility contractor, airline equipment storage, church bus garage, landscape company, and a towing company.

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

The building at 2352 South Burke Street does not have main thoroughfare access. The building is not designed for retail business. It was designed for heavier use than what is currently allowed in C3 zoning. OTF, the current renter, desires a towing license from the City of Indianapolis that would require storage.

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

C3 does not allow outside storage. The majority of the property's square footage has always been a storage lot. The building construction consists of a small office with a single bathroom with a large open maintenance area. Large overhead doors are located at each end of the building. The retail emphasis of C3 does not lend itself easily to this property.

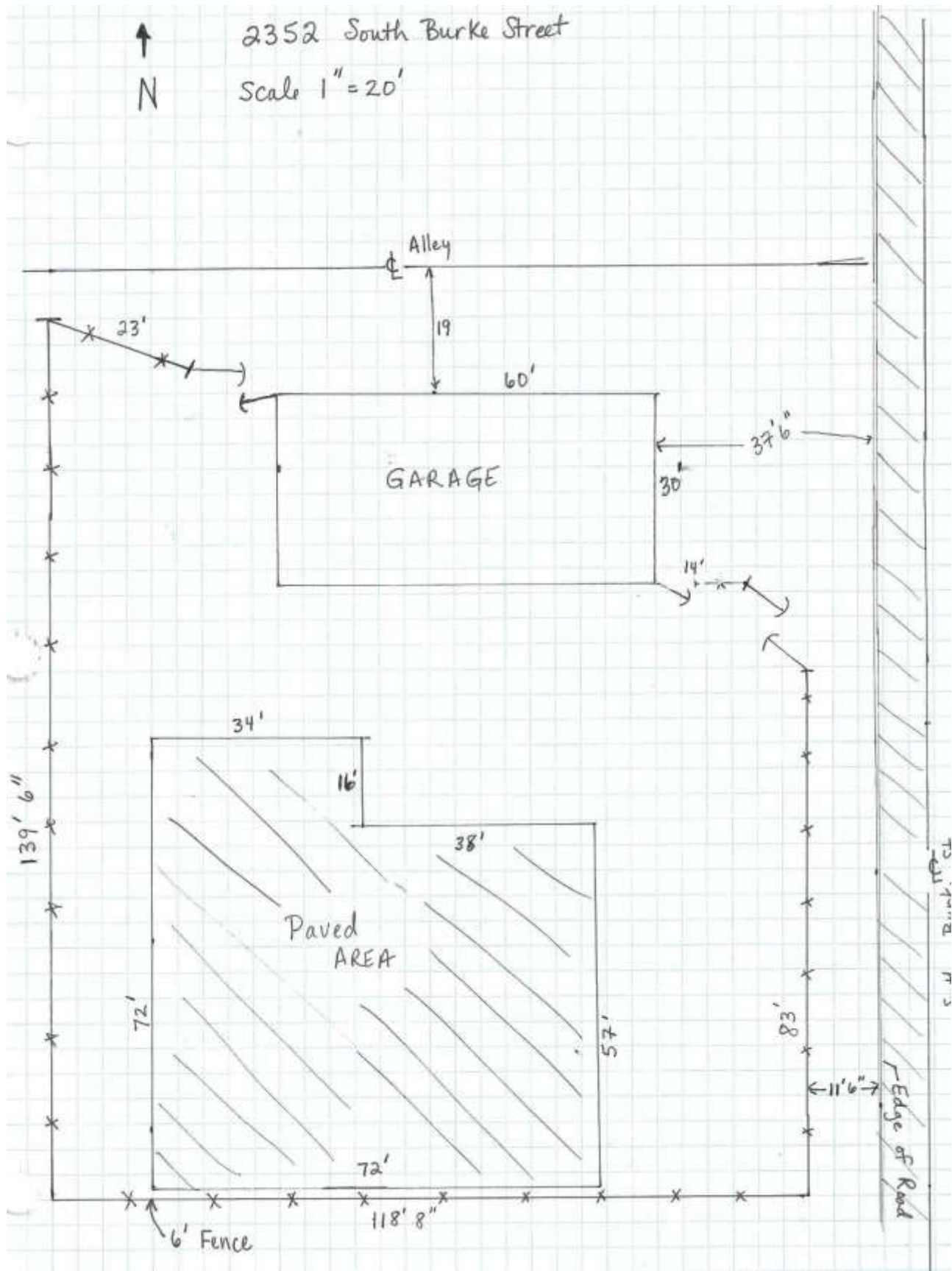
5. THE GRANT DOES NOT INTERFERE SUBSTANTIALLY WITH THE COMPREHENSIVE PLAN BECAUSE

As a traditional neighborhood, a variety of uses/businesses have been in place for the area of Bridgeport for many years. Bridgeport has consistently been composed of mixed uses of development throughout the community.

DECISION

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

Adopted this _____ day of _____, 20 ____



Plan of Operation

2352 South Burke Street

Hello, my name is Andy Lozano, I currently lease the property at 2352 S Burke St, Indianapolis, IN 46231 and was running my business, On The Fly Towing & Transport, from there. I bought a new facility for my towing business at 5312 Massachusetts Ave when it was brought to our attention that this property was not zoned for my business.

Continued operations at 2352 Burke Street, Indianapolis, Indiana would include:

- The building that is on the property would be used for any maintenance needing done on any tow truck in my fleet and to work on my hobby cars. Any and all maintenance would only be done inside the building.
 - The lot on the property would be used for parking for four of my tow trucks for the employees that live closer to this address, the employees' vehicles, and the parking of a 2-car trailer that we use for the business. We will never exceed twelve (12) vehicles on the lot. The tow trucks would leave no later than 8 am and be back no later than 8 pm. The gate will also remain closed unless a truck is leaving or entering the property.
 - Any cars towed or impounded will never come to the 2352 S Burke St, Indianapolis, IN 46231 being as our main operation is at the 5312 Massachusetts Ave address.
 - My future plans for 2352 S Burke St would be to improve the looks of the property. I would like to add a fence around the property that is approved by the city, add some landscaping that would be more presentable and welcoming for the neighborhood.
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2023-UV1-017; Photographs



Photo One: Looking South Along Burke Street



Photo Two: Looking North Along Burke Street



Photo Three: Facing East Across Burke Street



Photo Four: Chain Link Fence In Front Yard



Photo Five: Garage Located On Site



Photo Six: Outdoor Storage Area of Subject Site