

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV3-006
Address: 6039 South Harding Street (approximate address)
Location: Perry Township, Council District #20
Zoning: D-A
Petitioner: Robert E. Wampler and Linda L. Waites
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for:

- a) A carport, being taller than the primary building, and another mini barn located within the front yard of Harding Street, and with a 20-foot front yard setback from Harding Street (accessory structures not permitted in front of, or taller than, the primary building, 35-foot front yard setback required);
- b) A mini barn with a six-foot north side yard setback, and another with an eight-foot north side yard setback, resulting in a 50-foot aggregate side yard setback (minimum 30-foot side yard setback, 75-foot aggregate side yard setback required); and
- c) Resulting in an open space of 82% (85% open space required).

ADDENDUM FOR MARCH 21, 2023

This petition was heard at the February 21, 2023 hearing but resulted in an indecisive vote of 2-1 opposed and was therefore continued to the March 21, 2023 hearing.

At the February hearing, Petitioner committed to reducing the height of the carport to a height less than that of the primary structure.

Petitioner submitted additional documents on March 15, 2023. Those documents include an amended site plan with additional details regarding the size and location of the septic system. While the septic system does occupy a substantial portion of the rear yard, sufficient area remains within the rear and south side yards for the carport, therefore, staff **continues to recommend denial** of this request.

If the Board is inclined to vote against staff's recommendation, staff would request that Petitioner retain all existing landscaping within the front yard.

February 21, 2023

RECOMMENDATIONS

Staff **recommends denial** of this request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

(Continued)

STAFF REPORT 2023-DV3-006 (Continued)

LAND USE

EXISTING ZONING AND LAND USE

D-A	Metro	Residential
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SURROUNDING ZONING AND LAND USE

North	C-S	Union Hall
South	C-S	Fleet Terminal
East	D-A	Residential (Single Family)
West	I-2	Food Processing/Packaging

LAND USE PLAN

The Comprehensive Plan recommends office commercial development.

- ◇ The .43-acre site is developed with a single-family residence and three accessory structures. The residence is a 1,121 sq ft single story home built in approximately 1965.
- ◇ The site is bounded by commercial to the north and south, light industrial to the west, and single-family dwellings to the east.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The request would allow:
 - An accessory structure (carport) to remain in a front yard where the ordinance only permits accessory structures within side or rear yards; within a front setback which no structures are permitted (at about 20' from the right of way where 35' is required); and which is taller than the primary structure where ordinance requires all accessory structures to be subordinate so they may not be larger or taller than the primary structure.
 - A second accessory structure (shed) to remain in the front yard and 6' from the north side lot line and a third structure (shed) to remain 8' from the north side lot line where 15' side yard setback is required as an exception to the 30' requirement for homes in the D-A district built prior to 1989.
 - An open space deficiency of 82% where 85% is required in the D-A district. No more than 15% of the lot may be covered by structures. In this case, the home, carport, and three sheds cover 18% of the lot.

DEVELOPMENT STANDARDS FINDINGS OF FACT

- ◇ Criterion 3 states "THE STRICT APPLICATION OF THE TERMS OF THE ZONING ORDINANCE WILL RESULT IN PRACTICAL DIFFICULTIES IN THE USE OF THE PROPERTY BECAUSE." The petitioner's response is "The property is located in a 100-year flood zone. The relocation of the sheds to other locations puts them at risk due to standing water during heavy rains."

(Continued)

STAFF REPORT 2023-DV3-006 (Continued)

- The subject site has a rear yard of a size and topography which would accommodate a reasonable amount of residential accessory structures. Because the entire property is of a consistent elevation and within the flood zone, staff finds no practical difficulty which would prohibit the placement of the accessory structures within the rear yard. Staff could find no other practical difficulty which exists to allow for an accessory structure taller than the primary structure, insufficient open space, or reduced setbacks.

GENERAL INFORMATION

THOROUGHFARE PLAN	South Harding Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Primary Collector, with an 80-foot existing right-of-way.
SITE PLAN	File-dated January 17, 2023.
FINDINGS OF FACT	File-dated January 17, 2023.

ZONING HISTORY – SITE

EXISTING VIOLATIONS: VIO22-007767, December 2022

- ◇ **Section 740-1005.A.2.**
Failure to obtain an Improvement Location Permit when one is required by the terms and provisions of the Zoning Ordinance; (740-801.A.3. - Failure to obtain an Improvement Location Permit (ILP) for mini-barn, shed, or carport exceeding 200sq. feet).
- ◇ **Section 740-1005.A.3.**
The outdoor storage of junk, trash, or debris in any zoning district, the provisions of which do not specifically permit such a use; (Scrap wood, crates, sheet metal, buckets, tarps, and other miscellaneous items throughout the property).
- ◇ **Section 740-1005.A.4.**
The outdoor storage of inoperable vehicles or vehicle parts in any zoning district, the provisions of which do not specifically permit such a use; (Truck camper shell, and other miscellaneous vehicle parts throughout the property).
- ◇ **Section 740-1005.A.8.**
Failure to comply with use-specific standards and zoning district development standards for the D-A district; (743-306.4.a - Detached accessory structures shall not be located closer to any front lot line than the established front yard setback....Mini-barn/shed and carport).
- ◇ **Section 740-1005.A.8.**
Failure to comply with use-specific standards and zoning district development standards for the D-A district; (743-306.AA.1.b - No recreational vehicle shall be parked outside in the front yard, unless parked on a hard surfaced area of the driveway or interior access drive).
- ◇ **Section 740-1005.A.8.**
Failure to comply with use-specific standards and zoning district development standards for the D-A district; (Table 744-201-1: - Mini-barn/shed located in the 15 ft. side yard setback).

(Continued)

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PREVIOUS CASES: None.

ZONING HISTORY – VICINITY

2004ZON018; 1319 West Edgewood Avenue (south and east of site), Rezoning of 14 acres from the C-3 district to the C-S district classification, **approved**.

99-Z-48; 1319 West Edgewood Avenue (south and east of site), Rezoning of 6.2 acres from the D-A district to the C-S district classification, **approved**.

99-Z-29; 6030 South Harding Street (west of site), Rezoning of 2 acres from the D-A district to the I-2 district, **approved**.

96-Z-74; 6007 South Harding Street (north of site), Rezoning of .81 acres from the D-A district to the C-S district, **approved**.

BB

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STAFF REPORT 2023-DV3-006 (Continued)

2023-DV3-006; Location Map



Location map



Location map with floodplain

(Continued)

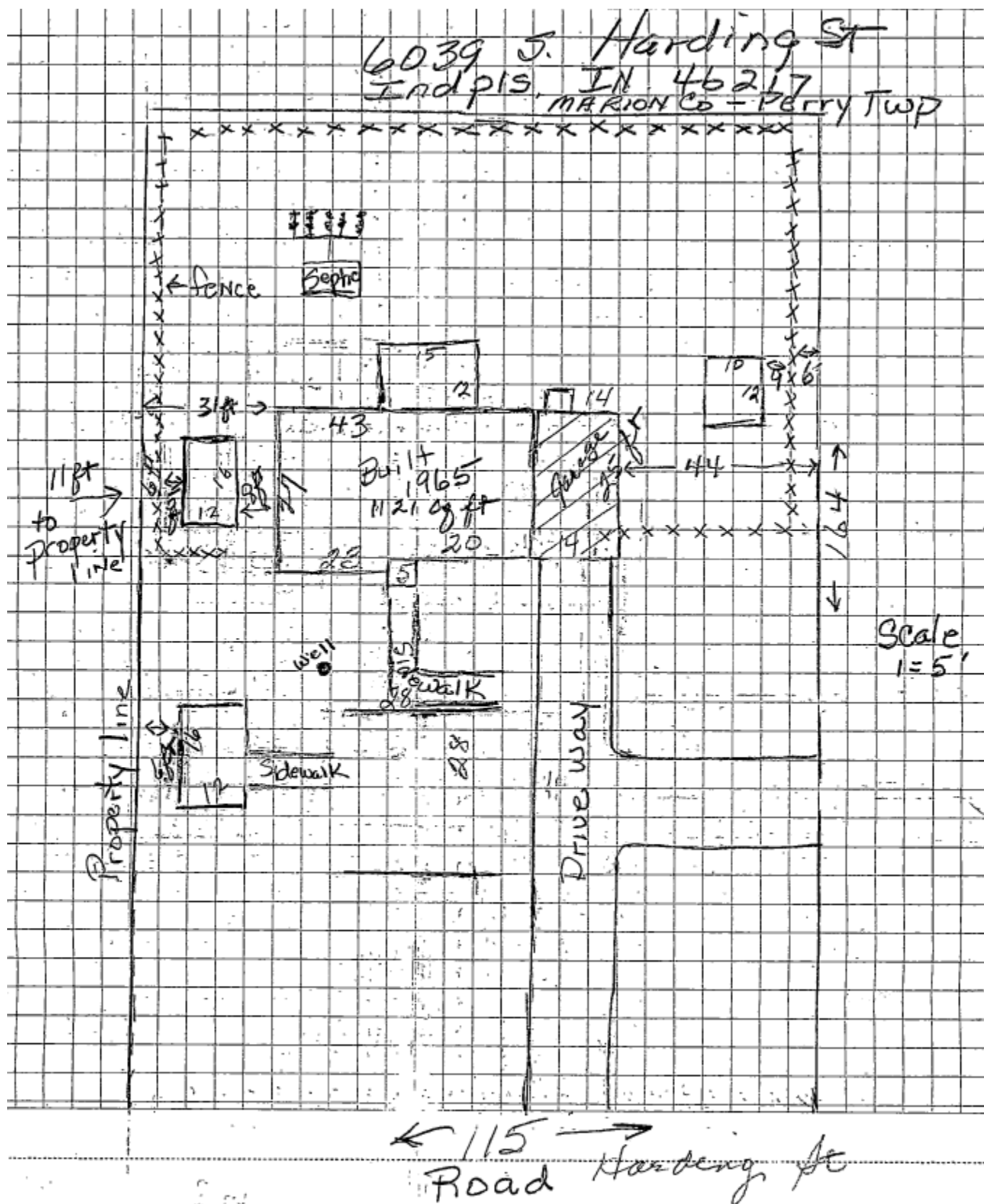
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2023-DV3-006; Aerial Map



(Continued)

2023-DV3-006; Site Plan



(Continued)

2023-DV3-006; Amended Site Plan



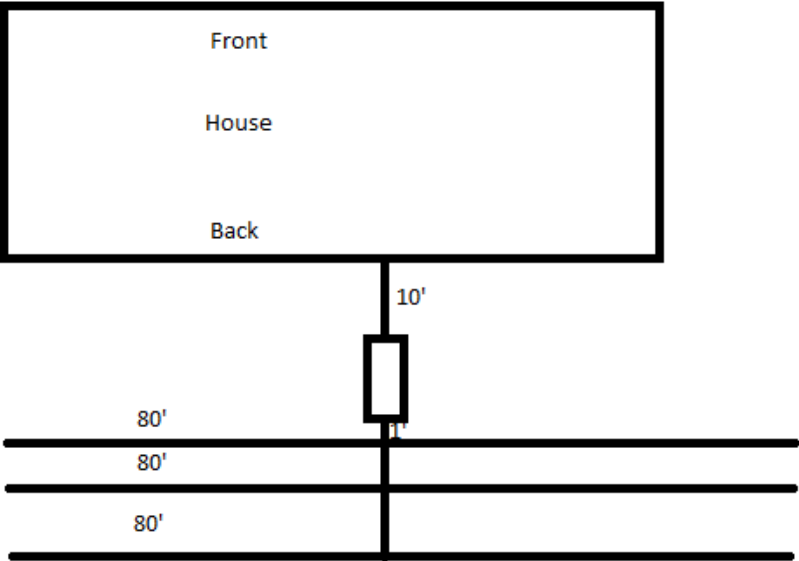
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2023-DV3-006; Septic System Layout



6039 S Harding St

We do not suggest building, placing, or digging within 10 ft of a septic system. This can cause problems and failure with the system and cause health hazards.



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STAFF REPORT 2023-DV3-006 (Continued)

2023-DV3-006; Topographical Site Plan



(Continued)

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2023-DV3-006; Findings of Fact

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 variances being requested involve a concrete pad and shed that have been in place since prior to purchase by petitioner in 2004. The other shed and car port have been in place since prior to 2008. They do not negatively affect the public health, safety, morals and general welfare of the community. Due to the industrialization of the area, the petitioner is now surrounded by commercial business on all four sides of his home.

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 value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the occupants of the adjacent properties purchased/rented/occupied the properties AFTER the structures were added to the petitioner's property. If anything, the petitioner has likely had a reduction of property value due to the industrialization / commercialization of the four adjacent properties.

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

The property is located in a 100 year flood zone. The relocation of the sheds to other locations puts them at risk due to standing water during heavy rains.

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STAFF REPORT 2023-DV3-006 (Continued)

2023-DV3-006; Photographs

Photos of the Subject Property: 6039 South Harding Street



View 1 from south, excessive height of carport



View 2 from south, inadequate front setback

(Continued)

2023-DV3-006; Photographs (Continued)



View 1 from west, inadequate side setback from north lot line



North neighbor

(Continued)

2023-DV3-006; Photographs (Continued)



West neighbor



South neighbor