

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-UV3-029 (Amended)
Address: 1009 West Edgewood Avenue (approximate address)
Location: Perry Township, Council District #20
Zoning: D-A / D-4
Petitioner: Willis Group LLC, by James Lewis Hillery
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a semi-tractor repair facility (not permitted) and the construction of a building addition and freestanding commercial building, with a 15-foot eastern side yard setback, resulting in a 30-foot aggregate side yard setback (30-foot side yard setback, 75-foot aggregate side yard setback required).

ADDENDUM FOR MARCH 21, 2023

This petition was continued from the January 17, 2023, hearing to the March 21, 2023 hearing of Division III, at the request of the petitioner. The petitioner has since amended the request in a substantial manner that requires amended notice and additional time for Staff review. Therefore, Staff is requesting that this petition be continued to the April 18, 2023, hearing in order to facilitate these actions.

ADDENDUM FOR JANUARY 17, 2023

This petition was continued from the November 22, 2022 hearing to the January 17, 2023 of Division III at the request of the petitioner. On January 10, 2023, the petitioner informed Staff that they intend to make an additional continuance request to the March 21, 2023 hearing of Division III in order to amend the request and discuss the request with interested parties. Staff is supportive of this request, however, this would be the last continuance request Staff would support.

ADDENDUM NOVEMBER 22, 2022

This petition was automatically continued from the October 18, 2022, hearing of Division III, to the November 22, 2022, hearing of Division III, at the request of the petitioner.

November 22, 2022

RECOMMENDATIONS

Staff **recommends denial** of this request.

(Continued)

STAFF REPORT 2022-UV3-029 (Continued)

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

D-A / D-4	Metro	Commercial
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SURROUNDING ZONING AND LAND USE

North	SU-1	Religious use
South	D-4	Single-family dwelling
East	D-A	Single-family dwelling
West	D-A	Single-family dwelling

LAND USE PLAN

The Marion County Land Use Plan (2019) recommends Rural or Estate neighborhood development.

- ◇ The subject site is 2.96 acres located in the Glens Valley neighborhood in Perry Township. The subject site contains two commercial buildings, with outdoor storage. The surrounding neighborhood consists of residential to the west, east and south, and religious uses to the north. The site abuts a railroad track to the east.
- ◇ The subject site is primarily zoned D-A (Dwelling Agriculture District). The D-A district holds the agricultural lands of Marion County and provides for a variety of agricultural uses. It is intended to provide for animal and poultry husbandry, farming, cultivation of crops, dairying, pasturage, floriculture, horticulture, viticulture, apiaries, aquaculture, hydroponics, together with necessary, accompanying accessory uses, buildings, or structures for housing, packing, treating, or storing said products; or lands devoted to a soil conservation or forestry management program. A single-family dwelling is intended to be permitted as a part of such agricultural uses. A secondary provision of this district is large estate development of single-family dwellings. This district fulfills the very low-density residential classification of the Comprehensive General Land Use Plan. This district does not require public water and sewer facilities.
- ◇ The subject site is zoned D-4 (Dwelling District Four), at the southernmost portion of site. The D-4 district is intended for low or medium intensity single-family and two-family residential development. Land in this district needs good thoroughfare access, relatively flat topography, and nearby community and neighborhood services and facilities with pedestrian linkages. Provisions for recreational facilities serving the neighborhood within walking distance are vitally important. Trees fulfill an important cooling and drainage role for the individual lots in this district. The D-4 district has a typical density of 4.2 units per gross acre. This district fulfills the low-density residential classification of the Comprehensive General Land Use Plan.

(Continued)

STAFF REPORT 2022-UV3-029 (Continued)

VARIANCE OF USE

- ◇ The request would provide for the construction of two commercial storage buildings with a total of 11 storage units, each with a 15-foot side yard setback resulting in a 30-foot aggregate side setback.
- ◇ The proposed use would be comparable to Mini-Warehouses (or Self Storage Facility). **Mini-Warehouses (or Self Storage Facility)** is defined as a building or group of buildings containing one or more individual compartmentalized storage units for the inside storage of customers' goods or wares, where no unit exceeds 600 square feet in area (740-202.M). Mini-Warehouse (or Self-Storage Facility) is only permitted in the C-7 and all industrial districts. Where permitted, mini warehouses should follow the use specific standards (743-305.X) below:
 - 1. All storage shall be within enclosed buildings except in the C-7, I-3 and I-4 districts.
 - 2. Security fencing shall not include razor wire or barbed wire within 10 feet of a front lot line or transitional yard.
 - 3. Doors to individual storage units shall not face any abutting street frontage, or, if the site is located on a corner parcel, shall not face the primary street frontage.
 - 4. A landscaped or naturally vegetated buffer at least 50 feet in width shall be provided along any lot line that abuts a protected district.
 - 5. Exterior access to any storage units within 100 feet, measured in any direction, of any dwelling district shall be limited to the period between 6:00 a.m. and 10:00 p.m. (See Section 743-301 and Section 740-308.)
- ◇ Section 743-301 states that public access to any storage unit within 100 feet of any dwelling district shall be limited to the period between 6:00 a.m. and 10:00 p.m. The subject site is located within a dwelling district and is surrounded by dwelling districts to the west, east, and south. The Plan of Operation does not specify hours of operation, but states customers can access the subject site during “controlled business hours.” Staff is strongly opposed to the request where the subject site is located and surrounded by protected districts and would be a significant deviation from what is permitted within the D-A district. The use would be more appropriate in a commercial or industrial district.
- ◇ Additionally, the Plan of Operation states that the proposed storage units would exceed 600 square feet in area, being 800 square feet for business customers that require “large storage space.” Furthermore, the proposed use would primarily be for customers who “cannot keep their storage at their dwellings, due to HOA restrictions.” Staff is concerned the large size of the units could allow for storage for semi-trailers. As per 743-306. B.3, no commercial vehicle or trailer shall be parked, stored, maintained, or kept on any property in a Dwelling district unless:
 - 1. The vehicle has a gross vehicle weight rating (GVWR) of 10,000 pounds or less; or
 - 2. The vehicle is parked, stored, maintained, or kept within a garage or carport and is not categorized as a commercial vehicle by Item 2 in the definition of a commercial vehicle; or,

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3. The vehicle is parked or stored on a site where active, legal construction activity is taking place. Commercial vehicles that are in the course of making normal and reasonable service calls are exempt from this provision.

The proposed use would not follow any of the above regulations.

- ◇ The Comprehensive Plan recommendation for the subject site is Rural or Estate Neighborhood development. The **Rural or Estate Neighborhood** typology applies to both rural or agricultural areas and historic, urban areas with estate-style homes on large lots. In both forms, this typology prioritizes the exceptional natural features – such as rolling hills, high quality woodlands, and wetlands – that make these areas unique. Development in this typology should work with the existing topography as much as possible. Typically, this typology has a residential density of less than one dwelling unit per acre unless housing is clustered to preserve open space. Staff believes the proposed use does not align with the Comprehensive Plan recommendation.
- ◇ Staff is wholly opposed to the request, where there is no hardship in using the subject site for permitted uses within the D-A district. The proposed use would be better suited in a commercial or industrial district, removed from residential.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The two proposed commercial structures would result in deficient side yard setbacks. Table 744-201-1 states that in the D-A district, Metro Context Area, the required side yard setback is thirty feet, with a required 75-foot combined side yard. The proposed commercial buildings would have a 15-foot side yard setback, resulting in a 30-foot aggregate side setback. Staff is opposed to the requested side setbacks where the proposed use promotes overdevelopment of the subject site, thus creating deficient setbacks. This would be considered a self-imposed practical difficulty, considering that the use would be better suited in a commercial or industrial district.
- ◇ Staff would note, that although there is no violation on the subject site, the existing uses are not compliant with the Ordinance standards. There are currently semi-trailers in the rear yard, which would be defined as Outside Storage and Operations. Outdoor Storage and Operations is only permitted as an accessory use in the C-5, C-7, and industrial districts (Table 743-1).

Previous Variance, 80-UV3-138

- ◇ Staff found an old variance for the subject site, like the proposed use requested. The previous variance was to permit the erection of an addition to an existing building for servicing tractors and continued use of residence as an office and residence. The grant of the variance had the following conditions applied:
 1. All development and construction shall be in compliance with plans filed in this office dated October 21, 1980.
 2. Landscaping and parking plan to be submitted to the Administrator of the Division of Planning and Zoning for approval prior to the issuance of an Improvement Location Permit.

(Continued)

STAFF REPORT 2022-UV3-029 (Continued)

3. No more than eight semi-cab and trailers to be parked or stored on the site. No more than three of these shall be refrigeration units in operation at any one time.
4. To be for the use of Contract Carriers, Inc. only.
5. Unless an Improvement Location permit is obtained within one year of this variance is void.

Based on condition number 4, this variance no longer applies to the subject site. Additionally, the expansion of the use, to add two more commercial structures with deficient setbacks for storage, would adversely impact the surrounding neighborhood, while promoting overdevelopment of the subject site.

GENERAL INFORMATION

THOROUGHFARE PLAN

Edgewood Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary arterial, with a 30-foot existing right-of-way and a 80-foot proposed right-of-way.

SITE PLAN

File-dated September 2, 2022.

PLAN OF OPERATION

File-dated September 2, 2022.

FINDINGS OF FACT

File-dated September 2, 2022.

ZONING HISTORY – SITE

EXISTING VIOLATIONS: None.

PREVIOUS CASES:

80-UV3-138; 1009 West Edgewood Avenue (subject site), requested a Variance of use and development standards to permit the erection of an addition to an existing building for servicing tractors, and continued use of residence as an office and residence, as per plans filed, off-street parking required, **granted**.

ZONING HISTORY – VICINITY

2007-DV1-048; 1137 West Edgewood Avenue, requested a Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a twenty-foot tall, 1,500 square foot detached accessory structure, with a 240-square foot porch, resulting in an accessory building area of 1,500-square feet or 96 percent of the main floor area of the primary structure, **approved**.

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STAFF REPORT 2022-UV3-029 (Continued)

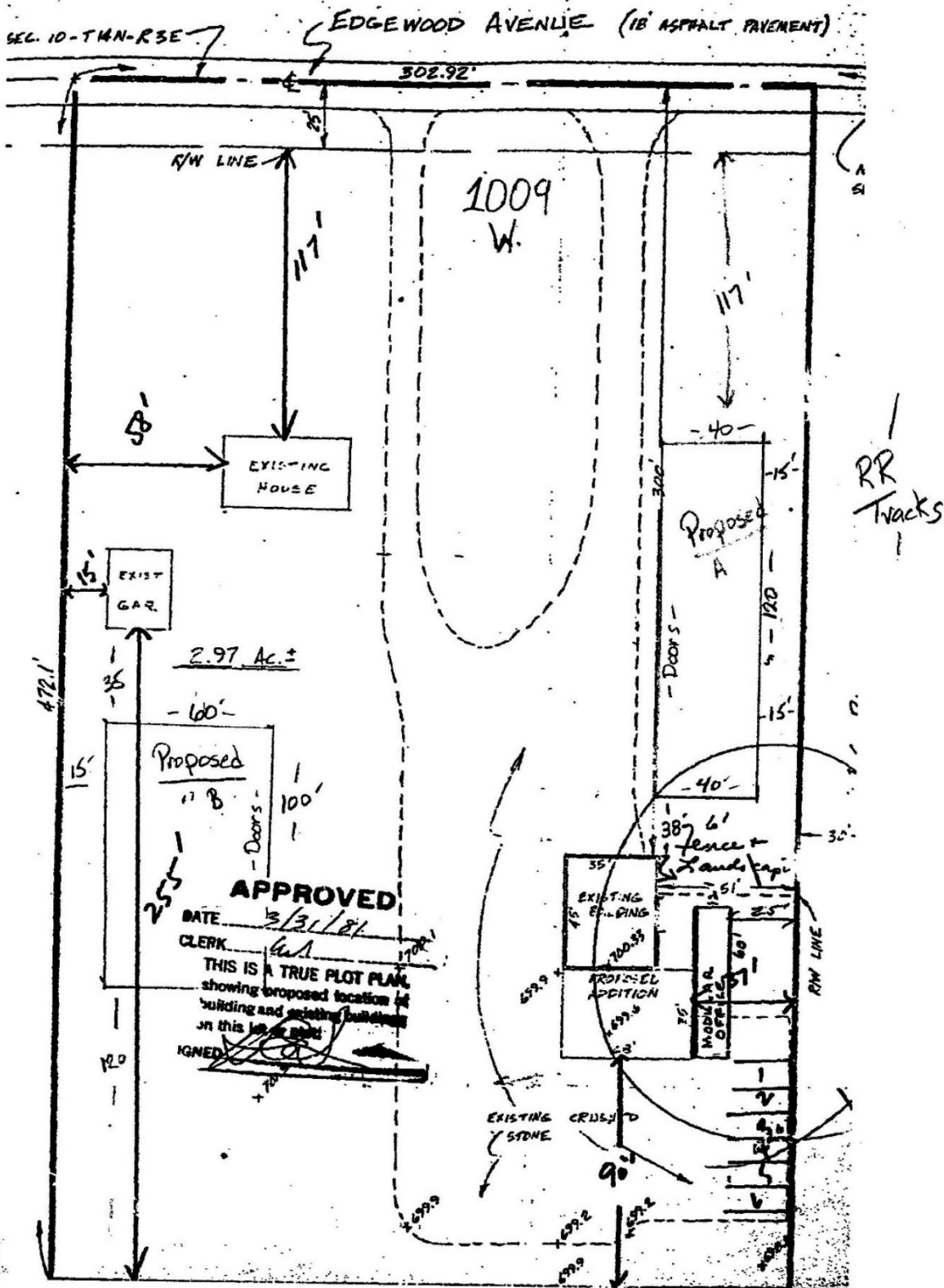
2022-UV3-029; Aerial Map



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2022-UV3-029; Site Plan

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PLAN OF OPERATION

1009 WEST EDGEWOOD AVENUE
BUSINESS CLIENT'S LARGE COLD WAREHOUSE STORAGE UNITS

WORKFORCE:

Property will be managed and maintained by the current property owner, who will be onsite to monitor activities. There will be no additional employees or volunteers associated with the new buildings.

CLIENTS AND CUSTOMERS:

The 11 cold warehouse storage units of approximately 800 square feet will be for business customers who require large storage spaces only, not for individual use. Business class customers will have access to the buildings only during controlled business hours to store excess tools, equipment, trailers and materials that are not used in their day-to-day operations and may not be allowed at their residence due to zoning HOA restrictions and the like. A minimum one-year lease will be required. There will be no work done on the site or in the storage units, there will be no HVAC and no running water, so there will not be much daily traffic by customers.

PROCESSES CONDUCTED ON SITE:

There will be only storage pick up and drop off on site. All storage will be inside the buildings and not visible from outside. There will be security fencing, security cameras and onsite management.

MATERIALS USED:

There will be no hazardous materials allowed on site. Periodic inspections will be performed to monitor compliance.

SHIPPING AND RECEIVING:

There will be shipping or receiving allowed to or from the storage units as needed. Customers will not be allowed to use the site as a business address for any purposes.

WASTE:

There will be no waste from the storage units. Customers will be required to dispose of their own waste, if any, at their own business locations, job site or local recycling facilities, trash or other waste. (Recycling will be encouraged.)

(Continued)

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

The proposed cold warehouse storage building units for business customers will not be injurious to public health, safety, morals and general welfare of the community.

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

This property has been used for commercial semi tractor truck repair for over 62 years, since 1960. Areas adjacent will not be adversely affected because activities in the new buildings will be indoors during controlled business hours and will not create much traffic or activity, since there will only be 11 storage warehouse units. Current owner will be only staff and will be on site during business hours. Units will be located 100 feet back from front lot line.

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

Because the property is directly adjacent to the railroad tracks, Owner would not otherwise be able to get the highest and best use of this large 2.96 acre already commercial property on which there is sufficient room for the construction/expansion. Because there is no city sewer or water, cold storage warehouses are one of few best uses of the property.

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

Because the property is directly adjacent to the railroad tracks, Owner would not be able to get the highest and best use of the property. There is sufficient room for the construction/expansion on the 2.96 acre property which value will be enhanced by its improved utility. Because there is no city sewer or water, cold storage warehouses are one of few best uses of the property.

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

In addition to already being used for commercial use, there are many commercial uses nearby already. This property lies adjacent to the railroad tracks on Edgewood Avenue, a heavily used East-West truck route, and also the location of the Perry Township School System bus garage which creates a lot of traffic. The property is also very near Bluff Road, a major road from the South, so it will not create any traffic on nearby neighborhood streets.

DECISION

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

Adopted this _____ day of _____, 20 22

2022-UV3-029; Findings of Fact (Development Standards)

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:

The proposed cold storage building units for business customers will not be injurious to public health, safety, morals and general welfare of the community.

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 property has been used for commercial semi tractor truck repair for over 62 years, since 1960. Areas adjacent will not be adversely affected because activities in the new building will be indoors during controlled business hours and will not create any traffic on neighborhood streets. There will only be 11 large cold storage warehouse units. Current owner will be only staff and will be on site during business hours. Units will be located 100 feet back from front lot line.

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

Owner would not be able to get the highest and best use of the property. The property is adjacent to the railroad tracks. There is sufficient room for the construction/expansion on the 2.96 acre property which value will be enhanced by its improved utility.

DECISION

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

Adopted this _____ day of _____, 20__ 22

2022-UV3-029; Photographs



Photo looking west on Edgewood Avenue.



Photo looking north of subject site, towards religious use (protected district).

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STAFF REPORT 2022-UV3-029 (Continued)



Photo looking east on Edgewood Avenue.



Photo of west lot line, where proposed commercial structure would be located.

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STAFF REPORT 2022-UV3-029 (Continued)



Photo of existing structure, resembling an old pole barn, with semi-trailer storage behind.

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STAFF REPORT 2022-UV3-029 (Continued)



Photo of rear yard, with outdoor storage.

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STAFF REPORT 2022-UV3-029 (Continued)



Photo of driveway from Edgewood Avenue.



Photo of surrounding residential to the north of the subject site.

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STAFF REPORT 2022-UV3-029 (Continued)



Photo of the Subject Property: 1009 West Edgewood Avenue