

BOARD OF ZONING APPEALS DIVISION III

May 26, 2026

Case Number: 2026-DV3-010 (Amended)
Address: 102 Jonquil Drive (approximate address)
Location: Perry Township, Council District #23
Zoning: D-3
Petitioner: Kenneth and Josephine Busald, by Daniel Russello
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a detached accessory structure within a utility easement (not permitted), and with a three-foot west side yard setback (six-foot required).

Current Land Use: Single-Family Dwelling

Staff Recommendation: Staff recommends denial of this petition.

Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

This petition was continued from the April 21, 2026, Board III hearing due to a lack of quorum, and transferred to the May 19, 2026, Board II hearing. The petition was continued and transferred from the May 19, 2026 Board II hearing, to the May 26, 2026, Board III hearing at the request of the petitioner.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

- Construction of buildings within utility easements is not permitted. This is both to allow for easy access to those utilities if needed, and to ensure that there is no potential for interference with the utilities. With the drainage and utility easement being located parallel to the west side lot line, the accessory structure encroaches into the easement by approximately one foot and the side setback by approximately three feet.
- The structure in question is smaller than 200 square feet and does not appear to be on a foundation. Therefore, an Improvement Location Permit was not required to be issued for the installation of the structure. Staff will acknowledge that aerial photos approximately indicate the structure has been in its current location since 1986. Staff would point out that the structure has also been non-compliant since 1986.

- Construction within Ordinance required setbacks is also not permitted. This is to allow for sufficient light and airflow between structures, and adequate public safety access in times of an emergency. With the subject site being of sufficient sizing for D-3 zoning standards, Staff finds no practical difficulty for the petitioner to not meet the side setback standards.
- Staff would note that the structure does not appear to be on a permanent foundation and can be more easily relocated than enclosed structures on a permanent foundation.
- Staff generally views any related practical difficulty to be self-imposed, and insufficient in obtaining a favorable Staff recommendation. Further, Staff has concerns that recommending approval of such requests may promote similar deviations from the Ordinance from surrounding property owners.
- Finally, Staff would note that any structure located within an easement may be lawfully removed by any party with rights to that easement. To avoid any such instance, Staff strongly requests that the plans be modified to relocate the structure wholly outside of the easement.

GENERAL INFORMATION

Existing Zoning	D-3		
Existing Land Use	Single-Family Dwelling		
Comprehensive Plan	Suburban Neighborhood		
Surrounding Context	Zoning	Surrounding Context	
	North:	D-3	Single-Family dwelling
	South:	D-3	Single-Family dwelling
	East:	D-3	Single-Family dwelling
	West:	D-3	Single-Family dwelling
Thoroughfare Plan			
	Jonquil Drive	Local Street	50-foot existing and proposed right-of-way.
Context Area	Metro area		
Floodway / Floodway Fringe	No		
Overlay	N/A		
Wellfield Protection Area	No		
Site Plan	February 18, 2026		
Elevations	N/A		
Landscape Plan	N/A		
Findings of Fact	February 18, 2026		

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- The Comprehensive Plan recommends Suburban Neighborhood typology for the site.

Pattern Book / Land Use Plan

- The Pattern Book recommends the Suburban Neighborhood typology which is predominantly made up of single-family housing but is interspersed with attached and multifamily housing where appropriate. This typology should be supported by a variety of neighborhood-serving businesses, institutions, and amenities.

Natural Corridors and natural features such as stream corridors, wetlands, and woodlands should be treated as focal points or organizing systems for development. Streets should be well-connected, and amenities should be treated as landmarks that enhance navigability of the development. This typology generally has a residential density of 1 to 5 dwelling units per acre, but a higher density is recommended if the development is within a quarter mile of a frequent transit line, greenway, or park.

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

- Not Applicable to the Site.

Indy Moves

(Thoroughfare Plan, Pedestrian Plan, Bicycle Master Plan, Greenways Master Plan)

- Not Applicable to the Site.

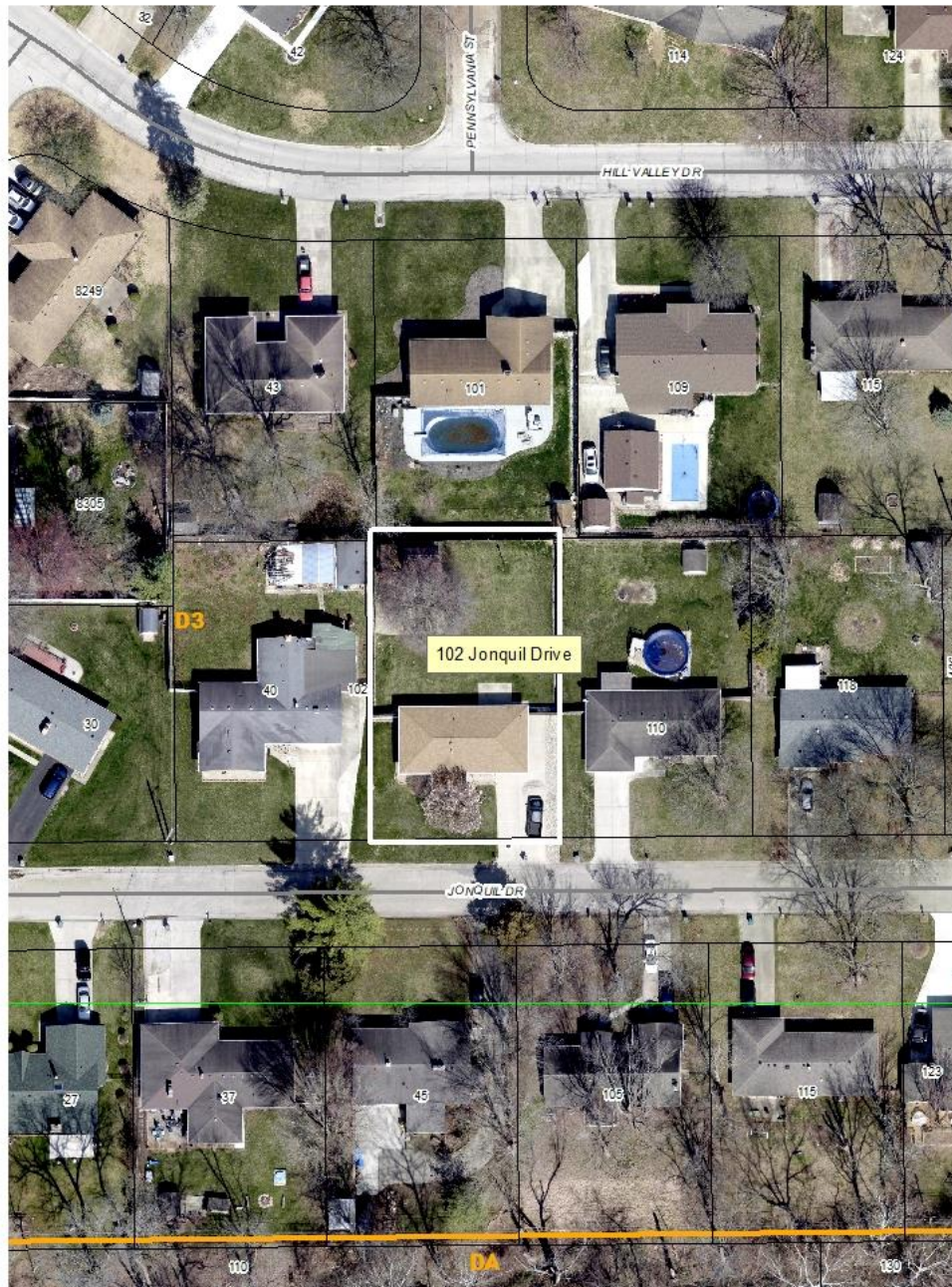
ZONING HISTORY

None

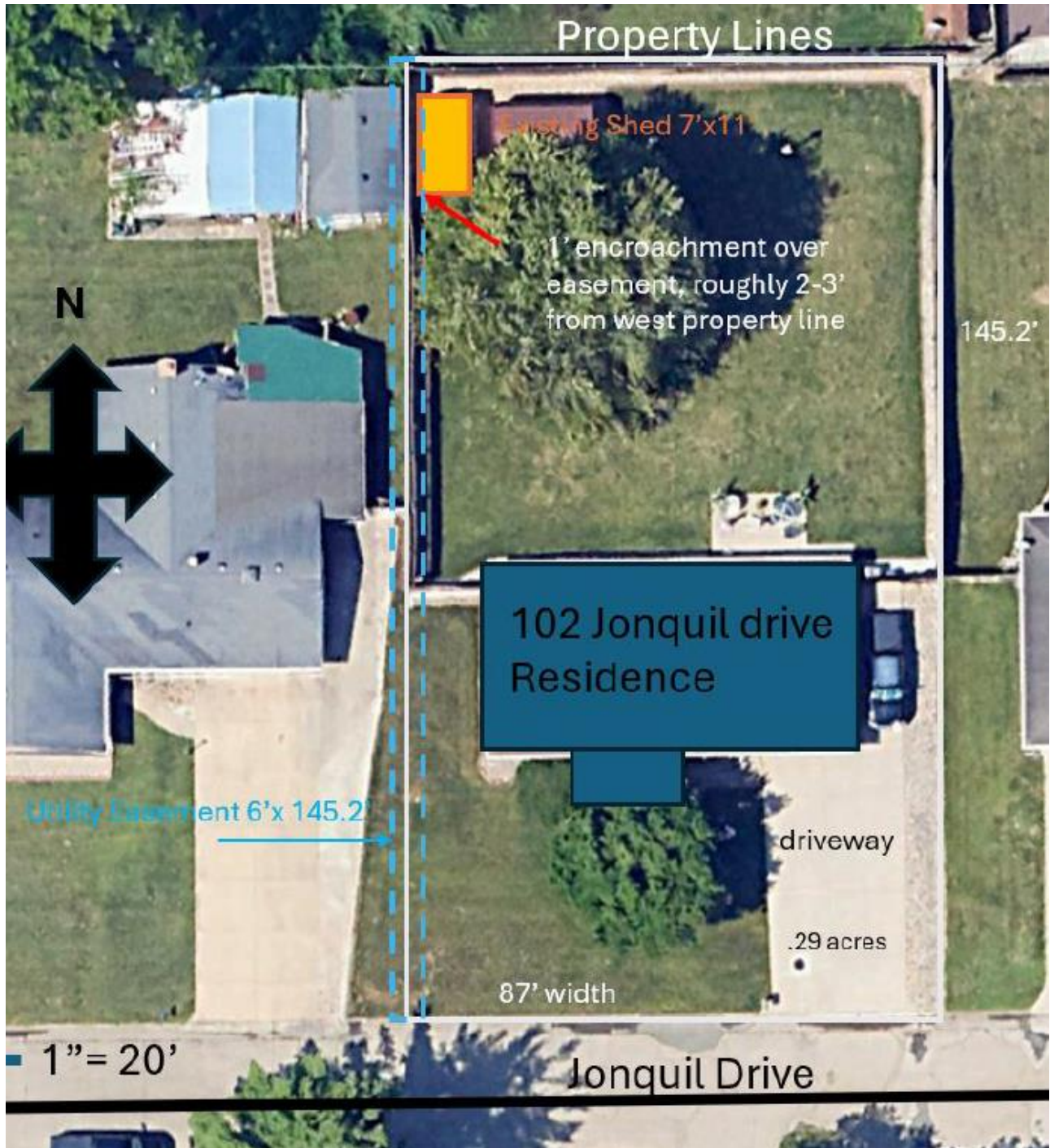
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EXHIBITS

Location Map



Submitted Site Plan





Findings of Fact

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 shed has been in this position for several years and homeowners are committing to an encroachment license with the city following variance approval.

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 shed is within the fence that separates the two properties and the utility easement in question will remain.

Nothing about the value or use of the property will change with the granting of this variance as everything remains the same.

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

Nothing is changing about the property. This has been this way for 40 years. No practical difficulties have come to light.

Photographs



Subject property primary dwelling looking north.



Subject accessory structure (left) encroaching into easement and west side setback, looking north.