



BOARD OF ZONING APPEALS DIVISION I

October 1, 2024

Case Number: 2024-UV1-011 (Amended)
Property Address: 5151 South Franklin Road (approximate address)
Location: Franklin Township, Council District #25
Petitioner: Zahn Real Estate LLC, by Joseph D. Calderon
Current Zoning: I-2
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for warehousing with outdoor storage within 68 feet of a protected district (not permitted within 500 feet of protected districts) and 100% the size of the gross floor area of enclosed buildings (25% maximum allowed) with deficient transitional yard landscaping and 53 parking spaces (63 spaces required), and the construction of several buildings with a minimum of a 73-foot front transitional yard (100 feet required).
Current Land Use: Industrial
Staff Recommendations: Staff **recommends** denial of this petition.
Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

September 3, 2024: A timely automatic continuance request was filed by a registered neighborhood group in advance of the hearing date to allow additional time for discussion. The request will be amended in advance of the new hearing date of October 1, 2024 without new notice needed. A full staff report will be made available in advance of the October hearing date.

August 6, 2024: An automatic continuance request was filed by the petitioner to continue this petition to the September 3, 2024 meeting to allow time for additional discussion with staff and neighborhood groups that will likely result in amendments to the scope and plans. A full staff report will be available in advance of the September hearing date.

STAFF RECOMMENDATION

Staff **recommends** denial of this petition.

PETITION OVERVIEW

- The subject site is currently developed with a residential structure as well as several accessory buildings and is zoned I-2 for light industrial uses. The site is largely surrounded by property that is either undergoing or scheduled to undergo development of single-family homes: the property to the west was recently rezoned for residential development in 2024, and construction of new homes is underway directly to the south and east of the subject site. The only parcels in the immediate area still zoned for industrial use are the subject site and the vacant parcel to the north.
- The most recent application and plans provided by the applicant indicate development of warehousing structures for multiple contracting businesses at the property: five larger buildings with an area of 36,000 square feet (7200 SF each) would be built along with 27 smaller storage units (majority are 1600 SF) on the eastern portion of the property. All existing buildings except for the home and barn structure would be removed, and the site would incorporate five dedicated areas of outdoor storage (one for each of the five larger buildings). It is unclear if the residential structure would continue as a home or be related to the industrial uses, and it is also unclear what types of contractors would utilize this space or what types of equipment or vehicles they would be storing in either enclosed or unenclosed areas.
- Although both warehousing (primary) and outdoor storage and operations (accessory) are allowed uses within I-2 zoning, the use-specific standards for warehousing contains a proximity requirement of 500 feet that would not allow for outdoor storage areas to be established absent a use variance: warehousing rules would require a separation of 500 feet from protected districts if any warehousing was conducted outside of enclosed buildings as would be the case here.
- Additionally, the zoning ordinance requires that accessory outdoor storage areas be surrounded with a fence of at least 6 feet in height and that they be screened with trees or landscape hedges in accordance with transitional yard landscaping requirements. Although the five outdoor storage areas shown on revised plans show a cumulative area (21,125 SF) that is less than 25% of the total gross floor area of enclosed buildings (the maximum accessory outdoor storage allowed for I-2 zoning), those areas are not fenced or screened, and it appears that the larger fenced areas surrounding the areas delineated as outdoor storage would be approximately 100% of the building area which would be 4 times the ordinance requirement. For the purposes of this review, staff would consider the larger fenced areas to fully comprise outdoor storage due to a lack of explanation on how the 65x65 outdoor storage areas would be delineated or buffered on-site.
- In addition to the use stipulations above, several variances of development standards would also be required to allow for the development as shown. 63 parking spaces would be required, while this layout only shows 53 spaces. Transitional yard landscaping would be required along the entirety of the southern, eastern, and western yards (only partial compliance is shown on most current plans), and while the revised site plan shows compliant side and rear transitional yards, a front transitional yard of 100 feet would be required and Building 1 has a setback of only 73 feet.

- Building illustrations (not-to-scale) were provided that show a rendering of how the proposed structures might appear: the height of the buildings is unclear, but structures within or bordering required yards would be limited to a height of 22 feet: this could be verified during permitting. Of greater concern to staff is the lack of detail in the operation plan: no information has been provided about the number or type of vehicles at the site, how frequently they might enter or exit, and what types of materials might be stored in accessory outdoor storage areas.
- The subject site is zoned I-2 to allow for light industrial uses that present minimal risk and typically do not create objectionable characteristics (such as dirt, noise, glare, heat, odor etc.) that extend beyond the lot lines. If outdoor operations are present within I-2, they should be completely screened if adjacent to protected districts and limited to a small percentage of the total operation compared to heavier industrial uses such as that proposed by this petition.
- Additionally, the Comprehensive Plan recommends this site to the Office Commercial working typology to allow for single and multi-tenant office buildings (enumerated land uses include medical and dental facilities, education services, insurance, real estate, financial institutions, design firms, legal services, and hair and body care salons) that are often a buffer between higher and lower-intensity land uses. Industrial uses are not suggested for this site by the Plan, and both I-2 zoning districts and the Office Commercial typology are envisioned as being buffer districts between protected districts and more intense areas.
- Staff does not feel that an undue hardship exists at this site that would preclude it from being developed with alternate uses that are compliant with the ordinance. An optimal land use would be a less intense commercial use as described by the Comprehensive Plan, though less intense industrial uses could utilize the site by-right and even develop it further if standards for setbacks, landscaping and parking were met. A use of multitenant contractor warehousing with associated outdoor storage would not be appropriate for a Light Industrial context.
- The findings of fact provided by the applicant indicate that there would be no method to utilize any outdoor storage at the site, that the proposed development would be “substantially similar to development found in an office park”, and that adequate buffering between the proposed use and residential areas has been provided. Staff disagrees on each count: the 500’ proximity rule is only tied to outdoor operations for the primary warehousing use (other I-2 uses could have outdoor storage outside of buffer yards and meeting other use-specific standards), and most office parks wouldn’t contain outdoor storage and operations at such a dramatic scale involving so many commercial vehicles accessing the property. Additionally, the most recent site plan shows encroachment into the front transitional yard and landscaping that wouldn’t meet the ordinance standard of either (a) landscaped areas with 15-foot width & one tree and four large shrubs per 25 feet or (b) an opaque wall, berm, fence, or dense vegetative screen with height of at least 8 feet to fully meet buffering requirements. A commitment indicates they would meet this standard if the variance is approved; that would be verified during the permitting stage if approved.

- Staff feels that the proposed intensity and scope of this use are inappropriate for the surrounding residential context and would create substantial issues of noise pollution and road damage to the pavement of Franklin Road that would be compounded by the lack of adequate transitional yard separation and landscape buffering. Although the scale of outdoor storage and operations was marginally improved by the updated site plan submitted September 17, the proposed layout still fails to show adequate separation and buffering from residential uses and the lack of information about the proposed uses and storage could easily lead to development that creates an inappropriate amount of heavy vehicle traffic, negative externalities related to noise, light, dust, and road damage, and accessory outdoor storage well above the 25% requirement for accessory outdoor storage within I-2 zoning. Staff find no undue hardship present that would prevent installation of a more appropriate use and recommends denial of the request.

GENERAL INFORMATION

Existing Zoning	I-2	
Existing Land Use	Industrial	
Comprehensive Plan	Office Commercial	
Surrounding Context	Zoning	Surrounding Context
North:	I-2	North: Vacant
South:	D-P	South: Residential
East:	D-P	East: Residential
West:	D-4	West: Residential
Thoroughfare Plan		
Franklin Road	Primary Arterial	50-foot right-of-way existing and 119-foot right-of-way proposed
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	05/28/2024	
Site Plan (Amended)	09/17/2024	
Elevations	09/17/2024	
Elevations (Amended)	N/A	
Landscape Plan	05/28/2024	
Findings of Fact	05/28/2024	
Findings of Fact (Amended)	09/25/2024	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends this site for the Office Commercial working typology, which is designed for single and multi-tenant office buildings that is often a buffer between higher and lower-intensity land uses. Contemplated uses include medical and dental facilities, education services, insurance, real estate, financial institutions, design firms, legal services, and hair and body care salons. Industrial land uses are not contemplated.

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

ZONING HISTORY – SITE

N/A

ZONING HISTORY – VICINITY

2024ZON028 ; 5332 S Franklin Road (west of site), Rezoning of 75.3 acres from the D-A district to the D-4 district to provide for single-family residential development, **approved**.

2021ZON013 ; 5151 S Franklin Road (east/south of site), Rezoning of 19.06 acres from the I-2 district to the D-P classification for the development of 61 single-family dwellings at a density of 3.2 units per acre, **approved**.

2019CZN811 ; 5151 S Franklin Road (east/south of site), Rezoning of 19.06 acres from the I-2 and D-P districts to the D-P district to provide for 61 lots at a density of 3.2 units per acre, **withdrawn**.

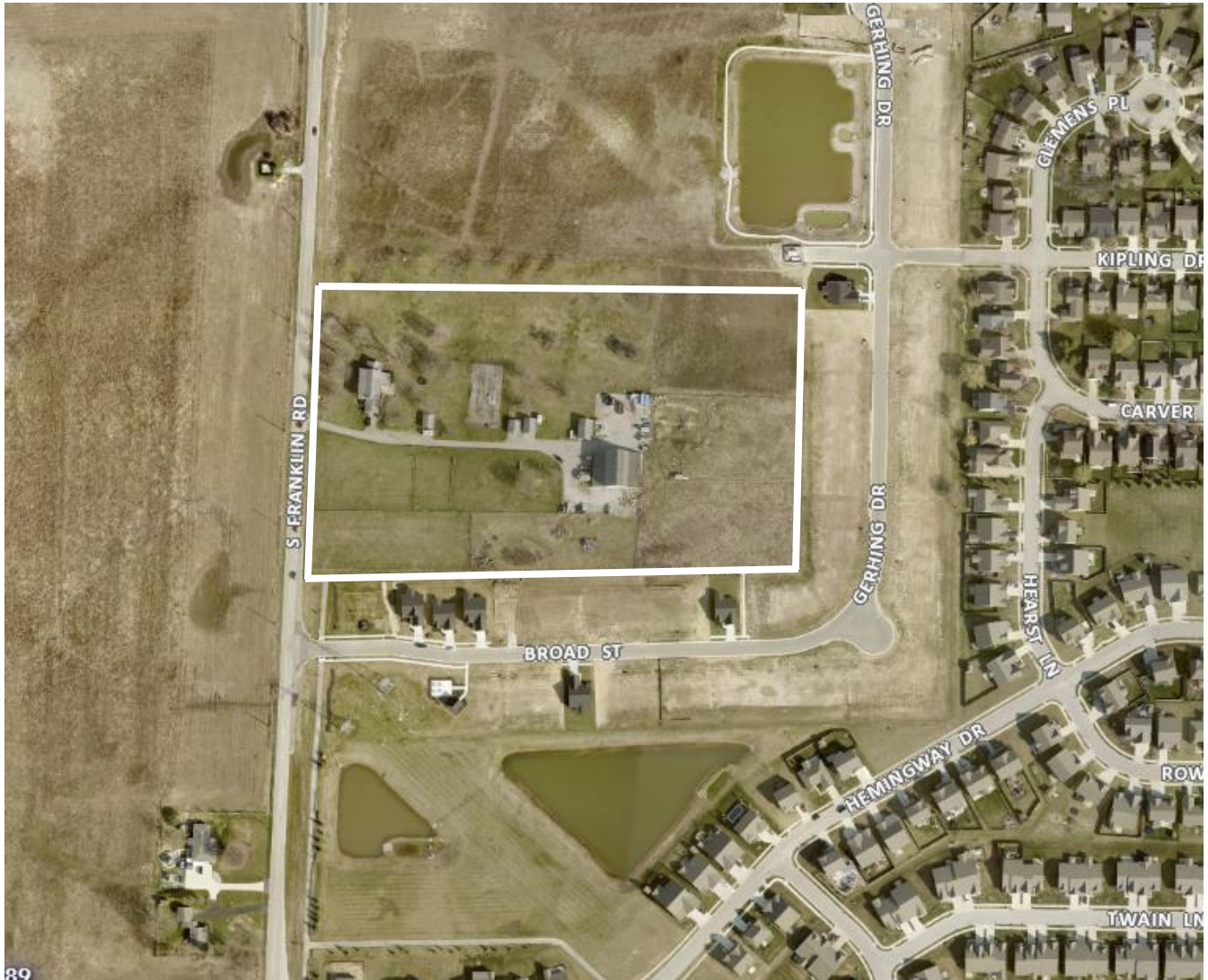
2014ZON020 ; 8701 E Thompson Road (south of site), Rezoning of 126 acres, from the D-P District, to the D-P classification to provide for 61 two-family dwellings (122 dwelling units) and 288 single-family dwellings (previously approved by 2002-ZON-180 (2002-DP-021), as amended by 2007-APP-094 and 2010-MOD-008), creating a density of 3.25 units per acre, **approved**.

2003ZON802 ; 9107 E Thompson Road (east/south of site), rezoning of 168.5 acres from the I-2-S designation to D-P zoning to allow for a planned residential neighborhood with a church, **approved**.

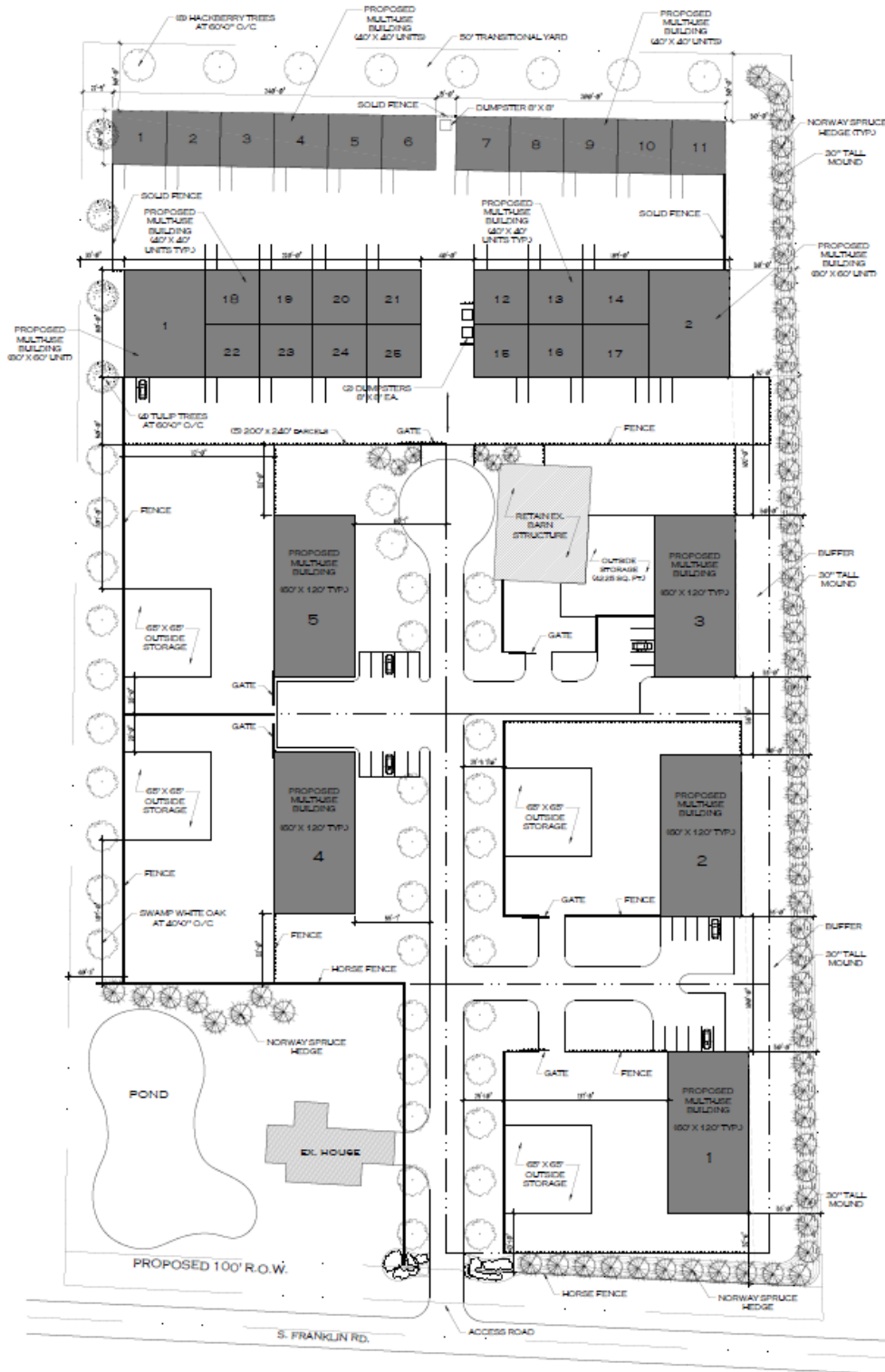
91-UV3-37 ; 5002 N Franklin Road (north of site), variance of use of the Dwelling District Zoning Ordinance to provide for the construction of a two-family residence, **denied**.

EXHIBITS

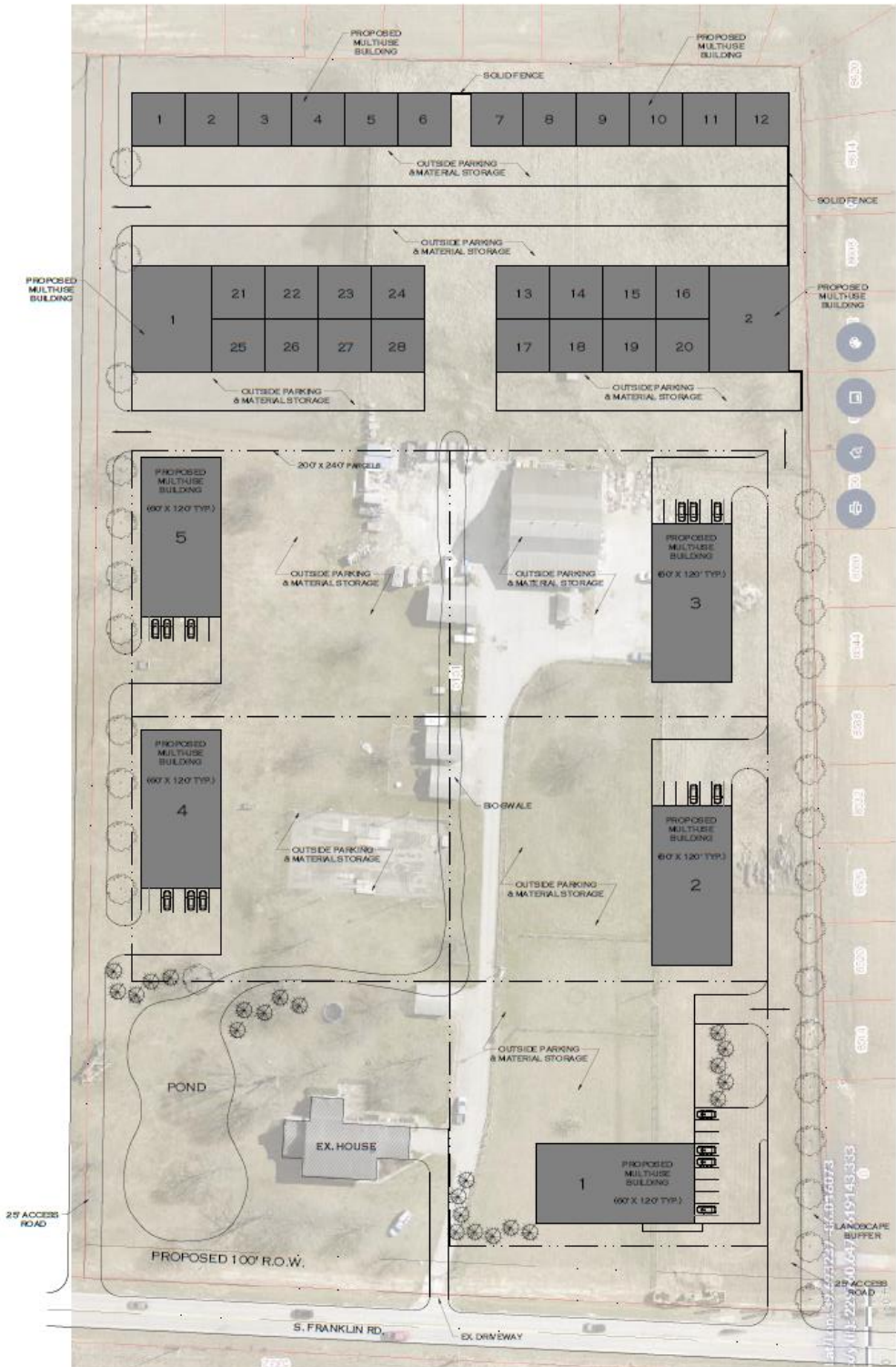
2024UV1011 ; Aerial Map



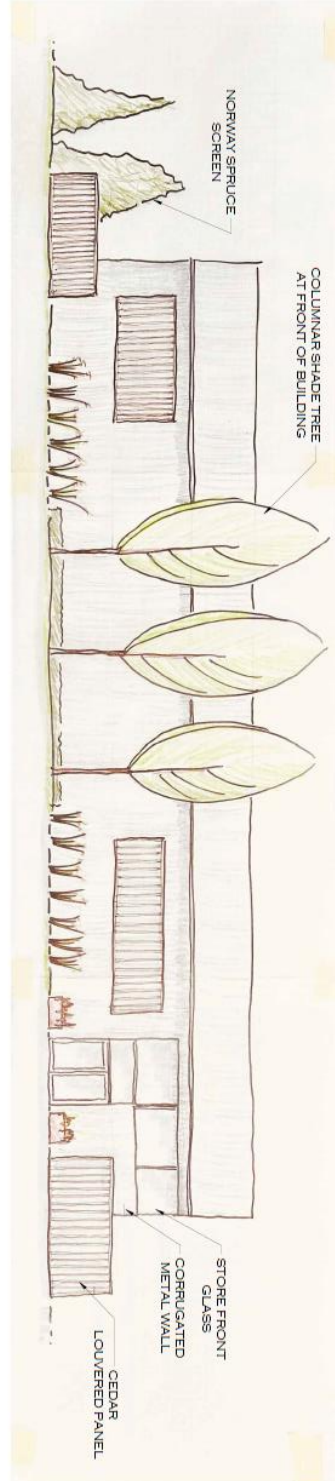
2024UV1011 ; Site Plan (09/17/2024 Submittal)



2024UV1011 ; Site Plan (original submittal)



2024UV1011 ; Warehouse Elevation & Comparison Images



BUILDING #2 SOUTH ELEVATION • NTS •



EX HORSE FENCE



EX HORSE FENCE



EX BARN



EX BARN

WAREHOUSES AT MILLERSVILLE RD. (SHOWN BELOW)



2024UV1011 ; Plan of Operation

THE BUSINESS

Zahn Real Estate LLC (“Petitioner”), owns approximately 12 acres of real property commonly known as 5151 South Franklin Road (the “Subject Property”). Petitioner proposes to construct several new buildings on the Subject Property and sell or lease them to small businesses looking to have a smaller freestanding or attached unit.

ZONING

The Subject Property is zoned I-2, and Petitioner has filed a Variance Petition, seeking relief from the front setback requirements off of Franklin Road and for having outside storage within 500 feet of a protected district.

SPECULATIVE | BUILD TO SUIT DEVELOPMENT

Because the proposed development on the Subject Property is going to be a combination of speculative and build to suit construction, there is no accurate measure of employees or hours of operation; however, based on the experience of Petitioner’s co-developer, most businesses will operate Monday through Friday and some will be open on Saturdays. Most businesses will have 1-5 employees and many of those will only be on site part of the time. It will be rare for these businesses to have “customers” on site.

OUTSIDE STORAGE

Outside storage will largely be comprised of materials and equipment used by the individual businesses on the Subject Property and will be subject to Commitments furnished with this Variance.



2024UV1011 ; Findings of Fact (Development Standards)

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because:

the proposed setback along Franklin Road is only for one building equal to the front yard setback required if there was not a transitional yard, and does not interfere with any clear site triangle, and there will be adequate buffering and a solid fence between the proposed buildings and outside storage from the protected district to the east.

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:

there will be adequate buffering between the proposed buildings and the protected districts to the east, west, and south, including a solid fence along the east property line.

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

the proposed use is permitted, and there is no way to locate any outside storage outside of the 500 foot restriction.



2024UV1011 ; Findings of Fact (Use)

1. THE GRANT WILL NOT BE INJURIOUS TO THE PUBLIC HEALTH, SAFETY, MORALS, AND GENERAL WELFARE OF THE COMMUNITY BECAUSE

the proposed outdoor storage will be adequately screened and will not produce any nuisance characteristics which will impact 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

there will be substantial buffering between the adjacent residential uses and the proposed outside storage.

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

the property is zoned I-2, has an existing residence on it, and is surrounded on 3 sides by residential 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

there is no place on the subject property which can meet the 500 foot separation requirement for outside storage from a protected district.

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

the type of development proposed by the variance is smaller in scale and will be substantially similar to that found in an office park.

2024UV1011 ; Commitments Suggested by Petitioner

1. The development shall be in substantial accordance with the site plan attached hereto as Exhibit "A", subject to minor adjustments in the size and final placement of buildings, so long as the requirements of Commitments 3, 4 and 6 are met.
2. The existing residence and barn on the Subject Property shall remain intact so long as this variance remains in effect.
3. There shall be fifty foot (50') minimum building setbacks along the east, west and south property lines of the Subject Property, and the setback areas shall be landscaped to meet transitional yard standards.
4. An earthen berm at least thirty inches (30") in height shall be installed along the south and west property lines as shown on the site plan. The berm shall feature Norway Spruce evergreen trees planted on top of the berm.
5. The Owner shall record a Declaration of Easements, Covenants, and Restrictions which provides for maintenance of the access drives and other common areas, including landscaped areas and establishes standards for business operations, including outdoor storage and operations requirements.
6. All lighting shall meet the minimum and maximum standards set forth in Ch. 744, Art. VI of the City of Indianapolis Consolidated Zoning / Subdivision Ordinance. There shall be no freestanding light fixtures located between any building and the east/south transitional yards.
7. Unless required by the City of Indianapolis Department of Public Works, there shall be no more than one curb cut on the Franklin Road frontage. If a second curb cut is required, it shall not be located to the south of any proposed building labeled on the site plan as 1, 2, 3, 2 and 11 located near the south end of the Subject Property.
8. No single building shall exceed 20,000 square feet. The multi-use / tenant buildings shall not exceed 10,000 square feet.
9. One internally illuminated freestanding sign located on the Subject Property near the entry drive on Franklin Road, not exceeding ten (10) feet in height and six (6) feet in width shall be permitted. The sign shall feature the names/addresses of the occupants/tenants located in the business park on the Subject Property. No digital display sign shall be permitted.
10. All outside storage shall be located in an area screened with appropriate fencing. Any materials capable of blowing off site or producing dust or other particulate shall be suitably covered.

2024UV1011 ; Photographs



Photo 1: Existing House viewed from West



Photo 2: Existing Rear Buildings viewed from West

2024UV1011 ; Photographs (continued)



Photo 3: Existing Buildings viewed from Southwest



Photo 4: Recently Constructed Residences along Southern Property Line

2024UV1011 ; Photographs (continued)



Photo 5: Adjacent Property to West (recently rezoned for residential development)



Photo 6: Adjacent Property to North

2024UV1011 ; Photographs (continued)



Photo 7: Subject Site & Recently Constructed Homes viewed from Southeast



Photo 8: Subject Site & Residential Lots to be Developed (viewed from East)

2024UV1011 ; Photographs (continued)



Photo 9: Adjacent Property Further to East



Photo 10: Adjacent Property to North/Northeast of Subject Site