

BOARD OF ZONING APPEALS DIVISION III

February 20, 2024

Case Number: 2024DV3002

Property Address: 6161 East 82nd Street (approximate address)

Location: Lawrence Township, Council District #4

Petitioner: Gilligan Company, by Mike Friend

Current Zoning: C-3 (FF)

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a drive-through and stacking space within the front yard of Knue Road, without the required service unit screening (not permitted within front yards along rights-of-way greater than 30 feet wide, and screening required).

Current Land Use: Commercial

Staff Recommendations: Staff recommends **approval** of the request with a commitment that frontage landscaping in compliance with Table 744-505-1 and with the Selected and Prohibited Plantings List be added along Knue Road within 6 months of approval of the variance.

Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff recommends **approval** of the request with a commitment that frontage landscaping in compliance with Table 744-505-1 and with the Selected and Prohibited Plantings List be added along Knue Road within 6 months of approval of the variance.

PETITION OVERVIEW

- The site currently contains a commercial eating establishment with an existing drive-thru lane. The menu board and beginning of the service unit is located with the side yard to the south, while the rest of the drive-thru lane and pick-up windows constituting the end of the service unit are along the eastern side of the building in the front yard. The current building was constructed in 2015 under a previous version of the ordinance.
- In 2023, permit applications were made to allow for an interior and exterior remodeling of the property. These plans included a new menu board and partial addition to the drive-thru lane (see

site plan below). This reconfiguration of the site would require the full drive-thru lane to comply with current ordinance standards for stacking spaces within front yards.

- Current ordinance standards disallow stacking spaces within front yards along rights-of-way greater than 30 feet wide, require exclusive bypass aisles, and provide screening requirements per 743-306.I.3. Grant of this variance request would legalize the existing layout at the site and allow for the proposed stacking additions within the southern yard. Staff has determined that the proposed layout contains a sufficient exclusive bypass aisle, and that the only variances needed would be for expansion of the use partially within the front yard and the deficient screening.
- This property is zoned C-3 (FF) to allow for retail sales and persona, professional and business services to meet the demands of full developed residential neighborhoods with a basic level of accessibility for all modes of travel. The Land Use Plan Pattern Book recommends the Community Commercial working typology for this site to allow for low-intensity commercial and office uses that serve nearby neighborhoods.
- The property is also within a floodplain and the Environmentally Sensitive overlay of the Land Use Plan Pattern Book. Development associated with this remodel would not result in a decrease of the tree canopy or natural area recommended by the Comp Plan, and the current use of an eating establishment with drive-thru is not disallowed or restricted within the 100-year floodplain per the Flood Control Secondary Districts Ordinance.
- The Comprehensive Plan and the recent Castleton Plan (not formally certified) indicate that the area to the north of this parcel should be reserved for a 'linear park' (i.e. multi-use path, greenway, bicycle path, etc.). This is reflective of community desire for the 82nd Street corridor and Castleton area to be reimagined as a series of walkable villages in the future.
- Limitations on the placement of stacking spaces within front yards exist to reduce congestion and vehicular conflict with pedestrian as well as to allow for attractive, pedestrian-oriented storefronts facing rights-of-way (screening requirements also contribute to these goals). Although staff doesn't wish to expand a non-compliant automotive use in an area attempting to establish greater walkability, this scope of work would not result in the placement of any new stacking spaces within the front yard and may improve pedestrian safety for those attempting to enter the building from the west. Staff is supportive of the variance request on the condition that additional landscaping is added along the Knue Road frontage to provide partial screening of existing stacking spaces.

GENERAL INFORMATION

Existing Zoning	C-3 (FF)	
Existing Land Use	Commercial	
Comprehensive Plan	Community Commercial	
Surrounding Context	Zoning	Surrounding Context
	North:	C-4 North: Regional Comm. / Linear Park
	South:	C-S South: Office Commercial
	East:	C-3 East: Community Commercial
	West:	C-S West: Office Commercial
Thoroughfare Plan		
82 nd Street	Primary Arterial	Existing ROW: 145' Prop ROW: 134'
Knue Road	Local Street	Existing ROW: 100' Prop ROW: 50'
Context Area	Metro	
Floodway / Floodway Fringe	Yes	
Overlay	Yes	
Wellfield Protection Area	No	
Site Plan	12/20/2023	
Site Plan (Amended)	N/A	
Elevations	12/20/2023	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	12/20/2023	
Findings of Fact (Amended)	01/23/2024	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book

Pattern Book / Land Use Plan

- The Land Use Plan Pattern Book recommends the Community Commercial working typology for this site to allow for low-intensity commercial and office uses that serve nearby neighborhoods.
- The site also falls within the Environmentally Sensitive overlay which is designed to prevent or mitigate potential damage to high quality woodlands, wetlands, or other natural resources.



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

2014DV2046, Variance of development standards of the Sign Regulations to provide for a 25-foot tall, approximately 150-square foot freestanding sign, exceeding the maximum integrated center sign area, being the ninth sign along this approximately 2300-foot frontage, within 105 feet of an existing freestanding sign (maximum 900 square feet of sign area permitted, maximum seven signs permitted, minimum 300 feet of separation), **approved**.

2014DV1003, Variance of development standards of the Sign Regulations to provide for a six-foot tall (ground signs cannot exceed four feet in height, minimum clearance of nine feet required), off-site business park advertising sign located in the right-of-way of 86th Street (signs not permitted within the right-of-way, 10-foot setback from proposed right-of-way required), approximately 215 feet from an existing advertising sign to the west (1,000 feet radial separation required), **approved**.

2001DV1040, Variance of development standards of Sign Regulations to provide for a 58.5 square foot advertising sign, being six feet tall (minimum of nine feet required), located within the right-of-way, 67 feet from the centerline of 82nd Street (minimum front setback of 90 feet required), and having 250 feet of linear separation oriented to the same street and radial separation from an advertising sign (minimum 1,000 feet of linear separation oriented to the same street and 500 feet of radial separation between advertising signs required), **denied**.

ZONING HISTORY – VICINITY

2023DV3046, 6415 E 82nd Street (east of site), Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a quick service oil change facility with a drive-through that faces a public right-of-way greater than 30-foot wide (not permitted) with five parking spaces provided (six required), **withdrawn**.

2022DV3048, 6303 E 82nd Street (east of site), (Amended) Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a dumpster within the front yard of Knue Road (not permitted), **approved**.

2014DV1037, 6130 E 82nd Street (northwest of site), Variance of development standards of the Sign Regulations to provide for a 40-foot tall, 150-square foot pylon sign within approximately 195 feet of an existing freestanding sign to the west (minimum 300 feet of separation required), with an 11.25-foot front setback (minimum 15-foot setback required), **approved**.

2014DV3027, 6801 E 82nd Street, (west of site), Variance of development standards of the Sign Regulations to provide for two signs within two feet of each other (300 feet of separation required), **approved**.



Department of Metropolitan Development
Division of Planning
Current Planning

2011DV1028, 6055 E 82nd Street (west of site), Variance of development standards of the Sign Regulations to provide for a freestanding sign 133 feet from a freestanding sign (600 feet of separation required), **approved**.

2011ZON011, 6055 E 82nd Street (west of site), Rezoning of 1.52 acres, from the C-3 District, to the C-4 classification to provide for commercial uses, **approved**.

2005DV2053, 6110 E 82nd Street (northwest of site), Variance of the Sign Regulations to provide for a forty-foot tall, 153.75-square foot pole sign located 196.1 feet from an existing freestanding sign within an integrated center (minimum 300-foot separation required between freestanding signs in an integrated center) in C-4, **approved**.

2001ZON817, 6081 E 82nd Street (south of site), Rezone 122.13 acres from C-3, C-4, C-7 and I-2-S to C-S to provide for the development and redevelopment of an office-commercial-industrial business park, **approved**.

2000UV3057, 6070 E 82nd Street (northwest of site), Variance of use of the Commercial Zoning Ordinance to provide for an automobile glass replacement shop (not permitted), **approved**.

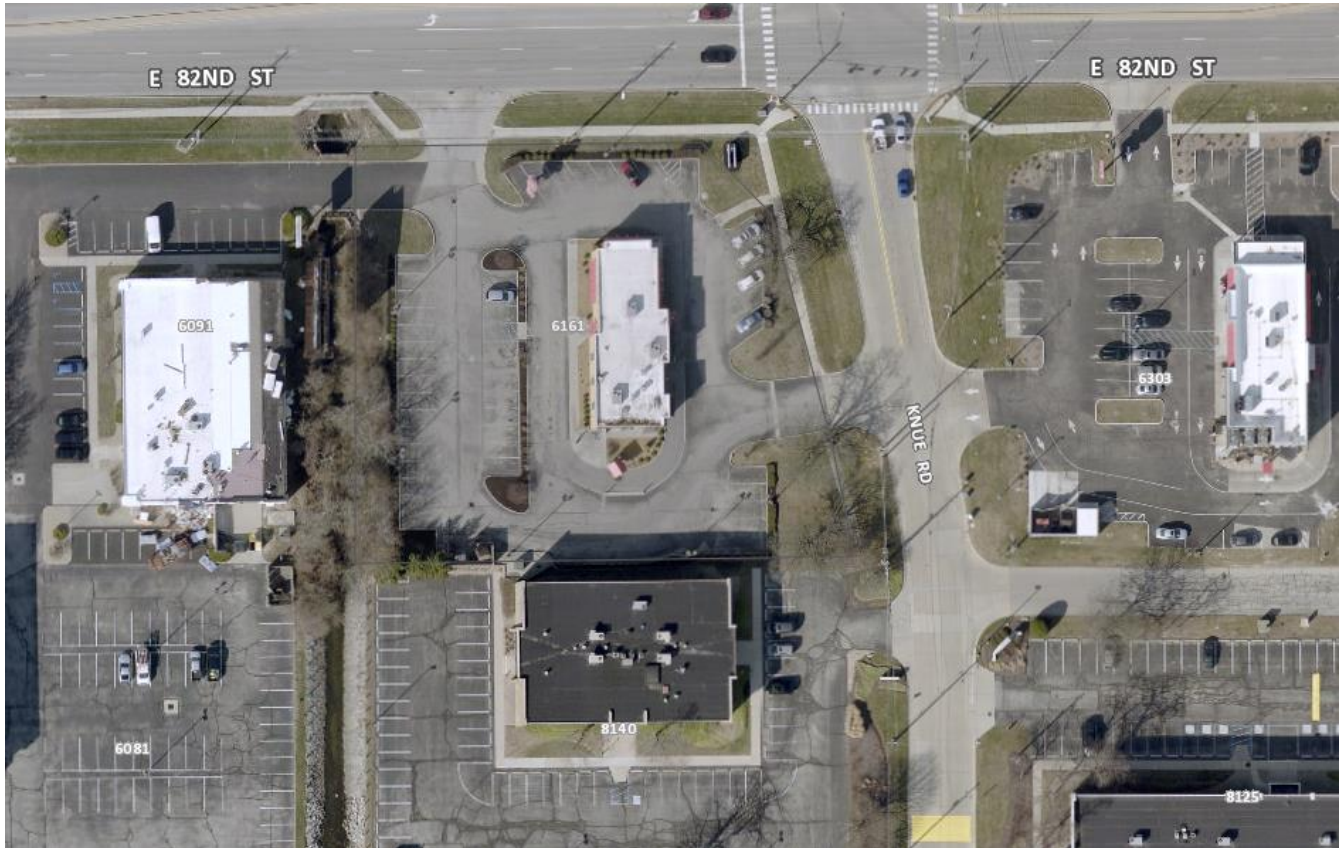
99-V1-153, 6071 E 82nd Street (west of site), Variance of development standards of the Sign Regulations to provide for a 50 square foot, illuminated pylon sign being 10 feet in height, located 96 feet from an existing pylon sign and 219 feet from an additional pylon sign, within an integrated commercial center (minimum 300-foot separation required), **denied**.

91-V2-52, 6081 E 82nd Street (west of site), Variance of development standards of the Commercial and Industrial Zoning Ordinances to permit the development of a commercial business park without the required public street frontage, **approved**.

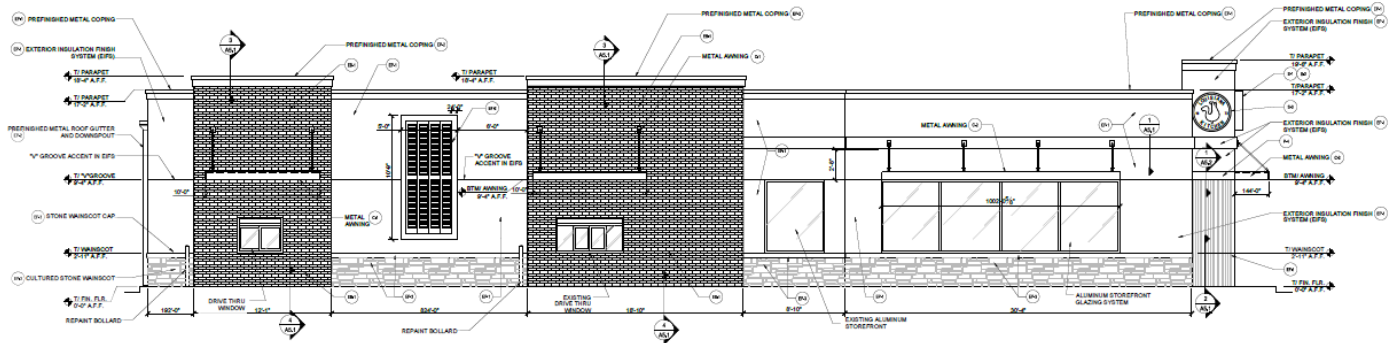
85-SE3-7, 6302 E 82nd Street (northeast of site), Commercial special exception to provide for an amusement arcade with 50 game machines, **approved**.

EXHIBITS

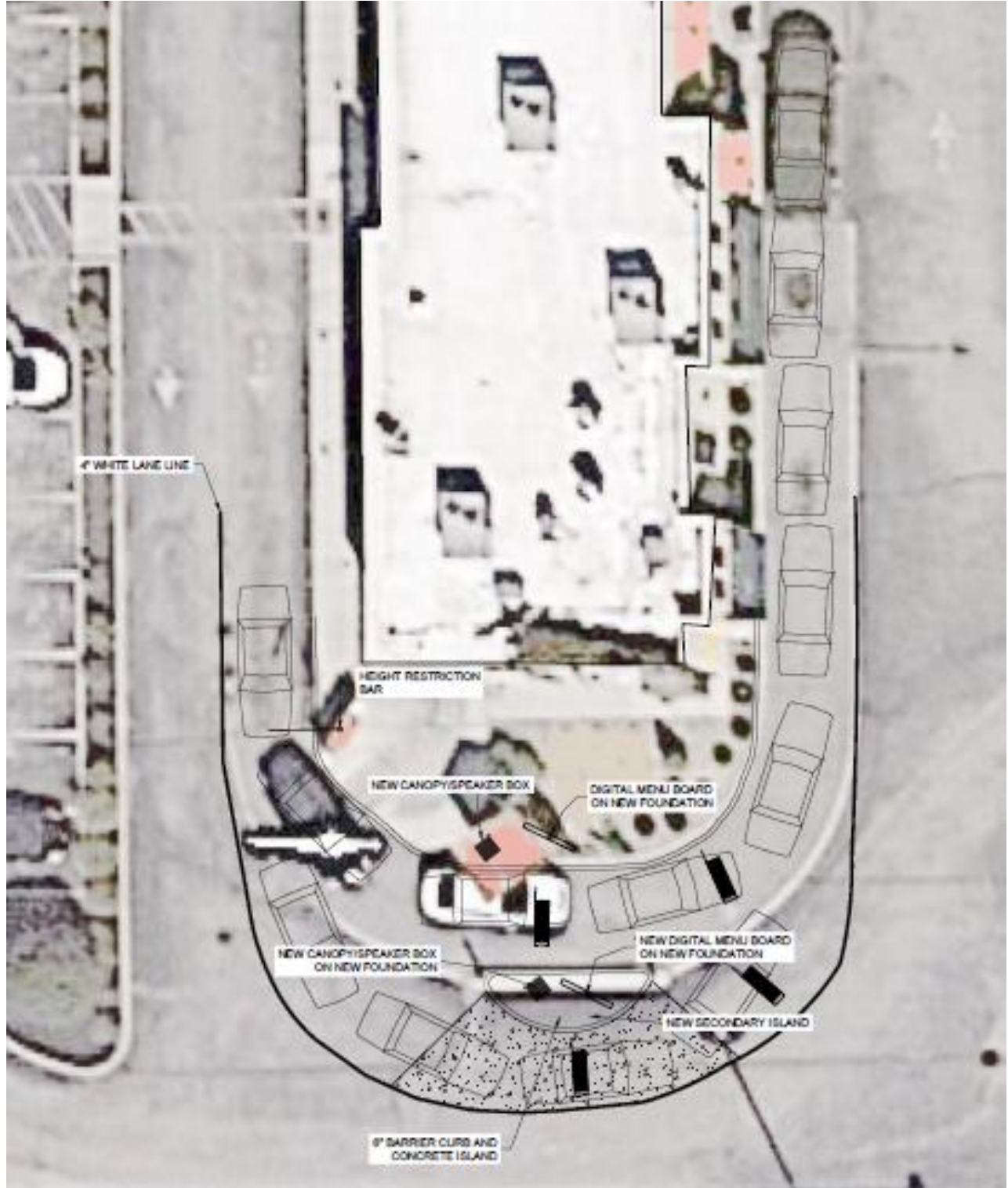
2024DV3002 ; Aerial Map



2024DV3002 ; Proposed Eastern Elevation



2024DV3002 ; Layout Plan





2024DV3002 ; Findings of Fact

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

This project is an interior and exterior remodel of the existing Popeye's Restaurant and so has no adverse effect on the surrounding parcels or general welfare of the community. Converting the drive-thru from a single lane to a double lane drive-thru will not increase the car stacking on the east side of the property where the front yard that is exceeding 30 feet along the public right of way is located, and hence not have an adverse effect on 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 parcels adjacent to the existing Popeye's Restaurant are in the C-3, Neighborhood Commercial District, and are compatible with the existing Popeye's Restaurant. The proposed remodel of the existing Popeye's Restaurant by the addition of a secondary island for the proposed double lane drive-thru, will not affect the accessibility of the stores adjacent to the project.

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

Without the car stacking being allowed on the east side of the building at the pick up windows, there will be more vehicle stacking on the west side of the property. This could create dangerous conditions for vehicles trying to drive around the site and for patrons trying to enter the building. By the addition of a double lane drive-thru vehicles will be able to move through the drive-thru quicker and there will be more vehicles able to be stacked at the back of the building where there are no parking spaces versus the west side of the building where patrons will be entering the building.

2024DV3002 ; Pictures



Photo 1: Eastern Elevation (Front Yard)



Photo 2: Drive-Thru in Front Yard Viewed from North

2024DV3002 ; Pictures (continued)



Photo 3: Building and Drive-Thru From Southeast



Photo 4: Adjacent Property to East

2024DV3002 ; Pictures (continued)



Photo 5: Existing Drive-Thru Menu Board from East



Photo 6: Southern Elevation and Existing Drive-Thru Menu Board

2024DV3002 ; Pictures (continued)



Photo 7: Existing Drive-Thru Menu Board from West



Photo 8: Western Elevation