

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-MOD-008
Address: 10832 Portside Court (*Approximate Address*)
Location: Lawrence Township, Council District #5
Zoning: D-P (FF)
Petitioner: Raymond and Kimberly Peck, by Russell L. Brown
Request: Modification of the development statement for 79-Z-107 (79-DP-3) for Lot 160 of Feather Cove, Section Five, to legally establish a paver patio (with table, stairs, railing and fire pit), with zero-foot side setbacks (eight-foot side and 22-foot aggregate side setback required).

This petition was continued from the June 29, 2023 hearing to the July 27 hearing at the request of the petitioner.

A valid Automatic Continuance was received from a remonstrator that continued this petition from the May 25, 2023 hearing to the June 29, 2023 hearing.

RECOMMENDATIONS

Staff **recommends approval** of this request, with the provision that the following commitments being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

1. Modification of Section 5(D) of Covenants and Restrictions included in 79-Z-017 to legally establish an above ground structure with side yard setback of variable width from 1' to 0' on 25' of waterfront lot frontage where 22' total setback with minimum 8' minimum is required for side yards. Any portion of the structure which is located on the southern boundary which is more than 18 inches above grade shall be set back two (2) feet from the southern property boundary.
2. The structure shall be constructed in substantial conformance with the exhibit attached hereto as Exhibit "A."

Without these commitments, staff would recommend denial of this petition.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

(Continued)

STAFF REPORT 2023-MOD-008 (Continued)

LAND USE ISSUES

- ◇ This 0.50-acre site is developed with a single-family dwelling. It is located on the corner of Portside Court and Skipjack Drive with a 25-foot wide, approximately 126-foot long “panhandle” extending to the shore of Geist Reservoir. The parcel is surrounded by single-family dwellings.
- ◇ Fall Creek was dammed in 1941 to create Geist Reservoir. Residential development around the lake began in early 1980s. The dwelling on the subject site was built in the late 1980s.
- ◇ The 2018 Comprehensive Land Use Plan recommends Suburban Neighborhood for the site. This typology is primarily intended for single-family dwellings.

MODIFICATION

- ◇ This site was part of a petition that was approved in 1979 (79-ZON-107, DP-3) that rezoned 516 acres from a Special Use district to the D-P district. The D-P zoning district was established to encourage a more creative approach in land and building site planning and to accommodate site treatments not contemplated in other kinds of districts. Petition 79-Z-107 (79-DP-3) provided for approximately 500 acres of residential development and approximately 15 acres of retail development.
- ◇ Petitions for the D-P district must include a development statement and a preliminary site plan that identifies the locations and types of land uses and proposed layout of streets, open space, parking and other basic elements of the plan.
- ◇ The development statement for 79-Z-107 (79-DP-3) provides for minimum side setbacks to ensure that there are ample yards. The development statement requires side yard setback lines to be no less than an aggregate of 22 feet, provided, however, no side yard may be less than eight feet. Put another way, the widths of the two side yards must total at least 22 feet, but no individual side yard may be less than eight feet in width. If one side yard is eight feet, the other must be at least 14 feet in order to total 22 feet.
- ◇ This request would modify the development statement for 79-Z-107 (79-DP-3) for Lot 160 of Feather Cove, Section Five, to eliminate the requirement for a side setback on the north side and reduce the side yard setback on the south side to two feet. This petition would modify the development statement for just this one lot in the development. The standards of the 1979 petition would remain in effect for the rest of the lots. An existing structure within the south side yard would be rebuilt to meet the new commitment.

(Continued)

STAFF REPORT 2023-MOD-008 (Continued)

- ◇ A request to eliminate all set yard setbacks was made for this site in September 2017 in petition 2017-MOD-015. The petition was filed following enforcement action by the Department of Business & Neighborhood Services for construction of the existing paver patio with table, stairs, railing and fire pit without a drainage permit, Improvement Location Permit, electrical permit or structural permit, for placing the structure in the required side yards, and for continuing work after the issuance of a Stop Work order.
- ◇ Staff recommended denial of 2017-MOD-015. On March 7, 2018 the petition was withdrawn.
- ◇ Structural, drainage and the Improvement Location permits were eventually applied for and issued.
- ◇ Materials submitted with this petition indicate that the “panhandle” of the subject property is 25 in width and that the existing patio area is 25 feet wide.
- ◇ Staff understands the desire to provide an area near the water for outdoor entertaining and enjoyment.
- ◇ The 25-foot width of the panhandle coupled with the required 22-foot aggregate side yards leave a three-foot wide buildable area. This makes utilization of the panhandle area difficult. Staff believes it would be reasonable to support a reduction in the setbacks that would provide an area near the water for leisure activities.
- ◇ However, a structure with zero setbacks is generally not appropriate. Setbacks provide the vital space that is necessary to construct and maintain any structure. Eliminating that space creates the need to inappropriately trespass onto abutting properties and increases the probability of damaging neighbors’ structures and landscaping. By establishing a two-foot south side yard setback, space for maintenance without trespass onto the neighboring property would be provided. The petitioner has not offered to provide for a north side yard setback nor has the neighbor to the north been in contact with staff.

GENERAL INFORMATION

EXISTING ZONING, CONTEXT AREA, AND LAND USE

D-P	Metro	Single-family dwelling
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(Continued)

SURROUNDING ZONING AND LAND USE

COMPREHENSIVE LAND USE PLAN

THOROUGHFARE PLAN

FLOODWAY / FLOODWAY FRINGE

WELLFIELD PROTECTION DISTRICT

ZONING HISTORY - Site

79-Z-107 (79-DP-3) 8302 Oaklandon Road, requested rezoning of 515.9 acres from the S-U Districts to the D-P classification to provide for residential development, **approved**.

An aerial photograph of a residential area adjacent to Geist Reservoir. A blue line outlines a specific property parcel. The parcel is situated between Portside Ct and Skipjack Dr. Other visible streets include Captains Ct and Galley Ct. A red 'DP' label is placed near the intersection of Portside Ct and Skipjack Dr. The reservoir is on the left side of the image, and several houses with swimming pools are visible in the surrounding area.



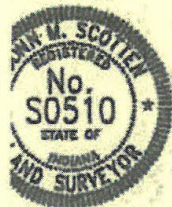
CUTTING EDGE

HARDSCAPES

MAR. 27. 2004 3:17PM FC-TUCKER-GEIST

NG. 504 P. 2

SDS
SCALE: 1"=40'
981118B
APRIL 13, 1998



Raymond & Kimberly Peck
10832 Portside Court, Indianapolis, IN 46236
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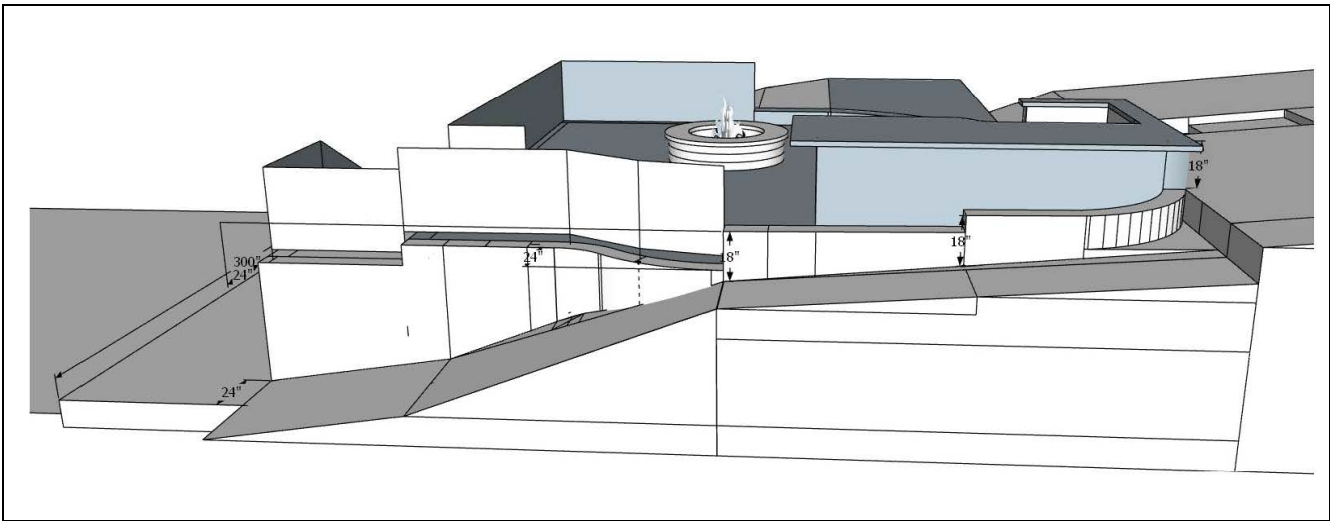
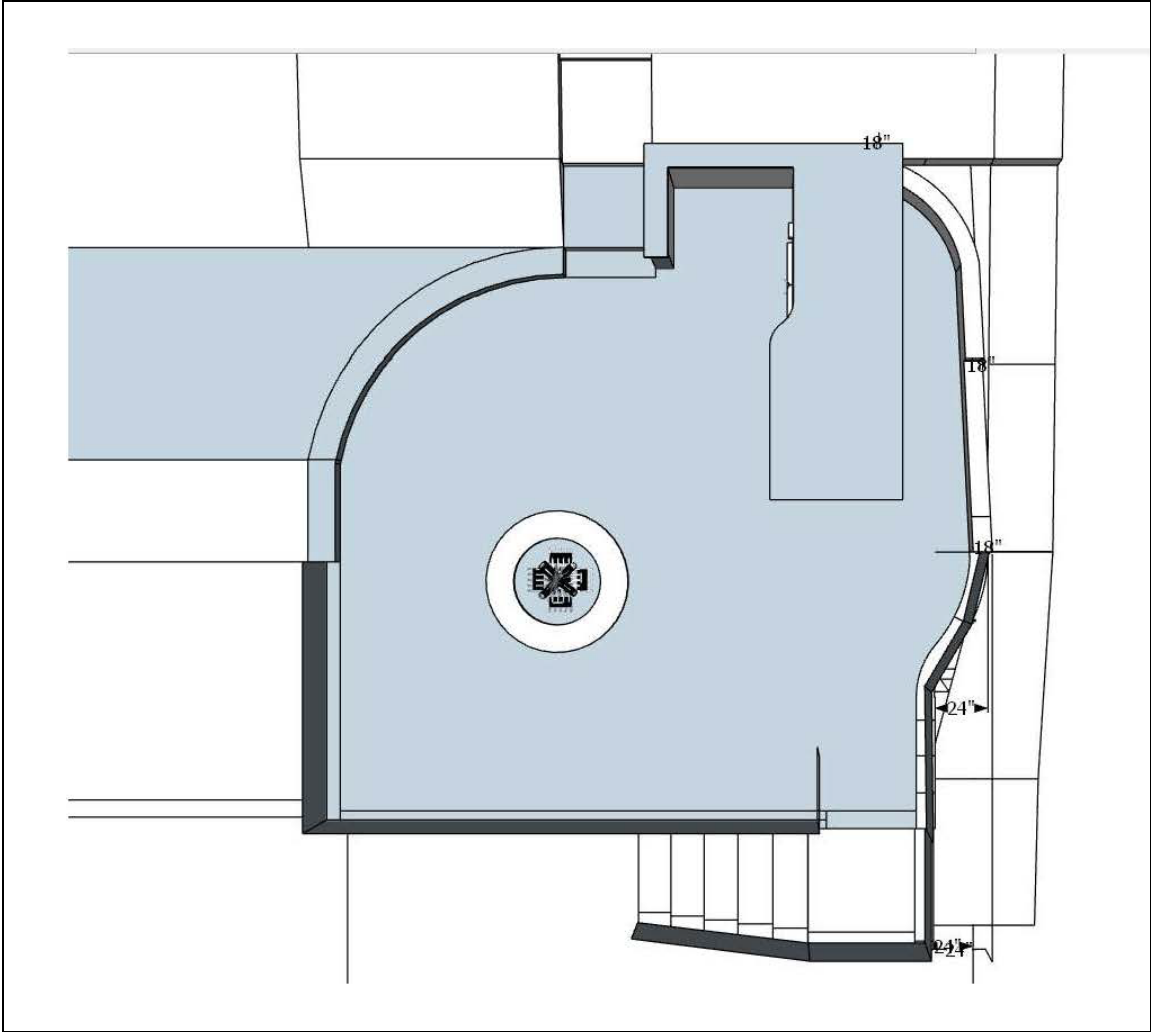
72 PARENT OCCUPATION OF PROPERTY LINES FOUND.

Metropolitan Development

SEP 08 2017

Division of Planning

STAFF REPORT 2023-MOD-008, Patio Site Plan and Elevation



STAFF REPORT 2023-MOD-008, Proposed Commitments

**STATEMENT OF MODIFICATION OR TERMINATION
OF COVENANTS OR COMMITMENTS**

**COVENANTS OR COMMITMENTS MODIFYING OR TERMINATING EXISTING COVENANTS OR
COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE IN
CONNECTION WITH AN APPROVAL PETITION, REZONING OF PROPERTY, A VARIANCE PETITION
OR SPECIAL EXCEPTION PETITION**

In accordance with I.C. 36-7-4-918.8 and I.C. 36-7-4-1015, the owner of the real estate located in Marion County, Indiana, which is described below, makes the following modification(s) or termination(s) of covenants or commitments concerning the use and development of that parcel of real estate:

Legal Description: LOT 160 IN SECTION 5 OF FEATHER COVE, A SUBDIVISION RECORDED AS INSTRUMENT 8493368 IN THE MARION COUNTY RECORDER'S OFFICE.

Statement of MODIFICATION OR TERMINATION of Covenants or Commitments:

1. Modification of Section 5(D) of Covenants and Restrictions included in 79Z017 to legally establish an above ground structure with side yard setback of variable width (from 1' to 0') on 25' of waterfront lot frontage where 22' total setback with minimum 8' minimum is require for side yard. Any portion of the structure which is located on the southern boundary which is more than 18 inches above grade shall be set back two(2) feet from the southern property boundary.
2. The structure shall be constructed in substantial conformance with the exhibit attached hereto as Exhibit "A">
3. _____
4. _____
5. _____

STAFF REPORT 2023-MOD-008, Photos



View of site looking north.



View looking northwest from rear porch.



View of patio looking northwest.



View of patio looking northwest.



View of patio fixtures looking southwest.



View from patio looking southeast.



View of patio looking northeast.



View of patio looking southwest.



View of patio from boat dock



View of patio from boat dock



View of abutting property to the northeast



View of abutting property from on-site patio