

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-UV1-019
Address: 2994 North Arlington Avenue (approximate address)
Location: Warren Township, Council District #13
Zoning: C-3
Petitioner: Roys Towing LLC, by David E. Dearing
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of an automobile sales and repair business, per the plan of operation (not permitted), and a six-foot tall chain link fence and security gates within the front yard of Arlington Avenue and 30th Street (maximum height of 3.5-feet permitted, chain link fencing not permitted in front yards) and encroaching within the driveway and intersection clear sight triangles along Arlington and 30th Street (encroachment of clear sight triangles not permitted).

RECOMMENDATIONS

Staff **recommends denial** of the request, as proposed.

However, Staff **would recommend approval** of the request if the six-foot tall fence and gates were removed from the front yards of Arlington Avenue and 30th Street.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

C-3	Compact	Automobile Repair and Sales
-----	---------	-----------------------------

SURROUNDING ZONING AND LAND USE

North	C-3	Automobile Repair
South	C-4	Automobile Sales
East	C-3	Liquor Store
West	C-3	Professional Services / Offices

COMPREHENSIVE PLAN

The Comprehensive Plan recommends Heavy Commercial development.

- ◇ This 0.30-acre lot, zoned C-3, is currently improved with an automobile garage and outdoor storage and parking area.

(Continued)

STAFF REPORT 2023-UV1-019 (Continued)

- ◇ To the north and south, within the C-3 and C-4 Districts, respectively, are automobile repair shops. To the east, within the C-3 District, is a liquor store. To the west, also within the C-3 District, is a multi-tenant building containing professional services and offices.
- ◇ The property was granted a variance in 1988 (88-V3-81) to allow for automobile sales.
- ◇ The site is currently subject to violation VIO-23-004546 by the Department of Business and Neighborhood Services, regarded non-permitted uses, unenclosed dumpsters and non-compliant fence and gate heights and locations.
- ◇ The C-3 District is the Neighborhood Commercial District of the Ordinance. It is intended to provide an extensive range of retail sales and personal and professional services for the immediate vicinity of a residential area.

VARIANCE OF USE

- ◇ The request would allow for the operation of an automobile sales and repair operation, per the plan of operation, file-dated September 12, 2023.
- ◇ Under the proposed plan of operation, vehicles for sale would be displayed outside, and two commercial vehicles would also be stored outside. These commercial vehicles would be used for accessory roadside towing of vehicles that would be brought to the property for repair. These vehicles would not be able to tow vehicles for any other purpose, including impounding services.
- ◇ In addition, the house would be limited to 10AM-5PM Monday through Saturday, with only one additional employee. The site would be monitored by a 24-hour camera surveillance and alarm system.
- ◇ The request, regarding the use, would be compatible with the Plan's recommendation of Heavy Commercial. Therefore, Staff recommends approval of this portion of the request.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The request would also allow for the continued location of a six-foot tall perimeter chain link fence and associated sliding gates, specifically within the front yards of Arlington Avenue and 30th Street.
- ◇ Fences, walls and other structural barriers are only permitted to be 42-inches tall within the front yard of the C-3 District. In no instances are these structures permitted to encroach within the clear sight triangles of intersecting right-of-way or driveways of properties. Staff believes that allowing these continued encroachments could represent visual impediments, particularly at the intersection, that could promote pedestrian-vehicular conflicts.

(Continued)

STAFF REPORT 2023-UV1-019 (Continued)

- ◇ In addition, fence enclosures of this height are typically associated with outdoor storage of materials or goods. While vehicles awaiting sale would be classified as outdoor display, which would be permitted along with any grant of the request for automobile sales, Staff has concerns that outdoor storage of vehicles awaiting repair would clutter the site within the fully enclosed area.
- ◇ Staff would note that while the site has a preexisting variance for automobile sales, over time, the non-permitted operation of automobile repair began, resulting in complaint to the Mayor's Action Center and the previously indicated violation. Aerial imagery and previous notations within the violation file indicate a lack of automobile striping and disorderly appearance. The site visit revealed that individual vehicle spaces have since been striped, but in order to reduce the likelihood of similarly disorganized outdoor operations, Staff recommends that the six-foot tall fence and gates be relocated out of the front yard to clearly delineate outdoor space for the storage of vehicles awaiting repair, and parking area for the employee and customers, as well as display for vehicles awaiting repair.
- ◇ Staff believes these development standards to be self-imposed and that such a long standing commercial site should be brought into conformity

GENERAL INFORMATION

THOROUGHFARE PLAN

This portion of Arlington Avenue is classified as a Primary Arterial in the Official Thoroughfare Plan for Marion County, Indiana with an existing 40-foot right-of-way and proposed right-of-way of 90 feet.

This portion of 30th Street is classified as a Primary Arterial in the Official Thoroughfare Plan for Marion County, Indiana with an existing and proposed right-of-way of 90 feet.

SITE PLAN

File-dated August 21, 2023.

PLAN OF OPERATION

File-dated September 12, 2023

FINDINGS OF FACT

File-dated August 21, 2023.

ZONING HISTORY – SITE

88-UV3-81; 2994 North Arlington Avenue; requests variance of use to allow for continued automobile sales; **granted.**

(Continued)

STAFF REPORT 2023-UV1-019 (Continued)

ZONING HISTORY – VICINITY

98-UV2-100; 2850 North Arlington Avenue; requests variance of use and development standards of the Commercial Zoning Ordinance to allow for a contractors office and storage area in an existing building; **granted.**

96-Z-40; 2801 North Arlington Avenue; requests rezoning of 1.876 acres, being in the C-3 District, to the I-2-S classification to provide for the wholesale and retail of industrial cleaning equipment and supplies business with an office, showroom, warehouse and distribution facility; **approved.**

91-UV1-4; 2719 North Arlington Avenue; requests variance of use of the Commercial and Industrial Zoning Ordinance to construct an addition to an existing warehouse; **granted.**

89-Z-231; 2815 North Arlington Avenue; requests rezoning of 3.75 acres from the C-3 District to the I-2-S classification to provide for book binding operation; **approved.**

86-UV2-117; 2504 North Arlington Avenue; requests variance of use to provide for office use; **denied.**

82-UV2-95; 2801 North Arlington Avenue; requests variance of use to provide for a church; **temporary approval for five years.**

79-Z-145; 2933 North Webster Avenue; requests rezoning of 0.6 acres, being in the SU-42 District, to the I-2-S District to provide for Industrial uses; **approved.**

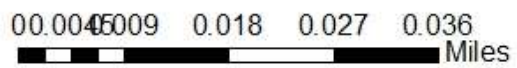
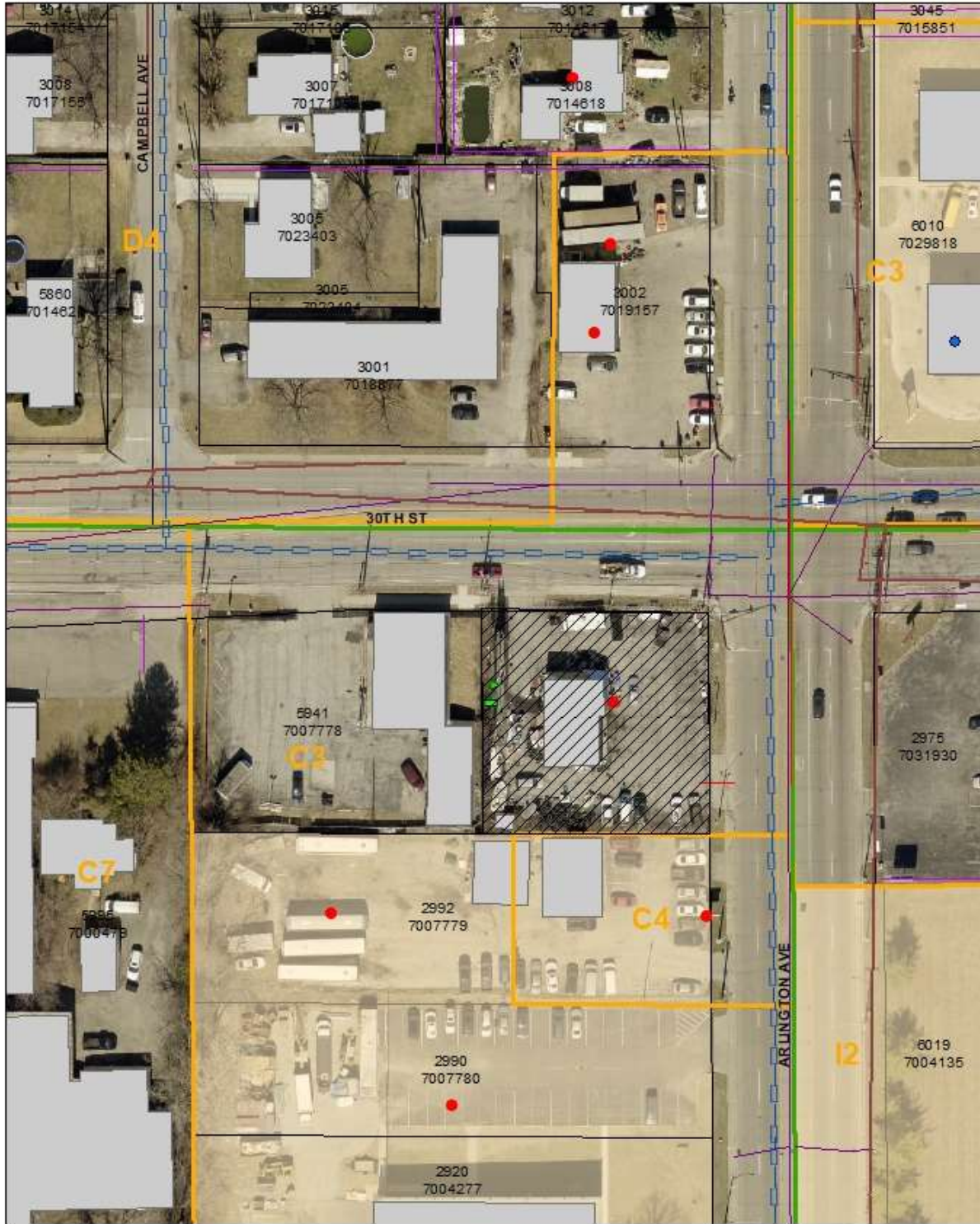
78-Z-110; 2801 North Arlington Avenue; requests rezoning of 4.29 acres, being in the C-1, C-3 and A-2 Districts, to the C-3 classification to provide for commercial development; **approved.**

68-V1-192; 3002 North Arlington Avenue; requests for variance of use to allow construction of office building to be attached to existing service station building with open air sales of automobiles and off-street parking; **granted.**

67-V1-30; 2992 North Arlington Avenue; requests variance of front setback requirements to permit re-location of a pole sign and two corner posted, necessitated by widening of Arlington Avenue; **granted.**

58-Z-34; Lots 4, 5 and 6 in Forrest Acres Subdivision; requests rezoning being in an R-3 District to a B-5 classification to permit the construction of a commercial building for cutting and retailing glass service business, located at northwest corner of 28th Street and Arlington Avenue; **approved.**

2023-UV1-019; Location Map



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

Auto sales and repairs do not have the capacity to affect public health, safety or morals. Auto sales and repairs promote the general welfare of the community by providing necessary services.

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
all activities will be confined to the property and all repairs will be conducted indoors. In addition, the activities of auto sales and repair will not deter persons from using the adjacent properties for their current uses (auto sales and repair; truck storage; and liquor purchases).

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

the existing improvements on the property were specifically designed for auto sales and repair, consistent with the expired variance and have been used as such for the past seventeen years.

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

it would prevent the Petitioner from carrying out uses identical both to those present on the property over the past seventeen years and those present on two adjacent properties.

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

the Plan calls for heavy commercial use of the property.

DECISION

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

Adopted this _____ day of _____, 20 ____

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 tall fence does not have the capacity to affect the public health, morals, or general welfare. The fence will promote public safety by protecting vehicles from theft and vandalism.

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:

a tall fence would not detract from the appeal of the adjacent properties, given their uses (auto sales, auto mechanics, truck storage and liquor sales).

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

It will prevent Petitioner from protecting vehicles offered for sale or left for repairs.

DECISION

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

Adopted this _____ day of _____, 20 ____

2023-UV1-019; Plan of Operation – File-dated September 12, 2023

Roy's Towing - Revised Plan of Operation

Facilities will consist of a building housing an office as well as space for performing repairs and storing vehicles awaiting repairs. Vehicles for sale will be displayed outside. Two commercial vehicles, used for roadside towing, will be stored outside – a tow truck and a flatbed truck. Towed vehicles will be brought to the property only if they are to be repaired.

Hours: 10 a.m. – 5:00 p.m. Monday - Saturday

Number of employees – 1

Employment will be onsite.

Security will be provided by 24-hour camera surveillance and an alarm system.

2023-UV1-019; Photographs



Photo One: Looking South Along Arlington Avenue



Photo Two: Looking North Along Arlington Avenue



Photo Three: Facing East Across 30th Street



Photo Four: Looking West Along 30th Street



Photo Five: Front Yard of 30th Street and Arlington Avenue



Photo Six: Side Yard of Subject Site