

BOARD OF ZONING APPEALS DIVISION II

July 8, 2025

Case Number: 2025-DV2-025
Address: 1435 North Hamilton Avenue (approximate address)
Location: Center Township, Council District #13
Zoning: D-5
Petitioner: Alejandro Aranda-Kenya, by Josh Smith
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a carport with 2.5-foot side yard setbacks (five feet required).

Current Land Use: Single Family Dwelling

Staff Recommendation: Staff recommends denial of this petition.

Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

This is the first hearing for this petition.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

- ◇ The requested variance of development standards would legally establish an existing non-compliant carport, with 2.5-foot side yard setbacks.
- ◇ After initial construction of the carport, zoning violation (VIO24-003311) was issued on April 19, 2024, for failure to obtain an Improvement Location Permit and failure to comply with the setback requirements. On June 27, 2024, a stop work order was issued for failure to obtain a structural permit. On August 29, 2024, an Improvement Location Permit and a Structural Permit were both applied for and are currently on hold pending the outcome of this variance petition.
- ◇ The purpose of the side setback requirements is to buffer the site from surrounding uses and provide a break in the intensity of the uses. In addition, the required setbacks provide room for access to responding public safety and emergency personnel to access and mitigate an emergency situation on site.
- ◇ The proposed carport, with reduced setbacks, would disperse stormwater onto adjoining properties causing them difficulty and distress. In addition, the reduced setbacks would limit access for responding emergency personnel and leave insufficient room for maintenance and accessibility for the property owner, without accessing adjoining properties.

- ◇ The carport as proposed was originally constructed without permits. If proper permits were applied for prior to construction, advice would have been provided on maintaining the required setbacks before construction started. The fact that the carport is already constructed should not warrant approval, as that would only encourage other property owners to construct non-permitted structures first, and then ask for forgiveness later, knowing the Board would be receptive to grant forgiveness based on previous decisions.
- ◇ The request to provide for a reduction in the side setbacks would be an overdevelopment of the site, as a practical two-vehicle 28-foot wide carport could be developed, leaving five feet on each side for the required setbacks.
- ◇ Any deviation from the minimum standards should be related to the property, and not to the individual's needs. There is no inherent practical difficulty caused by the terms of the Ordinance upon the subject site that would warrant the proposed reduced setbacks.
- ◇ The existing non-compliant carport can be reduced in width to comply with the standards of the Ordinance, or the site could be re-developed with an Ordinance compliant sized carport. Either option could be accomplished without the need for the requested variance.
- ◇ Possible losses associated with the petitioner's investment to move and adjust the foundation and support structure, or reconstruct the carport, to meet the required setback were self-created by originally installing a non-compliant structure without permits, and was not imposed by the Ordinance, but were the result of locating the carport in a non-compliant location.

GENERAL INFORMATION

Existing Zoning	D-5	
Existing Land Use	Single-Family Dwelling	
Comprehensive Plan	Traditional Neighborhood	
Surrounding Context	Zoning	Surrounding Context
North:	D-5	Two-Family Dwelling
South:	D-5	Single-Family Dwelling
East:	D-5	Single-Family Dwelling
West:	D-5	Single-Family Dwelling
Thoroughfare Plan		
North Hamilton Avenue	Local Street	48-foot existing and proposed right-of-way.
Context Area	Compact area	
Floodway / Floodway Fringe	No	
Overlay	N/A	
Wellfield Protection Area	No	
Site Plan - updated	June 4, 2025	
Elevations	N/A	
Landscape Plan	N/A	
Findings of Fact	June 4, 2025	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book (2019)

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book (2019) recommends the Traditional Neighborhood typology which includes a full spectrum of housing types, ranging from ranging from single family homes to large-scale multifamily housing. The development pattern of this typology should be compact and well-connected, with access to individual parcels by an alley when practical. Building form should promote the social connectivity of the neighborhood, with clearly defined public, semi-public, and private spaces. Infill development should continue the existing visual pattern, rhythm, or orientation of surrounding buildings when possible. A wide range of neighborhood-serving businesses, institutions, and amenities should be present. Ideally, most daily needs are within walking distance. This typology usually has a residential density of 5 to 15 dwelling units per acre.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Indy Moves

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

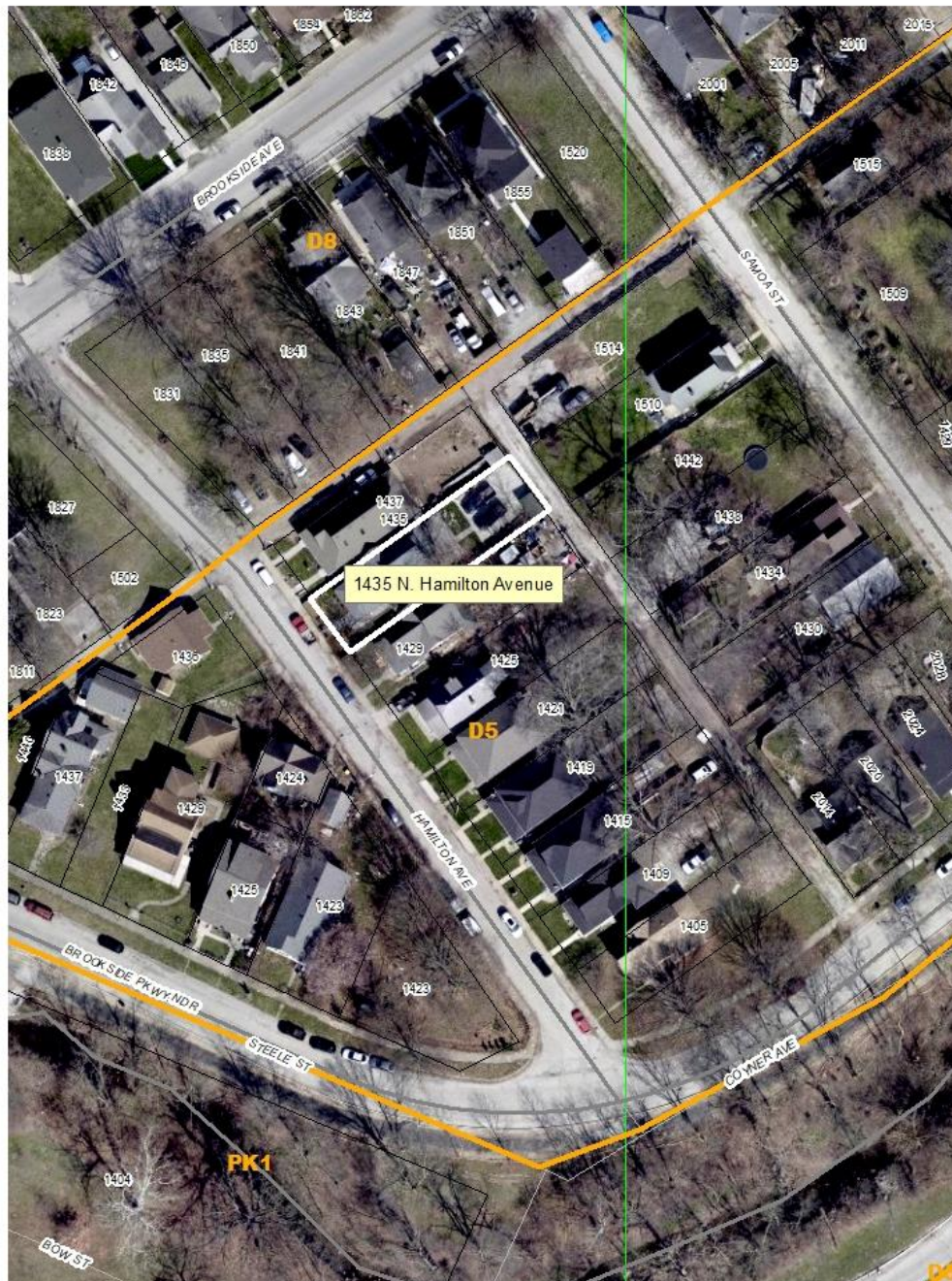
- Not Applicable to the Site.

ZONING HISTORY

2005-UV3-015; 2102 Brookside Parkway North Drive (east of site), requested a variance of Use and Development Standards of the Dwelling Districts Zoning Ordinance to legally establish an existing three-unit dwelling, **denied**.

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Location Map



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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 new structure is solely for personal/private use in a residential back yard consistent with a residential garage.

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 use of the property will remain single family and the new structure will be in line with a residential 2-car garage.

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

The structure will maintain 2'-6" setback in lieu of the 3' setback. Requiring the 3ft setback would force demolition of the patio/parking area underneath the carport structure to move and adjust the foundation and support structure. This would also require a significant cost to relocate the foundation and cut down the structure.

Photographs



Photo of subject site primary dwelling, looking east.



Photo of subject site existing carport, looking northwest.



Photo of subject site existing carport north side setback, looking west.

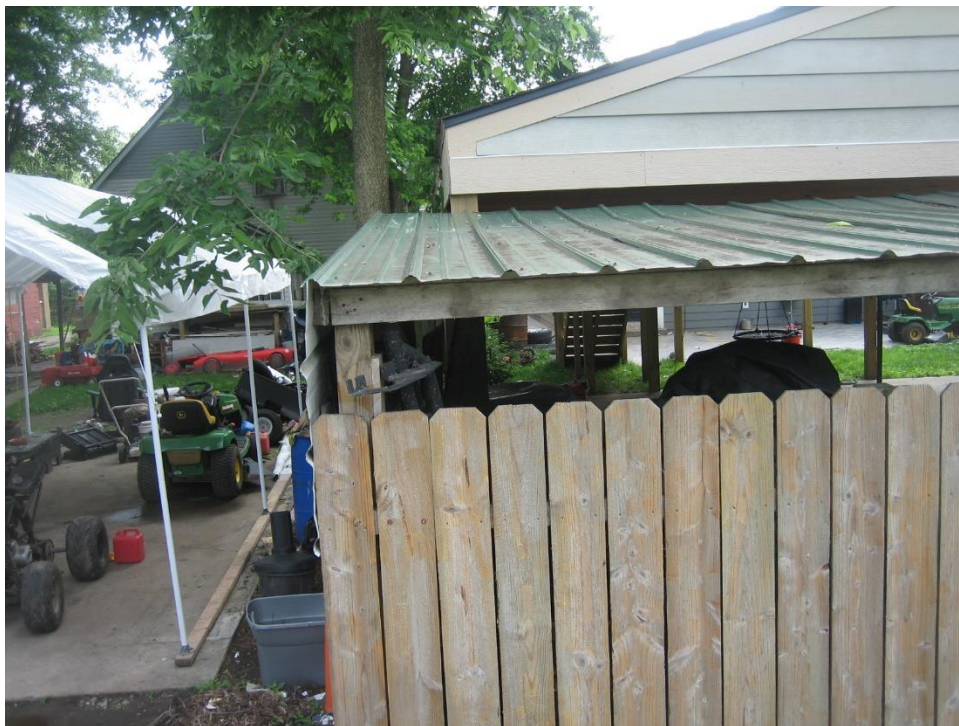


Photo of subject site existing carport south side setback, looking west.



Photo of adjacent single-family dwellings to the south, looking east.



Photo of adjacent two-family dwelling to the north, looking east.