

BOARD OF ZONING APPEALS DIVISION II

July 8, 2025

Case Number: 2025-MO2-001
Address: 5510 Millersville Road (approximate address)
Location: Washington Township, Council District #3
Zoning: C-4
Petitioner: R. Michael Thomas, by Ted W. Nolting
Request: Modification of Commitments related to 2021-DV2-019 and 2023-MO2-001, which provided for the location of a temporary modular building with a three-foot south side transitional setback, which expired two years from the date of their approval, being May 11, 2021, and May 11, 2025, respectively. The request is to extend this expiration date to May 11, 2027.

Current Land Use: Integrated Commercial Shopping Center

Staff Recommendation: Staff recommends denial of this petition.

Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

This petition was previously continued for cause at the request of Staff, from the June 10, 2025, hearing, to the July 8, 2025, hearing with notice, due to insufficient time to provide legal notice.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

HISTORY

- ◇ On May 11, 2021, petition 2021-DV2-019, was granted approval for a Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a temporary modular building with a three-foot south side transitional setback, where a 20-foot transitional setback is required. Approval was subject to commitments that limited the request to two (2) years.
- ◇ On May 16, 2023, petition 2023-MO2-001, was granted approval for a Modification of Commitments related to 2021-DV2-019, which provided for the location of a temporary modular building with a three-foot south side transitional setback, to modify and extend the expiration date of the commitment an additional two (2) years to May 11, 2025.

MODIFICATION REQUEST

- ◇ The subject site's parcel consists of an existing animal care and veterinary service, associated parking, and the previously approved temporary modular building. The temporary modular building is located immediately behind the existing primary structure and has a three-foot south side transitional setback, where 20 feet is required.
- ◇ The petitioner had previously indicated the original 2021 request for the temporary building was due to the increase in rescue group and humane society patients, workflow, and reduced capacity due to COVID restrictions, and the increase in fostering of pets.
- ◇ The 2023 request for the extension was due to the continued need for the temporary building is due to the ongoing increase in rescue group and humane society patients, workflow, and reduced capacity due to COVID restrictions, and the increase in fostering of pets. Those findings also stated the petitioner needed the additional limited two years to finalize plans for a permanent expansion to the hospital.
- ◇ Staff recommended approval of the 2023 Modification request for an additional two (2) years, but since all federal and state level COVID mandates had been lifted by that time, they stated in the staff report and at the hearing, that they will not support any future requests for an extension of this commitment beyond the May 11, 2025, date.
- ◇ For this 2025 Modification request, the petitioner has submitted the same Findings of Fact as what was submitted in 2023.
- ◇ If the petitioner is not prepared to finalize a permanent expansion as they indicated in 2023, and again in 2025, then the temporary building expansion can still be removed from the site, as one of the original reasons for approval was related to COVID restrictions that were in place at the time. Those restrictions have been lifted, and customers are no longer restricted in their interactions with staff and other customers, such as additional space for separation, being required to wait in their car for their appointment, along with other changes back to normal operations. As for the increase in animal intake, the petitioner can regulate the intake to meet the capacity of his building with or without the temporary building expansion. The desire to increase the patient intake for this specific site is creating an overdevelopment situation on the site. The petitioner has seven (7) other animal hospital locations, along with four (4) other emergency care / surgery centers, that can have any continued increase in rescue groups and humane society patients be redirected amongst them.

- ◇ Any deviation from the minimum standards should be related to the property, and not to the proposed development. There is no inherent practical difficulty caused by the terms of the Ordinance upon the subject site to keep it from being developed according to the Ordinance requirements, as it was previously. The temporary structure could be removed to bring the site into compliance. The choice to extend the commitments another two (2) years, after Staff indicated in 2023 that there would be no support for future extensions, is a result of the petitioner's desire to keep a temporary overdevelopment on the site, and not related by any practical difficulty imposed by the Ordinance.

GENERAL INFORMATION

Existing Zoning	C-3	
Existing Land Use	Integrated Commercial Shopping Center	
Comprehensive Plan	Community Commercial uses	
Surrounding Context	Zoning	Surrounding Context
North:	C-3/C-1	Commercial fast-food restaurant, office, and daycare.
South:	D-3	Four-unit dwelling being used as a non-permitted office associated with subject site.
East:	C-3	Commercial retail
West:	D-3	Single-family dwellings
Thoroughfare Plan		
Millersville Road	Local Street	30-foot existing right-of-way and a 50-foot proposed right-of-way
Context Area	Metro Area	
Floodway / Floodway Fringe	No	
Overlay	N/A	
Wellfield Protection Area	N/A	
Site Plan	May 8, 2025	
Plan of Operation	N/A	
Landscape Plan	N/A	
Findings of Fact	May 8, 2025	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- The Comprehensive Plan recommends Village Mixed-Use for the site.

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends the Village Mixed-Use typology that creates neighborhood gathering places with a wide range of small businesses, housing types, and public facilities. This typology is intended to strengthen existing, historically small-town centers as well as to promote new neighborhood centers. Businesses found in this typology serve adjacent neighborhoods, rather than the wider community. This typology is compact and walkable, with parking at the rear of buildings. Buildings are one to four stories in height and have entrances and large windows facing the street. Pedestrian-scale amenities such as lighting, landscaping, and sidewalk furniture also contributes to a walkable environment in this typology. Uses may be mixed vertically in the same building or horizontally along a corridor. Public spaces in this typology are small and intimate, such as pocket parks and sidewalk cafes. This typology has a residential density of 6 to 25 dwelling units per acre.

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

SUBJECT SITE

2023-UV2-003; 5060 East 62nd Street (subject site, adjacent tenant bay), requested a Variance of Use to provide for indoor entertainment and recreation, including wreck-it rooms, and axe throwing games, **granted**.

2021-UV2-019: 5060 East 62nd Street (subject site), requested a Variance of Use to provide for indoor recreation & entertainment uses, and an indoor spectator venue, **withdrawn**.

2015-UV2-010; 5060 East 62nd Street (subject site), requested a variance of use and development standards of the Commercial Zoning Ordinance to provide for a daycare center, with an outdoor play area, **granted**.

VICINITY

2015-UV2-004; 5030 East 62nd Street (west of site), requested a variance of use and development standards of the Commercial Zoning Ordinance and the Sign Regulations to provide for a restaurant, with a micro-brewery, an outdoor bar, outdoor seating and dining, live entertainment, urban garden and outdoor recreational area, with carryout food service within approximately 45 feet of the nearest protected district, a fitness facility, office and storage for a pool cleaning and maintenance service, to legally establish a zero-foot west side transitional yard, to legally establish an integrated center sign, with a 10-foot front setback from Binford Boulevard, and to provide for a freestanding sign along 62nd Street within 270 feet of an existing freestanding sign, **granted**.

2012-ZON-015; 5157 East 64th Street (north of site), requested the rezoning of 2.5 acres, from the C-S District, to the C-S classification to provide for the operation of a pet hotel, pet daycare, dog grooming and training facility, with overnight boarding, consistent with the submitted plan of operation and site plan, with restated commitments modifying commitments associated with 95-Z-231 (Instrument #1996-0019805) to eliminate commitments associated with the original building construction and site development related to the warehouse and office building, **denied**.

2001-DV2-043; 5102 East 62nd Street (south of site); requested a variance of development standards of the Commercial Zoning Ordinance to legally establish a gas station with reduced setbacks and reduced aisle width, **granted**.

95-Z-156, 5085 East 64th Street (north of site), requested the rezoning of 2.726 acres from the C-3 District to the C-S classification to provide for the construction of an office/warehouse for the manufacture and sale of awnings, **approved**.

94-V3-83; 5030 East 62nd Street (west of site), requested a variance of the development standards of the Sign Regulations to provide for the replacement of an integrated commercial center sign with a 532-square foot sign, with pole covers resulting in a ground clearance of 8 feet, **granted**.

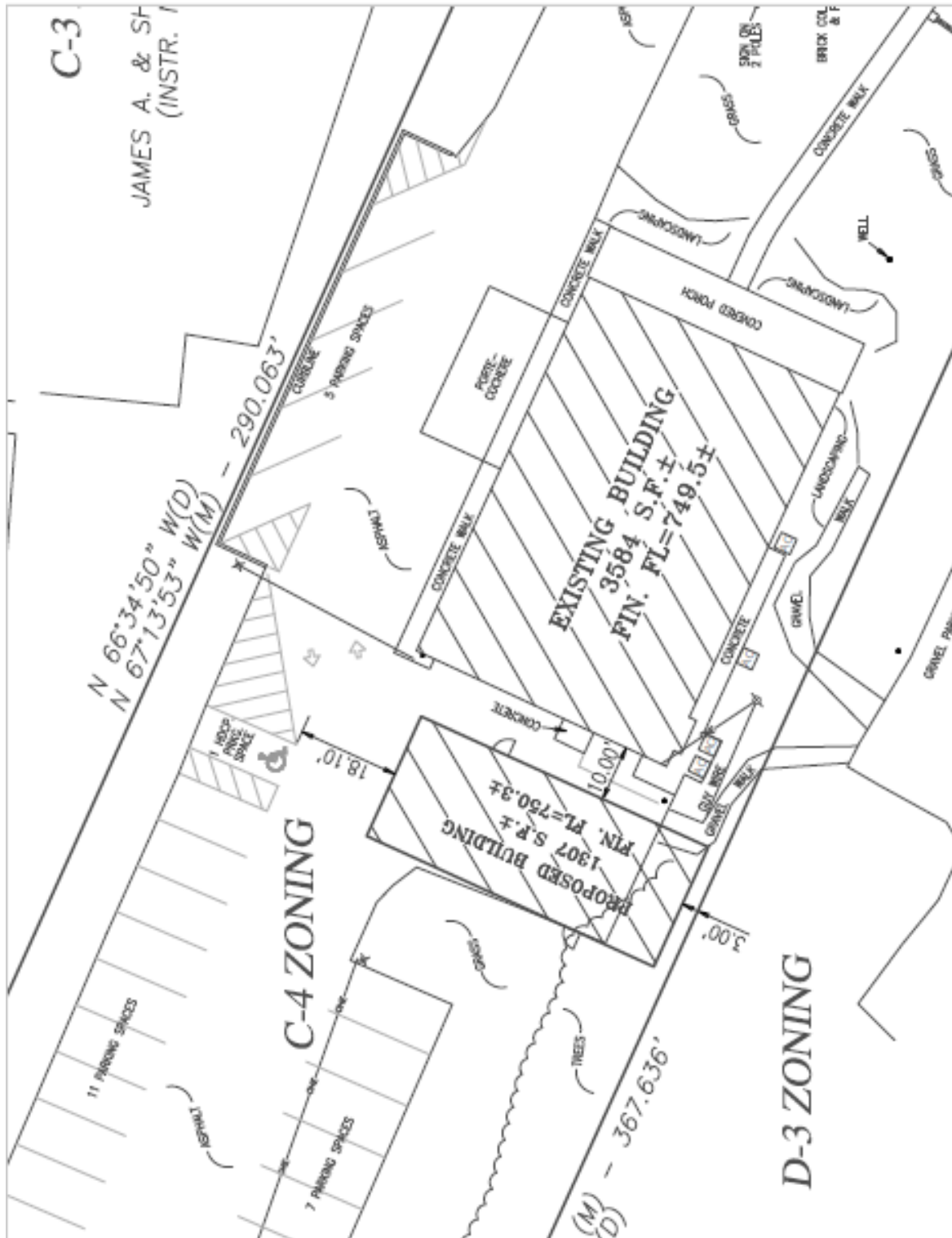
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EXHIBITS

Location Map Subject Site



Site Plan





Findings of Fact 2025-MO2-001

**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 extension of the variance for an additional year will allow the Petitioner to continue to utilize the temporary building in order to maintain the capacity of the animal hospital, which has provided much needed relief and assistance to rescue groups and humane societies. The variance will be limited to an additional two (2) years in order that Petitioner may finalize plans for a permanent expansion to the hospital.

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 petitioner owns the parcel directly to the south of the parcel seeking the variance extension. The parcel has been vacant for many years and will not be adversely affected by the variance. The petitioner plans to ultimately seek a rezone of that parcel in order to finalize the expansion of the animal hospital.

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

The parcel layout makes it difficult to utilize a temporary building to assist with the increased capacity of the animal hospital. The temporary building allows the property to utilize the existing parking spaces at the animal hospital.

Photographs



Subject site, looking west.



Subject site temporary modular building behind the primary building, looking east.



Adjacent dwelling being used as an office related to the subject site, looking southwest.



Adjacent commercial use to the east, looking south.