

BOARD OF ZONING APPEALS DIVISION III

October 15, 2024

Case Number: 2024-UV3-008 (Amended)
Address: 2649 Fisher Road (approximate address)
Location: Warren Township, Council District #20
Zoning: D-A
Petitioner: German Mendez Sanchez and Ana Laura Miranda Dominguez, by Josh Smith
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the expansion of an accessory structure resulting in it being located forward of the primary building and a five-foot south side yard setback (accessory structures may not be located in front of primary building, 15-foot side yard setback required).

Current Land Use: Single Family Dwelling and Event Center

Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

This petition was previously automatically continued at the request of a registered neighborhood organization, from the July 16, 2024, hearing, to the August 20, 2024, hearing. The petitioner continued this petition for cause from the August 20, 2024, hearing to the September 17, 2024, hearing, and from the September 17, 2024, hearing to the October 15, 2024, hearing.

The petitioner **has submitted a request to withdraw the variance of use to provide for the operations of an event center** with a gravel and grass parking area. That withdrawal will need to be acknowledged by the Board.

STAFF RECOMMENDATION

Staff now recommends **approval** of this amended petition subject to the following commitment:

The accessory structure shall not be used as an event center or for commercial purposes.

PETITION OVERVIEW

- ◇ The purpose of the D-A district is to provide for a variety of agricultural enterprises, with a secondary intent for the development of large estate or rural single-family dwellings.
- ◇ Development Standards of the Consolidated Zoning and Subdivision Zoning Ordinance, specifically those relating to accessory building use, are intended to ensure the dwelling remains the primary use of the property. Additionally, limiting the location of accessory structures preserves open space and regulates the building mass impact to surrounding property owners.
- ◇ The proposed accessory structure would be similar in size to the original agricultural barn located on site. It would extend approximately 90 feet in front of the established front building line of the primary dwelling onsite and would be located approximately 350 feet from Fisher Road.

- ◇ Due to the large size of the site, and the distance of the accessory structure from Fisher Road, the accessory structure location as proposed, would not have a negative impact on surrounding properties, as it would be similar to other agricultural structures in the area.
- ◇ To prevent future owners from using the accessory structure as an event space or for commercial purposes, Staff is requesting a commitment that would prohibit those uses in the structure.
- ◇ The requested south side setback reduction to five feet, where a 15-foot setback is required would extend for approximately 56 feet along the southern parcel line, with the remaining structure, and original barn having greater setbacks.
- ◇ Staff feels the proposed reduced five-foot south side setback for the Accessory structure would still provide adequate space to mitigate any adverse impacts and provide the minimum area necessary for maintenance setbacks.
- ◇ Since the adjacent property is owned by the Marion County Fairgrounds, and used sporadically for event parking purposes, with no development planned near the reduced setback, Staff feels the request would represent a minor deviation from the Ordinance.
- ◇ Generally, staff supports property improvements if their location and characteristics do not negatively impact adjoining residential areas by causing a nuisance to the surrounding neighborhood. Staff believes that this would be true for this particular variance request, and additionally that no public safety or health risks would come from the grant of this variance.

GENERAL INFORMATION

Existing Zoning	D-A	
Existing Land Use	Single Family Dwelling	
Comprehensive Plan	Suburban Neighborhood	
Overlay	No	
Surrounding Context	Zoning	Surrounding Context
North:	SU-9	North: County Fairgrounds parking area
South:	SU-9	South: County Fairgrounds parking area
East:	SU-9	East: County Fairgrounds parking area
West:	SU-9	West: County Fairgrounds
Thoroughfare Plan		
Fisher Road	Primary Collector	80-foot existing and proposed right-of-way.
Context Area	Metro	
Floodway / Floodway Fringe	N/A	
Wellfield Protection Area	No	
Site Plan	June 19, 2024	
Elevations	N/A	
Plan of Operation	N/A	
Commitments	N/A	
Landscape Plan	N/A	
Findings of Fact - Updated	October 4, 2024	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- The Comprehensive Plan recommends Suburban Neighborhood uses.

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends the Suburban Neighborhood typology for this site. This typology is predominantly made up of single-family housing but is interspersed with attached and multifamily housing where appropriate. This typology should be supported by a variety of neighborhood-serving businesses, institutions, and amenities. Natural Corridors and natural features such as stream corridors, wetlands, and woodlands should be treated as focal points or systems for development. Streets should be well-connected, and amenities should be treated as landmarks that enhance navigability of the development. This typology has a residential density of 1 to 5 dwelling units per acre, but a higher density is possible if the development is within a quarter mile of a frequent transit line, greenway, or park.

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

98-Z-206; 2801 South Fisher Road (north, east, and south of site), requested the rezoning of 43.0 acres from the D-A district to the SU-9 classification, **granted**.

95-HOV-73; 7300 Troy Avenue (southwest of site), requested a variance of development standards to provide for the placement of a pylon sign, 17 feet wide and 13 feet in height, being located within 600 feet of a dwelling district, **granted**.

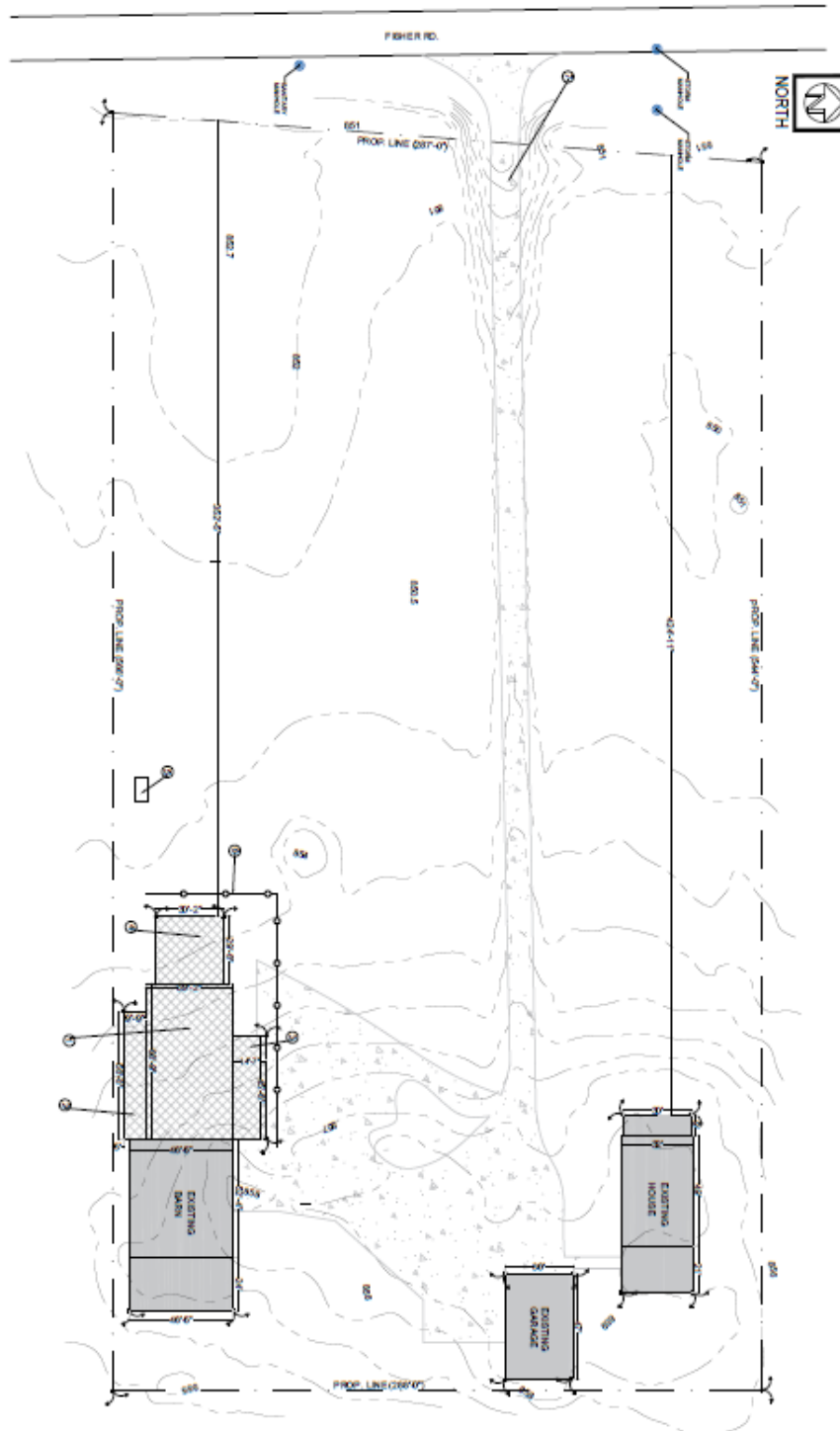
RU

EXHIBITS

Location Map



Site Plan





Findings of Fact – Amended 10.4.2024

Petition Number 2024-UV3-008

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, _____
OF MARION COUNTY, INDIANA**

**PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS
FINDINGS OF FACT
SIDEYARD SETBACK AND LOCATION OF ACCESSORY STRUCTURE (REVISED)**

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

The front façade of the barn addition is in excess of 350' from the nearest right of way of Fisher Road. The side yard setback is consistent with the existing historical setbacks on the property which have been in place for more than 70 years according to aerials. The immediately adjacent properties are largely open space, utilized agriculturally or for parking for the nearby fairgrounds, so the reduced side yards do not impact the health, safety or welfare of immediately adjacent properties. The barn addition is agricultural in external appearance and upon granting of the variance can have all applicable permits and inspections applied for and completed.

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 reduced setback will not impair the use or development of the immediately adjacent properties, which are also relatively large in size and currently devoid of significant improvements. The barn addition's location in front of the residential structure is not readily noticeable from the right of way because of the significant setback from the right of way of both Fisher Road and I465 and the overall layout of the parcel with the barn being on the opposite side of the parcel from the residential structure.

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

The historic layout of the property necessitates the location of the barn addition. The existing barn location and home location have existed as is since at least the 1950's as have the internal drive configurations. A configuration of an addition other than what has been done would impair use of the existing drives or require removal of mature trees or blocking access to other legally established structures or making access in and out of the expansion less efficient. Preventing expansion in the ways proposed/constructed would effectively prohibit any additional expansion of structures on the property based on choices prior owners made decades ago.

Photographs



Subject site single family dwelling, looking north.



Subject site accessory structure, looking south



Subject site accessory structure with five foot south side setback, looking east



Subject site entrance driveway access from Fisher Road, looking east.