

Board of Zoning Appeals Division I

July 7, 2026

Case Number: 2026-UV3-009
Property Address: 5 West Epler Avenue (*approximate address*)
Location: Perry Township, Council District #22
Petitioner: Leedom & Terrell, LLC, by Jacob Bowman
Current Zoning: D-A
Request: Variance of Use of the Consolidated Zoning and Subdivision Ordinance to allow for commercial and building contractor usage (not permitted in D-A) with outdoor storage and operations (not permitted in D-A).
Current Land Use: Developed, Commercial Use
Staff Recommendations: Staff recommends **approval** of this petition, subject to commitments.
Staff Reviewer: Josh Levesque, Senior Planner

PETITION HISTORY

This petition was continued and transferred from the June 16th, 2026, BZA III hearing to the July 7th, 2026, BZA I hearing to allow for the recording of a deed related to the proposed commitments

STAFF RECOMMENDATION

Staff recommends **approval** of this petition, subject to commitments detailed in the report below.

PETITION OVERVIEW

- 5 West Epler is the site of a commercial boiler and welding company in the D-A zoning district. Based on previous staff reports and petition history for this site, it appears the current business was provided for by 82-UV3-100 with expansions provided for in 2000-UV2-005 and 2012-UV1-004, establishing a long history of heavy commercial and contractor-like uses at this location.
- While 2000-UV2-005 and 2012-UV1-004 sought to expand the footprint of the boiler and welding business beyond the original 1982 variance, this request does not seek to expand the footprint of the building. Rather, it seeks to make a lateral change between heavy commercial uses.
- Staff will note that, while this use does not fit with either the D-A zoning district or the community commercial typology, this use does fit with precedent for this location. Additionally, this lot is far too small to meet D-A lot width and area standards. This property is also part of small commercial node on the corner of West Epler and South Meridian, with a bar, flooring company, and auto repair shop all near the intersection.
- The 2012 staff report indicated that the main reason for previous approvals was that the use would be contained on site and would not affect the surrounding businesses and dwellings. Site photos show that the subject site is largely surrounded by a fence and retaining wall, except for the front

façade. Furthermore, the plan of operations indicates that no changes to the facility are anticipated. A small segment of land on the western side of the property was deeded to the current owners as part of this petition to align their western boundary with the existing fence and paved area.

- As this property has a long history of commercial use, the requested change in use is similar in intensity to the existing use, and as the property is largely screened, staff recommends approval of this petition subject to the following commitments:
 - Outdoor storage and operations shall be limited to the parking of “Commercial Vehicles” as defined under the City of Indianapolis Consolidated Zoning / Subdivision Ordinance – Effective March 2, 2026 and that this commitment not be subject to Commitment 5 from 2012-UV1-004 (Instrument No: 2012-00052315).
 - That all commitments from 2012-UV1-004 (Instrument No: 2012-00052315) shall continue in force until, as per commitment 5, the business operated on the site is not owned and operated by Mr. Chris Hutson, his immediate family, or an entity which is at least 515 owned by Mr. Chris Hutson and/or members of his immediate family.
 - That this petition be tied to the plan of operations filed on April 27th, 2026. Where the plan of operations and the aforementioned commitments, conflict, the commitments shall control.

GENERAL INFORMATION

Existing Zoning	D-A	
Existing Land Use	Developed; Commercial	
Comprehensive Plan	Community Commercial	
Surrounding Context	<u>Zoning</u>	Surrounding Context
North:	C-3	North: Residential / Commercial
South:	SU-1	South: Religious Uses
East:	C-3	East: Commercial
West:	SU-1 / D-3	West: Vacant / Residential
Thoroughfare Plan		
Epler Avenue	Primary Collector	50-foot existing right-of-way and 80-foot proposed right-of-way
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	5/1/2026	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	4/21/2026	

Findings of Fact (Amended)	N/A
C-S/D-P Statement	N/A

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book (2019)

Pattern Book / Land Use Plan

- The Community Commercial typology provides for low-intensity commercial and office uses that serve nearby neighborhoods. These uses are usually in freestanding buildings or small, integrated centers. Examples include small-scale shops, personal services, professional and business services, grocery stores, drug stores, restaurants, and public gathering spaces.

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

ZONING HISTORY – SITE

82-UV3-100; Variance of Use to use an existing commercial building for an office for a boiler and welding service, with storage inside of the building and no welding done on site, **approved subject to conditions**

2000-UV2-005; Variance of Use and Development Standards of the Dwelling Districts Zoning Ordinance to provide for a 3,835-square foot addition to an exiting boiler and welding company on a 0.55-acre lot, with 90 feet of street frontage, open space of 70.5%, a side setback of 3.2 feet and an aggregate side setback of 15.2 feet and a main floor area of zero feet, **approved subject to conditions.**

2012-UV1-004; Variance of Use of the Dwelling Districts Zoning Ordinance to provide a 7,200-square foot building to permit the expansion of an existing boiler and welding company, with off-street parking and additional driveways from Meridian Street and Epler Avenue, **approved subject to commitments.**

ZONING HISTORY – VICINITY

55-A-14; 10 West Epler (current address) (north of site), Rezoning of a 0.374-acre tract from the A-2 (agriculture) district to a B-4 classification to provide for the construction and operation of a gasoline service station, **approved.**

59-Z-95; 10 West Epler (current address) (north of site), Rezoning to the B-2 district to provide for the construction of a real estate and contractors office building, **approved.**

90-V3-94; 5505 South Meridian Street (current address) (east of site), Variance of Development Standards of the Commercial Zoning Ordinance to permit the construction of an addition to an existing carpet store with 20 parking spaces, **approved subject to conditions.**

99-Z-161; 5610 South Meridian Street (current address) (south of site), Rezoning of 1.0 acre from D-A to C-S to provide for certain C-3 uses and a tool and die shop and a machine shop, **withdrawn.**

2000-UV1-012; 5610 South Meridian Street (current address) (south of site), Variance of Use and Development Standards of the Dwelling Districts Zoning Ordinance to provide the construction of a 2,4000-square foot building for the operation of a tool and mold facility, with a detached accessory use area of 3,040-square feet or 361.9 percent of the main floor area of the primary dwelling, with a 42-foot rear setback, a side yard setback of 25-feet, and an aggregate side yard of 53-feet, **approved subject to conditions.**

2011-UV2-021; 5525 South Meridian Street (current address) (southeast of site), Variance of Use and Development Standards of the Commercial Zoning Ordinance to provide for a banquet hall / family restaurant and tavern with outdoor seating and live entertainment, and with 44 proposed parking spaces, **approved subject t**



**Department of Metropolitan Development
Division of Planning
Current Planning**

2012-DV1-034; 5506 South Meridian Street (current address) (east of site), Variance of Development Standards of the Commercial Zoning Ordinance to provide for 1,434-square foot deck for outdoor seating with 28 parking spaces and to legally establish a tavern with a five-foot separation from a protected district and parking with a zero-foot setback from West Epler Avenue and South Meridian Street, **approved**.

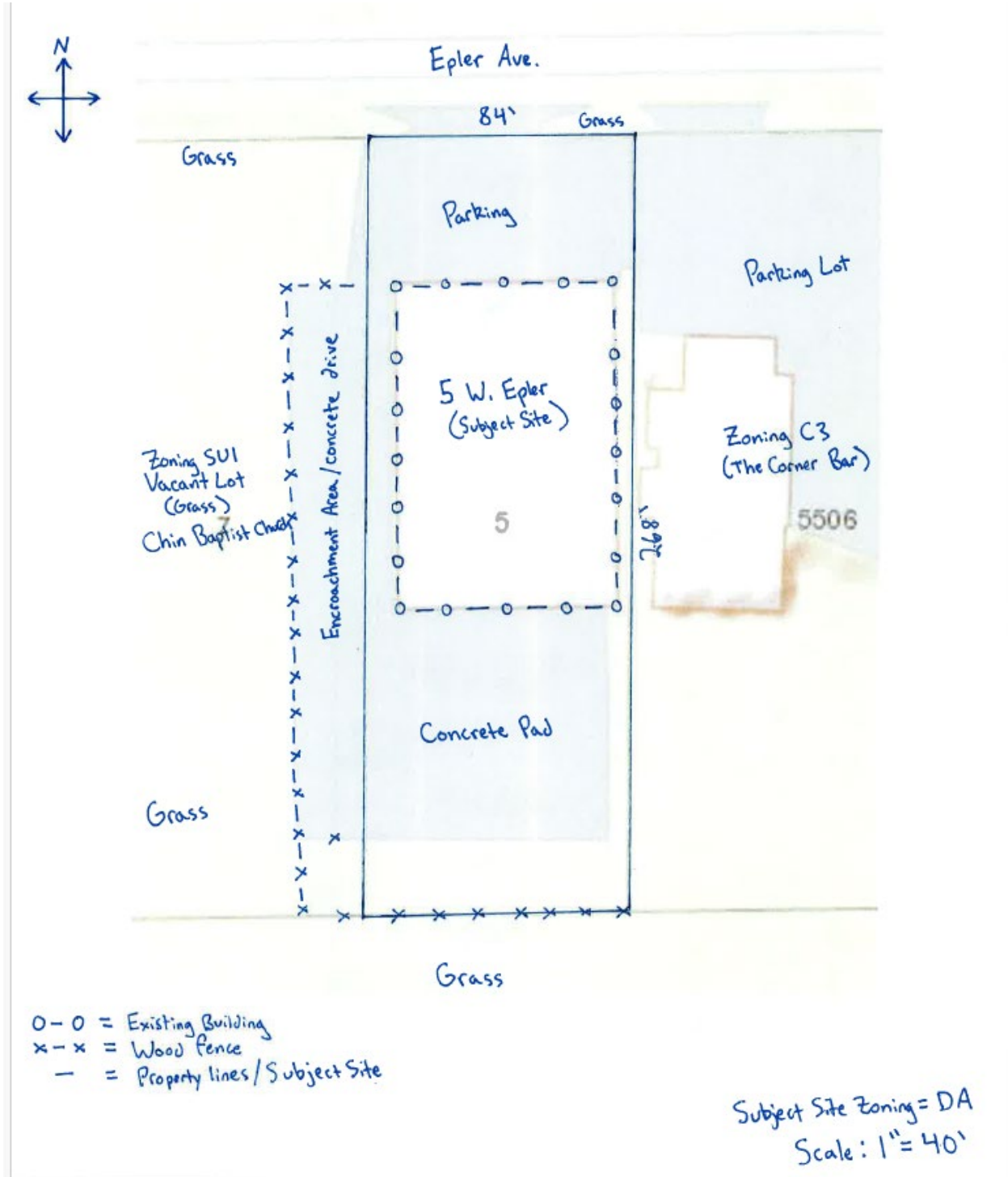
2017-ZON-090; 7 West Epler and 5610 South Meridian Street (current addresses) (west and south of site), Rezoning of 1.62 acres from the D-A district to the SU-1 classification to provide for secondary access to Epler Avenue, **approved subject to commitments**.

EXHIBITS

2026UV3009; Aerial Map



2026UV3009; Site Plan



2026UV3009; Plan of Operations

**ANTICIPATED
PLAN OF OPERATION**

1. Description of Facilities

The facility consists of an approximately 7,020 sq. ft. office and warehouse/flex type space. The current use of the facility is for office space of Hutson Industrial Services, Inc., along with storage of some equipment/vehicles and materials. The subject site is almost completely surrounded by a privacy fence, with the exception of the front façade. Photographs of the subject property from street view are included below. It is anticipated that the facilities will not be changed.

2. Number of Employees

It is anticipated that the number of employees working at the facility will be approximately between 5 and 10, with certain employees picking up materials/work orders to begin their work off site. The number of employees is not anticipated to be substantially more than the current employees working on the subject property.

3. Security Provisions

Standard security measures are in place for the building, including, without limitation, locked doors and security cameras. Cash is likely to be rarely kept on site, as most customers pay with debit/credit cards or are separately invoiced in accordance with standard practices of Commercial and Building Contractors.

4. Presence of Hazardous or Explosive Materials

No hazardous or explosive materials are currently located on site, and it is not anticipated that any Commercial and Building Contractor will bring in hazardous or explosive material as part of their work.

5. Hours of Operation, Typical Customer

Hours of operation are anticipated between 7:00 a.m. and 6 p.m. Monday to Friday. No customers are expected to be on site, apart from occasional meetings. Both being consistent with the use of the subject property by a Commercial and Building Contractor.

2026UV3009; Findings of Fact

1. THE GRANT WILL NOT BE INJURIOUS TO THE PUBLIC HEALTH, SAFETY, MORALS, AND GENERAL WELFARE OF THE COMMUNITY BECAUSE

The property has been used as a Commercial and Building Contractor-- boiler company--use for decades and the proposed variance would continue that use and expand to other uses applicable to the Commercial and Building Contractor definition, including without limitation electrical contractors roofing contractors, and HVAC contractors.

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

The property has been used as a Commercial and Building Contractor use for decades. Prior to any adjacent property owner purchasing their property, they were aware that the space was being used as a Commercial and Building Contractor space; the nature of the use of the property will not be changed. The use is compatible with neighboring property uses and general uses in the area, which include a neighborhood bar, a flooring store, auto repair shop, and a fueling station.

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

The property is zoned DA, though the comprehensive plan calls for the property to be community commercial. The DA zoning classification does not allow for Commercial and Building Contractor uses but the property has been used as a commercial boiler contractor space for decades. The proposed use variance will allow that use to continue and expand to other Commercial and Building Contractor uses that are compatible with the surrounding area.

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

Over the decades, the site was developed for Commercial and Building Contractor uses, which includes an office/warehouse structure. The space cannot be used for "white collar" office space as proposed in the future land use map/comprehensive plan without the demolition of the current structure, which is cost prohibitive. The current use variance is too restrictive and only allows for a boiler company, and there is no permitted use under the current DA zoning classification that would be compatible with the improvements on the property.

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

The comprehensive plan calls for the subject property to be community commercial. The proposed use variance, limited to Commercial and Building Contractors, is a reasonable extension of the comprehensive plan considering the historical development of the subject site.

2026UV3009; Previous Commitments from 2012-UV1-004

Exhibit "B"

VARIANCE COMMITMENTS
CASE #2012-UV1-004 - 5 & 13 W. Epler Ave. and 5520 S. Meridian St.
5/1/2012

METROPOLITAN DEVELOPMENT
MAY 01 2012
DIVISION OF PLANNING

- 1.) Development of the site shall be substantially similar to the Site Plan file dated May 1, 2012 (the "Site Plan").
- 2.) The Site Plan illustrates both the existing entry onto Epler Avenue, and a new proposed entry further to the West on Epler which would be between 20 and 30 feet in width. If the Petitioner elects to keep the existing entry onto Epler, the proposed new entry to the West will not be constructed. If the Petitioner elects to construct the new entry onto Epler, then the existing entry onto Epler shall be closed.
- 3.) There shall be no boiler manufacturing operations done on site.
- 4.) There shall be no welding operations for customers done on site, with the exception that occasional minor welding may be performed indoors on the site so long as the total revenue generated by such on site welding services does not exceed \$5,000 annually. The repair and/or straightening of metal portions of a lawn mower, and welding work of similar scope and impact, is the type of "minor" work which the exception to this Commitment is intended to permit.
- 5.) The variance shall automatically expire if the business operated on the site is not owned and operated by Mr. Chris Hutson, his immediate family, or an entity which is at least 51% owned by Mr. Chris Hutson and/or members of his immediate family.
- 6.) All outdoor storage on the site shall be limited to the areas within the privacy fence shown on the Site Plan. No new, used or scrap trucks shall be stored outdoors on the site for any period longer than thirty (30) consecutive days. Temporary outdoor storage of large boiler parts may occur for periods of time not to exceed fourteen (14) consecutive days.
- 7.) The proposed privacy fence shall be approximately six (6) foot tall, may be comprised of wood and/or plastic or a combination thereof, and shall provide a solid visual screen with the exception of the proposed gate(s) and the areas immediately abutting said gate(s).
- 8.) There are several areas shown on the Site Plan wherein trees are proposed to be planted. The requirements for those areas are as follows:
 - A. The row of trees to be planted immediately West of the fence running between the detention area and the parking areas, and also the short row of trees to be planted North of the new entry drive connecting to S. Meridian Street (immediately East of the fence East of the new building) shall be installed within 6 months of the occupation of the new building (weather permitting), shall be evergreen trees of any species other

2026UV3009; Previous Commitments from 2012-UV1-004 (continued)

than White Pine, and shall be at least 5 feet in height at the time of planting. These trees shall be spaced between 18 and 22 feet apart.

B. The double row of trees to be planted along the Eastern portion of the South line of the Site, East of the fence, shall be installed within 6 months of the occupation of the new building (weather permitting), shall be evergreen trees of any species other than White Pine, and shall be at least 5 feet in height at the time of planting. These trees shall be installed in two staggered rows, with the trees in each row being spaced no more than 25 feet apart, and the two rows being separated by no more than 25 feet.

C. At least six (6) new trees shall be planted along the West side of the detention area, and at least two (2) new trees shall be planted along the North side of the detention area, all approximately as shown on the Site Plan. These trees shall be planted within 1 year of the occupation of the new building. These trees may be either evergreen trees of any species other than White Pine, which shall be at least 5 feet in height at the time of planting; or any number of the proposed trees may be a deciduous over-story or ornamental species of tree, which shall be at least 1 inch caliper at the time of planting.

D. All such screening trees shall be well maintained by the Petitioner, and dead trees shall be replaced annually.

9.) In the event that the property which abuts the South line of the Site ever becomes a public park, then in such case, within 1 year of such conversion, the portion of the privacy fence on the Site which abuts the South shall be relocated to the North as necessary to create a buffer area between the new park and the privacy fence at least 30 feet in width, and within said buffer area between the privacy fence and the South line of the Site, a staggered row of evergreen trees shall be installed similar to the trees installed pursuant to Commitment 8(B) above.

2026UV3009; Photographs



Photo 1: Subject site as seen from Epler Avenue

2026UV3009; Photographs (continued)



Photo 2: Fenced area that has been deeded to petitioner for outdoor storage

2026UV3009; Photographs (continued)



Photo 3: Looking east on Epler

2026UV3009; Photographs (continued)



Photo 4: Looking north across Epler

2026UV3009; Photographs (continued)



Photo 5: Looking west on Epler