

BOARD OF ZONING APPEALS DIVISION III

August 19, 2025

Case Number: 2025-UV3-021

Property Address: 4038 & 4040 Otterbein Avenue (approximate address)

Location: Perry Township, Council District #23

Petitioner: Robert Lopez, by Anthony S. Ridolfo

Current Zoning: D-4 (TOD)

Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 1,172 square foot second primary building with a 3.5-foot western side yard setback and a six-foot rear yard setback (one primary building permitted per lot, four-foot side, 20-foot rear yard setbacks required).

Current Land Use: Residential

Staff Recommendations: Staff recommends denial of this petition

Staff Reviewer: Noah Stern, Senior Planner

PETITION HISTORY

- This is the first public hearing for this petition.

STAFF RECOMMENDATION

- Staff **recommends denial** of this petition

PETITION OVERVIEW

- This petition would allow for a 1,172 square foot second primary building with a 3.5-foot western side yard setback and a six-foot rear yard setback (one primary building permitted per lot, four-foot side, 20-foot rear yard setbacks required).
- The subject site is two (2) parcels, zoned D-4, and is improved with two (2) separate primary buildings. The original primary building, which is located on the corner of Otterbein Avenue and Windermire Street, was built in approximately 1923, according to the property card. This structure was built on top of the lot line separating the parcels, according to the original plat and available Sanborn and Baist maps. The second structure was built around 1953, according to available imagery, and is located entirely on 4040 Otterbein Avenue.
- Being that the second structure is over 900 square feet, Staff classifies this as a primary residence as opposed a secondary dwelling unit (limited to 720 square feet). Staff does not believe the development represents good building practice, does not find there to be hardship for needing the

variances requested, and does not find it appropriate to recommend approval. Likewise, Staff does not find this development to be in line with the surrounding area, as there is no precedent for multiple primary residences on the same lot. Therefore, Staff recommends denial of the petition in its entirety.

GENERAL INFORMATION

Existing Zoning	D-4 (TOD)	
Existing Land Use	Residential	
Comprehensive Plan	Traditional Neighborhood	
Surrounding Context	Zoning	Surrounding Context
North:	UQ-1	North: University
South:	D-4	South: Residential
East:	UQ-1	East: University
West:	D-4	West: Residential
Thoroughfare Plan		
Otterbein Avenue	Local Street	50 feet of right-of-way existing and 48 feet proposed
Windermire Street	Local Street	50 feet of right-of-way existing and 48 feet proposed
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	Yes, Transit-Oriented Development	
Wellfield Protection Area	No	
Site Plan	7/7/25	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	7/28/25	
Findings of Fact (Amended)	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book
- Infill Housing Guidelines

Pattern Book / Land Use Plan

- The Marion County Land Use Plan pattern Book recommends the Traditional Neighborhood typology for this site.

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

- With regarding to additional buildings, the Infill Housing Guidelines recommends:
 - Do not overshadow primary buildings
 - Reinforce existing spacing on the block

Indy Moves

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

- Not Applicable to the Site.

ZONING HISTORY

ZONING HISTORY – SITE

N/A

ZONING HISTORY – VICINITY

2017UV3002; 4021 Otterbein Avenue (east of site), Variance of Use and Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for offices and training rooms for the Indianapolis Neighborhood Housing Partnership in the existing Stierwalt Alumni House (not permitted), and to allow the grant of this variance to satisfy the requirement of filing an Approval petition for review and approval by the Metropolitan Development Commission, **approved**.

2017-CZN-CAP-CVR-CVC-838; 4018 Bowman Avenue, 1227 and 1233 East Hanna Drive, 4002 Otterbein Avenue, 1218 and 1224 Windermire Street, 1402 1406, 1412, 1414, 1420, 1428, 1432, 1502, 1508, 1514, 1526 East Castle Avenue, Rezoning of 4.7 acres from the D-4 and SU-1 districts to the UQ-1 classification. University Quarter-One Approval to provide for an academic training laboratory, with two wall signs at 4018 Bowman Avenue, and to provide for office, classroom, gathering places,



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collaboration space, meeting space, signs and a chapel for university departments and the SU-1 religious uses at 4002 Otterbein Avenue, and to provide for the expansion of an existing parking lot, with landscaping and illumination. Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the shared use by the Criminal Justice Education Lab of the University of Indianapolis and the Indianapolis-Marion County Forensic Services Agency to allow for combined training, simulation and testing purposes (non-university uses not permitted). Vacation of the first north-south alley west of Otterbein Avenue, being 15 feet wide, from the south right-of-way line of Hanna Avenue, 281.22 feet south to the north right-of-way line of Windermire Street. Vacation of the first east-west alley south of Hanna Avenue and north of Windermire Street, being 15 feet wide, from the west right-of-way line of the first north-south alley west of Otterbein Avenue, 320.25 feet west to the east right-of-way line of the first north-south alley east of Bowman Avenue. Vacation of the first east-west alley south of Windermire Street and north of Castle Avenue, being 15 feet wide, from the west right-of-way line of Matthews Avenue, 772.59 feet to the east right-of-way line of the first north-south alley east of Otterbein Avenue. Vacation of the first north-south alley east of Otterbein Avenue, being 15 feet wide, from the north right-of-way line of Castle Avenue, 156.71 feet to the north to the north line extended of the first east-west alley south of Windermire Street and north of Castle Avenue, **approved**.

EXHIBITS



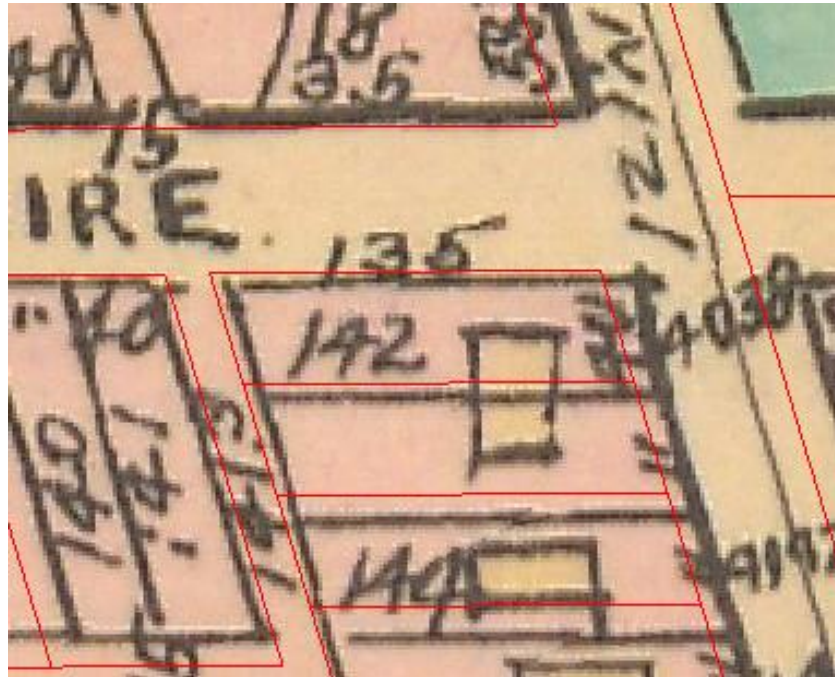
Aerial Photo



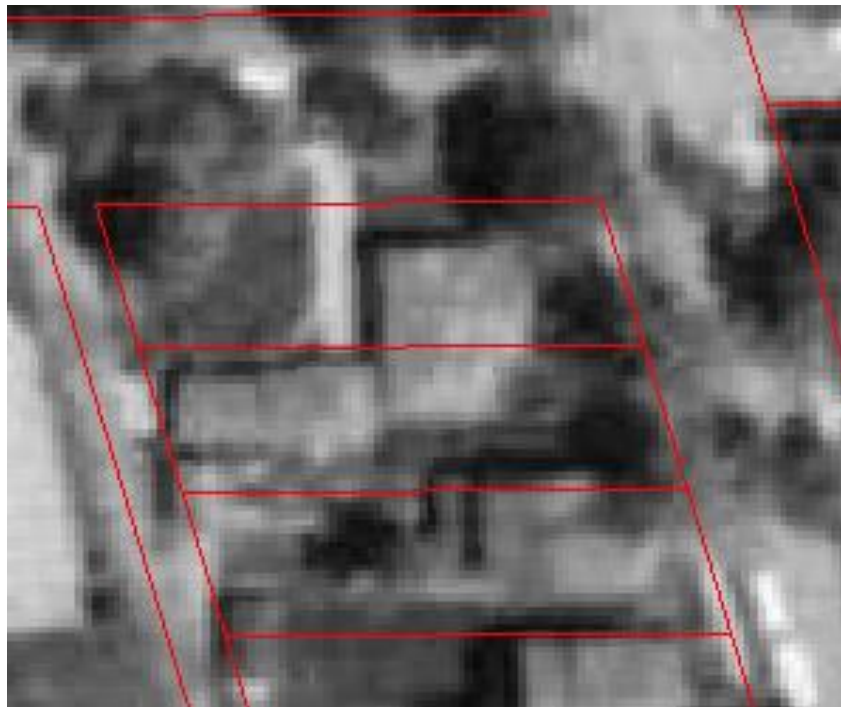
Zoomed in aerial photo



Original Plat showing two separate parcels (Russell was later renamed Windermere)



1941 Sanborn Map



1956 aerial photo, showing the second structure on 4040 Otterbein Ave

Scale:
 1" = 30'
 Paper size:
 8.5" x 11"

Legend

- Property line
- Topography line
- Wall line
- Roof line
- Retaining wall
- Fence
- Proposed addition

Disclaimer

This site plan is a representation of the proposed project and is not intended to be a final plan. It is subject to change without notice. The Department of Metropolitan Development and its staff are not responsible for the accuracy or completeness of the information provided. The user of this site plan is advised to consult with the appropriate authorities for the most current information.



SITE PLAN

Address:
 4038 & 4040 Otterbein Ave
 Indianapolis, IN 46227

Assessor's Parcel Number:
 LOT 142
 142-49-10-31-101-001.080-501
 LOT 143
 143-49-10-31-101-001.081-501

Parcel Area:
 LOT 142: 0.12 Acres
 LOT 143: 0.12 Acres

Land Use:
 Residential
 Single Family Residence

Zoning:
 LOT 142: R001
 LOT 143: R001

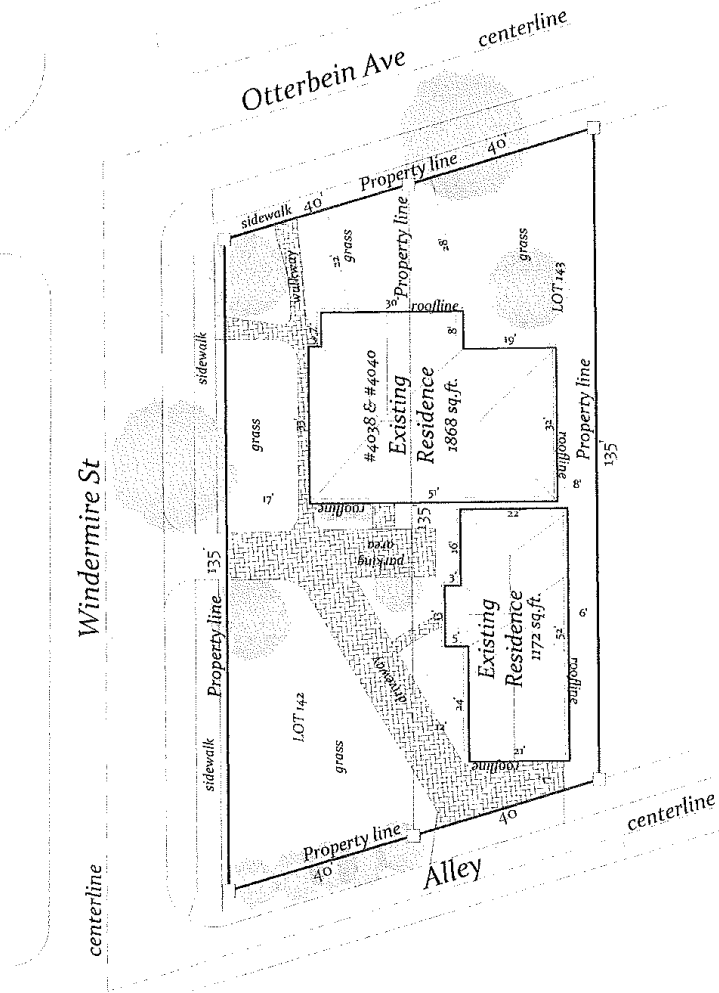
Legal Description:
 LOT 142: WILLIAM L ELDERS
 UNIVERSITY HTS L142
 LOT 143: WILLIAM L ELDERS
 UNIVERSITY HTS L143

Subdivision:
 LOT 142: 1
 LOT 143: 1

Owner: LOPEZ, ROBERTA

Paper size & scale:
 8.5" x 11"; 1" = 30'

Date: June, 2025





Department of Metropolitan Development
Division of Planning
Current Planning

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

the proposed use will not create any adverse neighborhood impairments. The proposed use will be consistent with the surrounding area as many single family residences are within reasonably close proximity.

The proposed use allows for an additional residence to be inhabited, therefore increasing consumer expenditure in the immediate community and creating additional income for local businesses.

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

Approval of this petition and resulting variance will allow the existing property with a newly remodeled roof to operate as a primary dwelling unit available for rent. Therefore, it is reasonable to assume that the value of adjacent properties will only increase, as a residence with a newly remodeled roof is a substantial benefit to property value. The proposed use will not affect the current or future use of the adjacent properties.

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

upon information and belief, the subject property has been used as a secondary dwelling unit available to rent. The roof of the secondary dwelling unit became deteriorated, and, to prevent further damage, the roof was remodeled. The proposed use allows the secondary dwelling unit to become a primary dwelling unit and be rented without requiring the unnecessary destruction of a newly constructed roof or the dwelling owner to reside in either primary dwelling unit.

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

the subject property cannot yield a reasonable return if used only for the allowed zoned purpose. Further, the subject property is located across the street from the University of Indianapolis, with the vast majority of tenants being students. The strict application of the zoning ordinance creates substantial limitations on the use of the subject property and the granting of this petition shall remedy that fact.

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

the proposed use maintains the traditional neighborhood classification of the subject property. The comprehensive plan explicitly states that secondary detached housing units are encouraged. Therefore, the grant of this petition will not interfere substantially with the comprehensive plan.

DECISION

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

Adopted this _____ day of _____, 20 ____



Subject site looking west



Subject site looking southwest



Subject site looking south



Subject site looking southeast



Looking east down Wildermire Street



Looking west down Wildermire Street