

**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.

At the July 8, 2025, hearing, the petitioner continued for cause this petition, and transferred it to the August 19, 2025, hearing of Board III.

**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

<b>Existing Zoning</b>	C-3	
<b>Existing Land Use</b>	Integrated Commercial Shopping Center	
<b>Comprehensive Plan</b>	Village Mixed Use	
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Surrounding Context</b>
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
<b>Thoroughfare Plan</b>		
Millersville Road	Local Street	30-foot existing right-of-way and a 50-foot proposed right-of-way
<b>Context Area</b>	Metro Area	
<b>Floodway / Floodway Fringe</b>	No	
<b>Overlay</b>	N/A	
<b>Wellfield Protection Area</b>	N/A	
<b>Site Plan</b>	May 8, 2025	
<b>Plan of Operation</b>	N/A	
<b>Landscape Plan</b>	N/A	
<b>Findings of Fact</b>	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

**2023-MO2-001; 5510 Millersville Road (subject site)**, requested 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, which would expire two years from the date of approval, being May 11, 2021. The request is to extend this expiration date to May 11, 2024, **granted**.

**2021-DV2-019; 5510 Millersville Road (subject site)**, requested 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, **granted**.



Department of Metropolitan Development  
Division of Planning  
Current Planning

**93-UV3-100; 5504 Millersville Road (south of site)**, requested a variance of use of the Dwelling Districts Zoning Ordinance to permit the conversion of a single-family residence into a four-unit multi-family structure, **granted**.

**90-V1-126; 5510 Millersville Road (subject site)**, requested a variance of development standards of the Commercial Zoning Ordinance to permit an addition to an existing veterinary office with an apartment with a 16-foot side yard, **approved**.

**69-Z-199; 5510 Millersville Road (subject site)**, requested the rezoning of 0.85 acre, being in the D-3 district, to C-4 classification to provide for a small animal clinic, **approved**.

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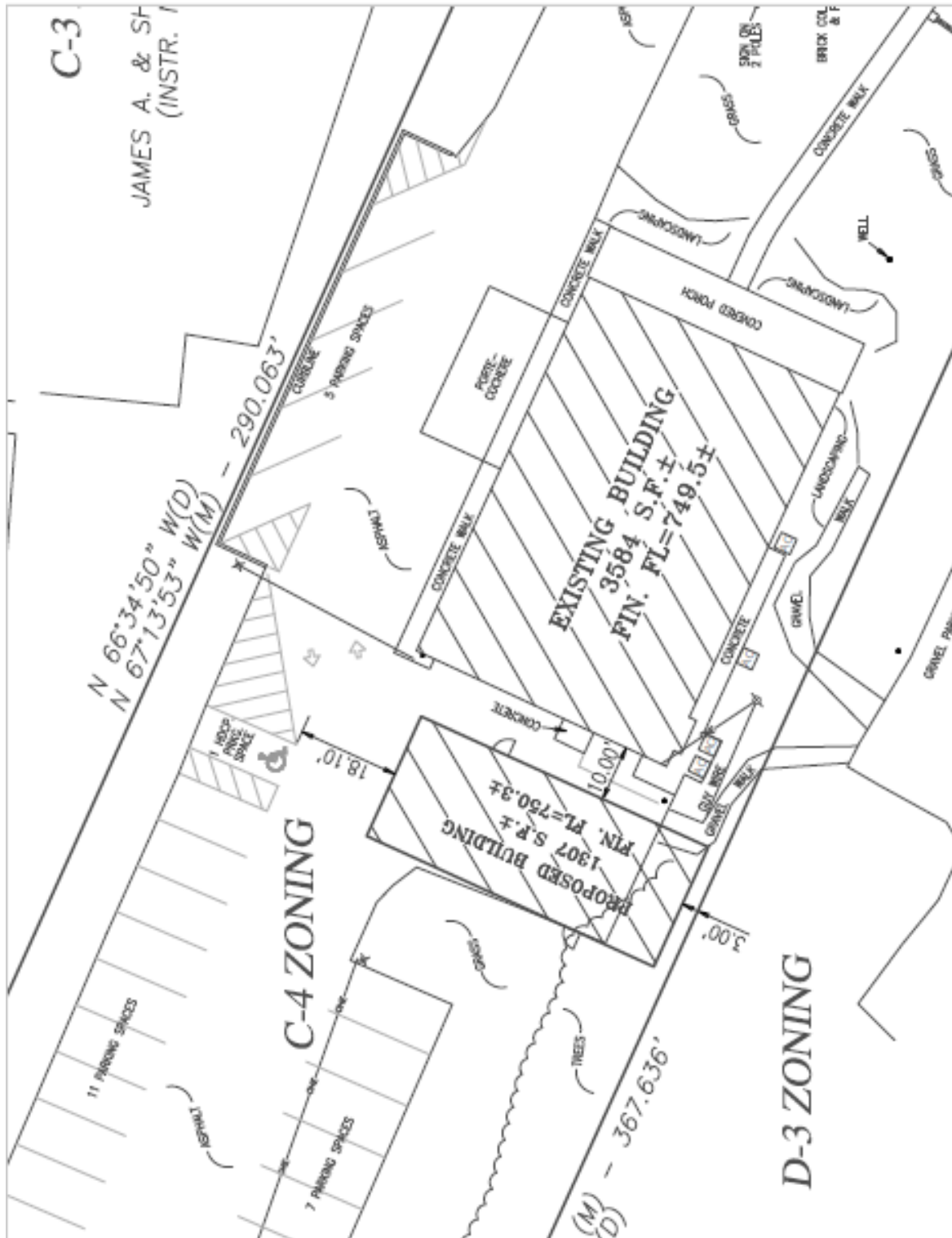


## EXHIBITS

### 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.