

BOARD OF ZONING APPEALS DIVISION III

August 19, 2025

Case Number: 2025-UV3-016
Property Address: 1659 East Sumner Avenue (approximate address)
Location: Perry Township, Council District #23
Petitioner: Cronus LLC, by Erin Donovan
Current Zoning: D-5
Request: Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 1,414-square-foot second primary building (not permitted) with a four-foot east side yard setback (seven feet required).
Current Land Use: Residential
Staff Recommendations: Staff **recommends denial** of this petition
Staff Reviewer: Noah Stern, Senior Planner

PETITION HISTORY

- This petition was continued to the August 19, 2025 BZA Division III hearing due to insufficient notice.

STAFF RECOMMENDATION

- Staff **recommends denial** of this petition

PETITION OVERVIEW

- This petition would allow for a 1,414-square-foot second primary building (not permitted) with a 4-foot east side yard setback (seven (7) feet required).
- The subject site is zoned D-5 and is improved with a single-family residence. The accessory structure in question was built without the issuance of the required permits and subsequently received violations for the ongoing work (VIO25-003658, VIO24-008966).
- With the proposed structure being over 900 square feet, Staff classifies this as a second primary building and not an accessory structure, thus triggering a Variance of Use as opposed to a Variance of Development Standards. Staff sees additional residential structures over 900 square feet to be primary structures because at this size the structure is often no longer clear subordinate to the original structure in use and size.

- Staff has numerous concerns about this proposal. First, the proposed structure has been built illegally and in a manner that is not compliant with the Ordinance. Staff finds this to represent poor building practice and to be an undesired precedent for future development. Additionally, the structure is far larger than the permitted 720 square feet for a Secondary Dwelling Unit. This standard is in place to limit overdevelopment and to maintain consistent building form and characteristics. Staff finds this proposal to be entirely out of character for the area, and to constitute overdevelopment of the site.
- With regards to the variance for the reduced side yard setback, Staff does not find there to be any practical difficulty for needing the reduced setback, as the lot is of sufficient width and area for an accessory structure, just not the structure that is proposed which rivals the existing dwelling unit on site. Additionally, the request for reduced setbacks on a lot that is of sufficient width furthers Staff's belief that this proposal constitutes overdevelopment of the property.
- In summary, Staff finds the proposal to represent a circumventing of the Subdivision Control Ordinance, that is overdevelopment and does not have any practical difficulty for the requested variances. Therefore, Staff is opposed to the request and recommends denial of the petition. Staff would note that a secondary dwelling can be constructed on this property, and urges the petitioner to alter the plans to allow for a compliant structure.
- Finally, Staff would note that the submitted site plan and Findings of Fact indicate that the property is bordered by an easement to the east. This is inaccurate, as the property is bordered by an alley to the east which is public right-of-way. Staff has not found any indication of a recorded easement existing at this location.

GENERAL INFORMATION

Existing Zoning	D-5	
Existing Land Use	Single-family residential	
Comprehensive Plan	Traditional Neighborhood	
Surrounding Context	<u>Zoning</u>	Surrounding Context
North:	C-3	North: Vacant
South:	D-5	South: Residential
East:	D-5	East: Residential
West:	D-5	West: Single-family residential
Thoroughfare Plan		
East Sumner Avenue	Primary Collector	70 feet of right-of-way existing and 56 feet proposed
Context Area	Compact	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	5/2/25	

Site Plan (Amended)	N/A
Elevations	5/2/25
Elevations (Amended)	N/A
Landscape Plan	N/A
Findings of Fact	5/2/25
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 regards to accessory structures, the Infill Housing Guidelines recommends:
 - Do not overshadow primary building: the scale, height, size, and mass should not overshadow the primary structure

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

2022ZON102; 3431 Carson Avenue (northeast of site), Rezoning of 0.52 acre from the D-4 district to the C-1 district to provide for commercial uses, **approved**.

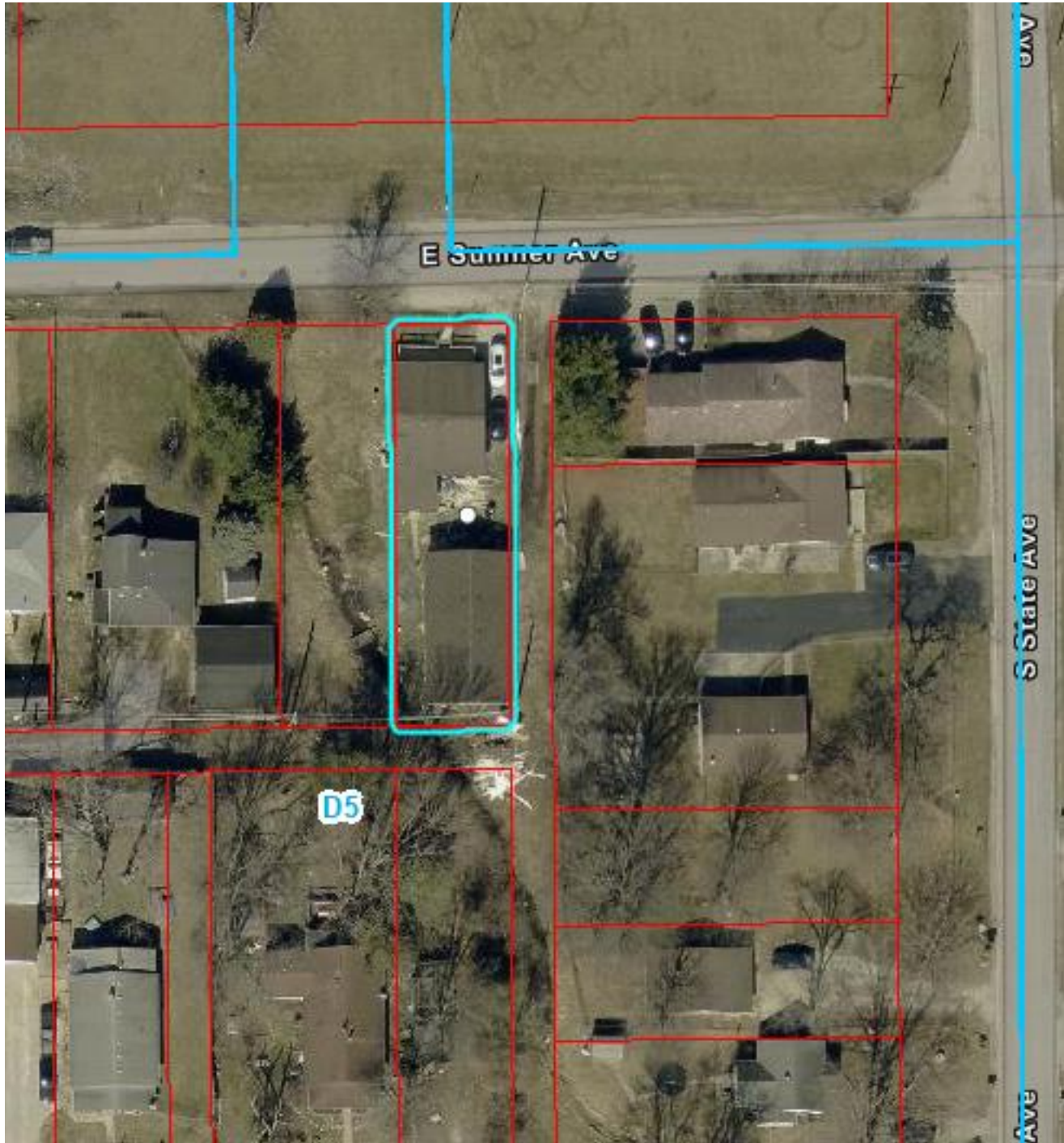
99-V2-9; 1526 Edgecomb Drive (west of site), variance of development standards of the Dwelling Districts Ordinance to provide for the construction of a 22 by 48-foot single family residence 15 feet from the existing right-of-way line of Draper Street (minimum 25 feet required), **granted**.

96-UV3-93; 3450 Carson Ave (northeast of site), requested a variance of use and development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of an office and commercial storage facility, **granted**.

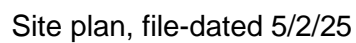
94-UV1-65; 3481 Carson Ave (east of site), requested a variance of use and development standards of the Dwelling Districts Zoning Ordinance to provide for construction of a 2,204 square foot building to be used as an office and storage facility for commercial materials, being 15 feet from the proposed right-of-way of Carson Avenue, **granted**.

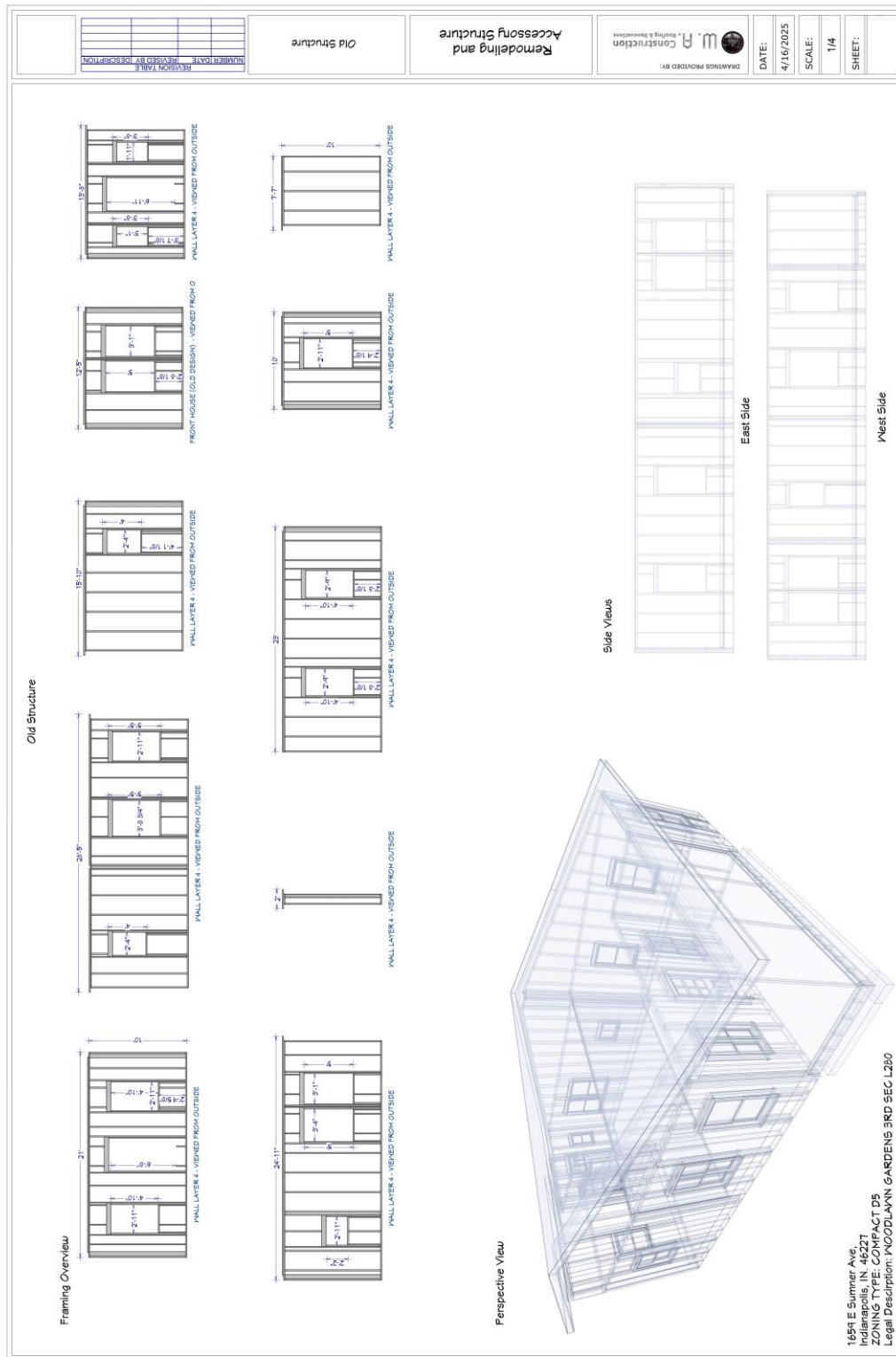
79-Z-177; 3438 Carson Ave (north of site), requested rezoning of 0.68 acre, being in the D-5 District, to the C-3 classification to provide for commercial use, **granted**.

EXHIBITS

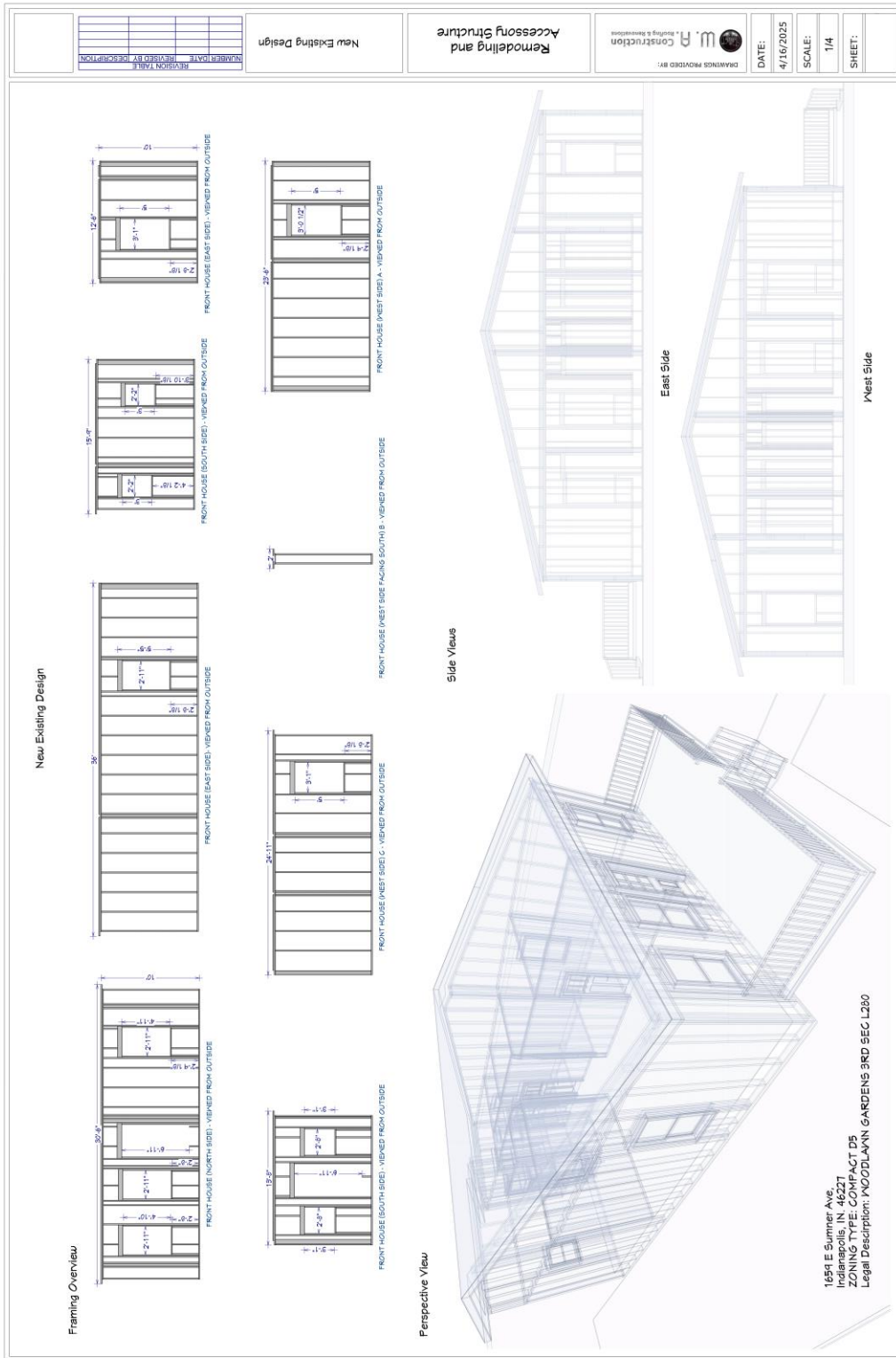


Aerial Photo

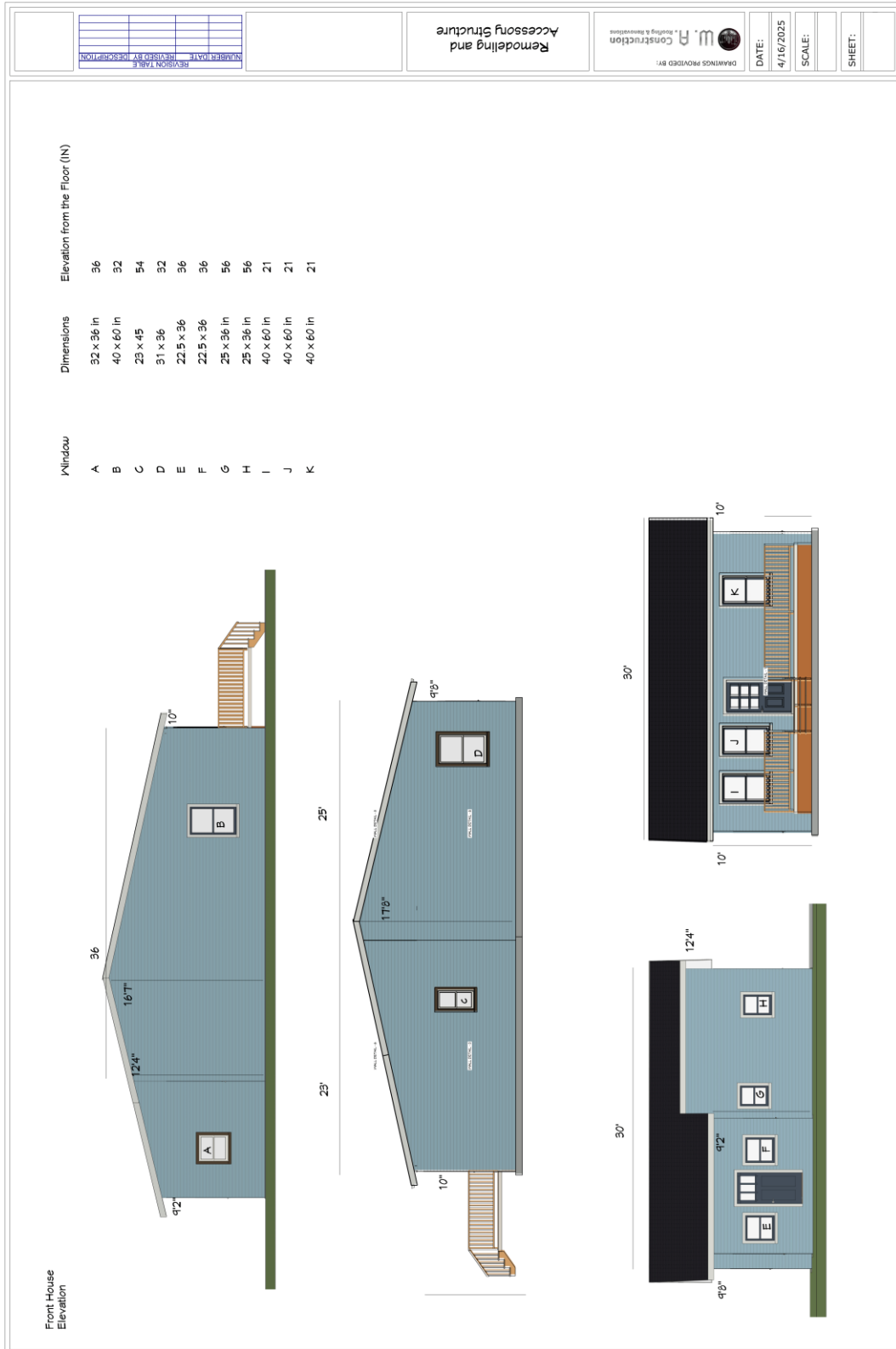


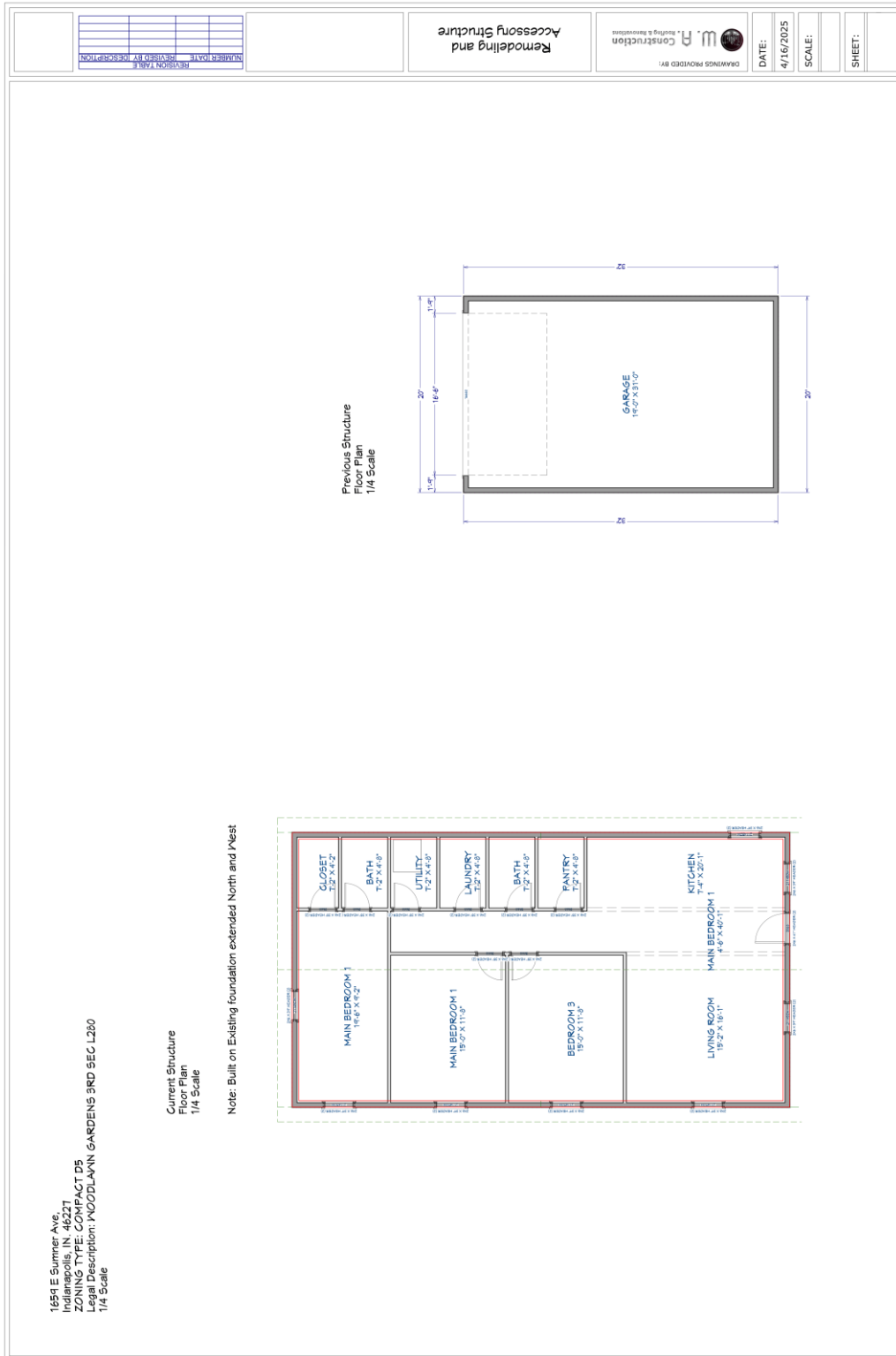


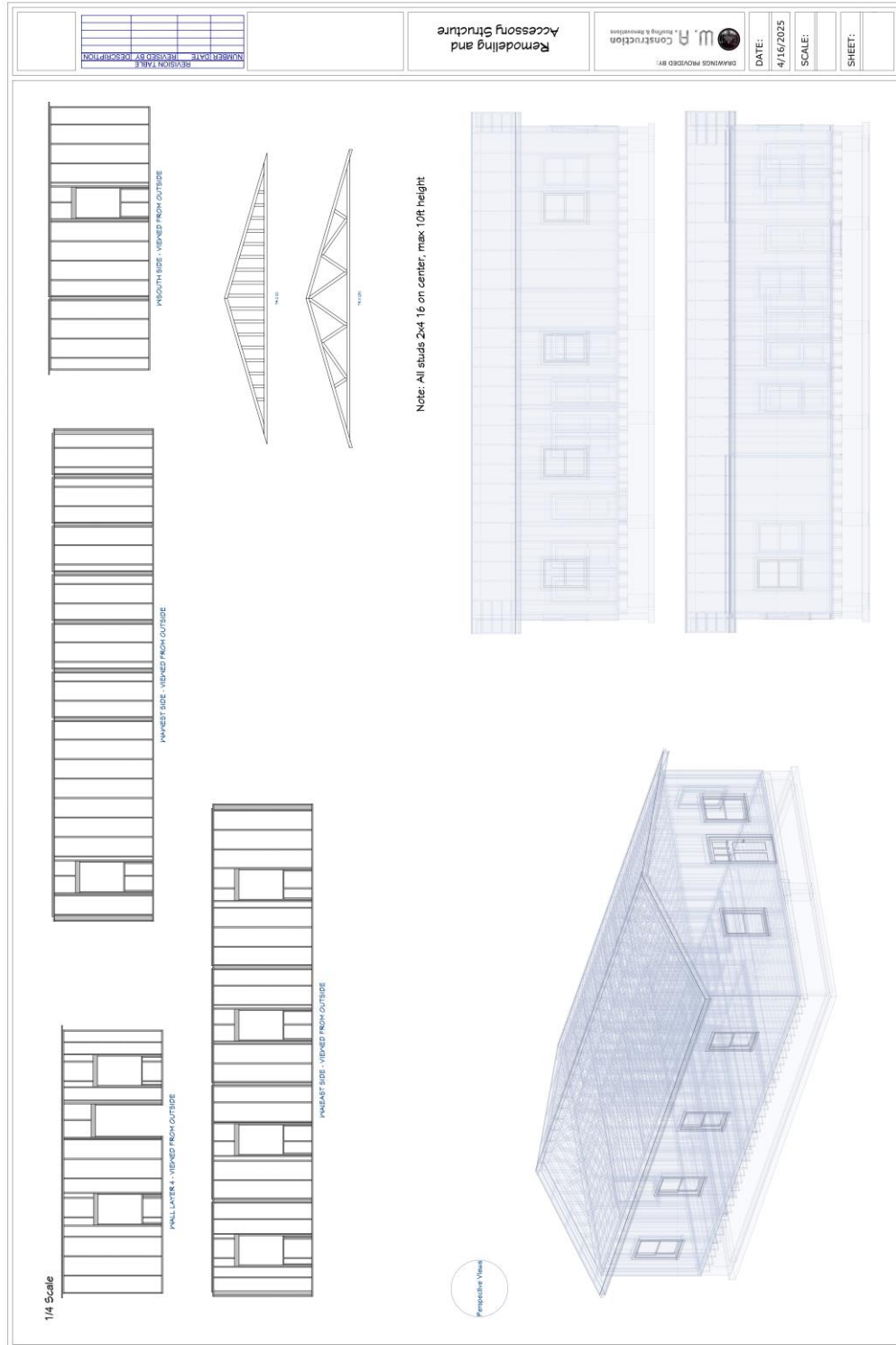
1654 E Summer Ave.
 Indianapolis, IN 46227
 ZONING TYPE: COMPACT D5
 Legal Description: WOODLAWN GARDENS 3RD SEC L280

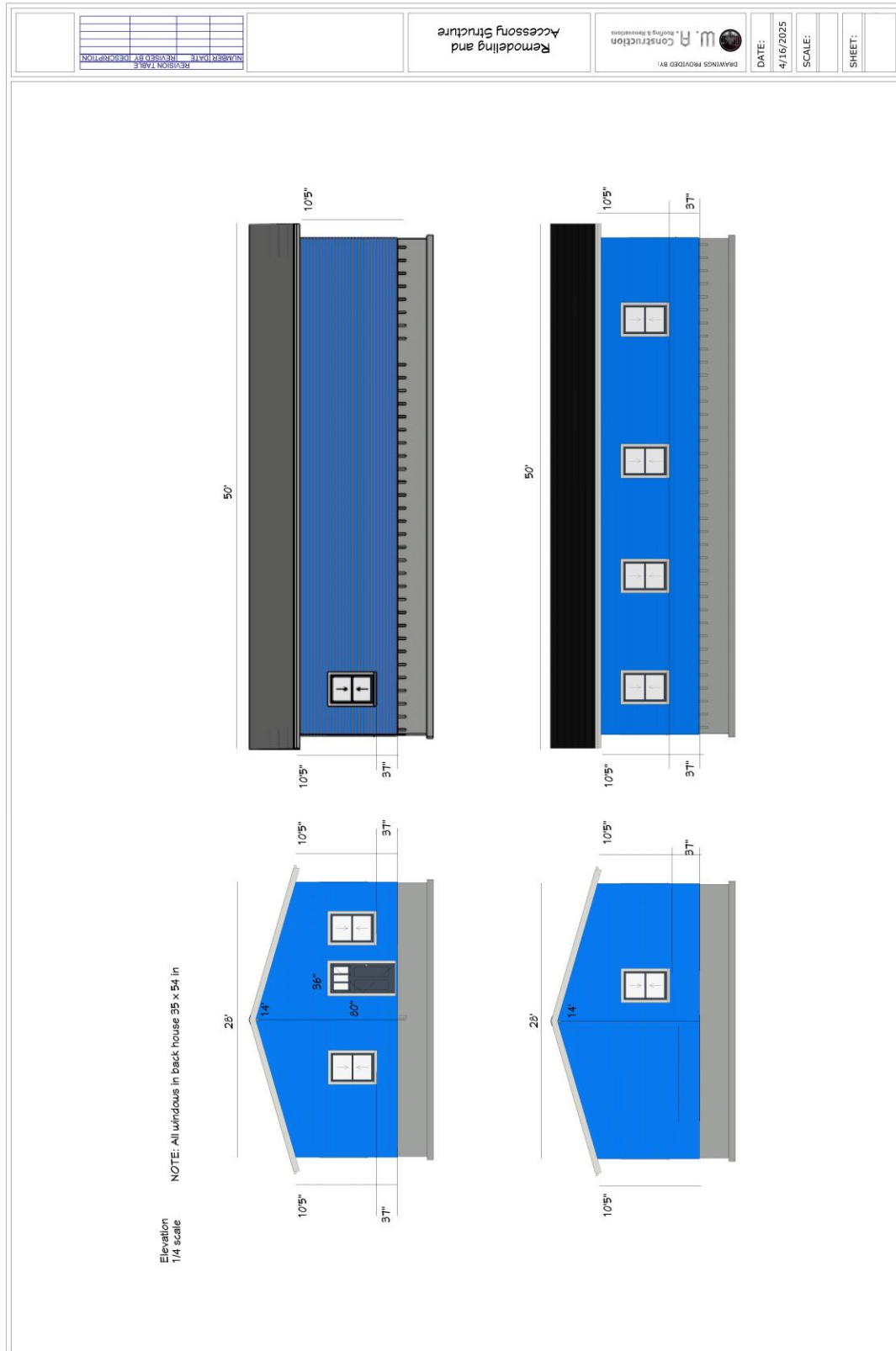














Department of Metropolitan Development
Division of Planning
Current Planning

Petition Number _____

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

PETITION FOR VARIANCE OF 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:

All building codes will be followed to ensure a safe, modern, and compliant structure that reflects the scale and character of nearby residential properties. The proposed porch is modest in size and complements the architectural design of the home. While the porch extends slightly beyond the standard setback requirement, this minor deviation does not compromise visibility, access, or the safety of the public or adjacent properties. The property is bordered by a city drainage easement and a public street, with no immediate neighboring lots impacted by construction activity or increased traffic. The closest neighboring homes are located approximately 70 feet to the east and west, 100 feet to the south, and 570 feet to the north—well beyond any threshold of concern. The construction will not obstruct views or disrupt the flow of the neighborhood. Proper drainage and utility installation will be implemented and inspected to ensure the project enhances the safety and function of the area. Additionally, this improvement is expected to increase the property's value and contribute positively to the surrounding neighborhood, which consists largely of older, less modernized structures. The project promotes responsible development while upholding the intent of the zoning ordinance and community standards.

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:

Adding a new, modern house on the back portion of the property and a new deck on the front is expected to increase the overall value of the property. It will also potentially elevate surrounding property values because an attractive, well-maintained new construction often contributes to neighborhood desirability. Additionally, because this second house will be situated away from other properties surrounded by the existing house in the front, a city easement, and the creek—there will be no negative impact on neighbors' enjoyment of their land (no new noise sources adjacent to their yards, no obstruction of views, etc.). The property is bordered by the street to the north, the city's drainage easement to the west, and a creek at the rear; there are no direct neighbors adjoining the build site. As a result, there is no traffic or pedestrian disruption, and emergency vehicles or city maintenance crews will still have the same level of access they currently enjoy. No road or neighbor's property touches any part of the structure, and as such no neighbor will be impacted by the structure. Rather, the improvement to the property will maintain or even boost the neighborhood's aesthetic and market appeal, which is a benefit to all property owners in the neighborhood.

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

The petitioner's situation is not typical. The petitioner owns two adjacent plots, yet one is almost entirely occupied by the city's storm drainage system. Despite paying full taxes on that parcel and bearing all maintenance costs—removing debris, landscaping, and ensuring no blockages—the parcel cannot be used for building or any meaningful purpose. Although the law permits splitting double parcels and constructing two separate structures with distinct addresses, the restrictions imposed by the city's drainage system prevent this. Granting this variance would allow the petitioner to recoup the normal value expected if both parcels were buildable. Approval aligns with the principles of fairness and does not compromise the intent of zoning ordinances, as legally, two parcels contain two properties. Public safety will not be harmed, nor will neighbors be negatively impacted, as they are able to split their double parcels in the absence of a storm sewer on their land.

DECISION

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

Adopted this _____ day of _____, 20 _____



Subject site with secondary structure in the rear



Primary residence



Subject site with accessory structure in rear



Accessory structure in rear