



Petition Number: 1507-VS-08

Subject Site Address: 2901 SR 38 E. (the "Property")

Petitioner: Marcus R. Masiarak (the "Petitioner")

Request: The petitioner is requesting a Variance of Standard from the Unified Development Ordinance (the "UDO") for the property commonly known as 2901 SR 38 E. Westfield, IN 46074. The request is for a reduction in the Side Yard Minimum Building Setback Line in the AG-SF1: Agriculture / Single-Family Rural District (Article 4.2(E)(2)).

Current Zoning: AG-SF1: Agriculture / Single-Family Rural District

Current Land Use: Residential

Approximate Acreage: 1.02 acres

Exhibits:

1. Staff Report
2. Location Map
3. Existing Conditions Exhibit
4. Site Plan Exhibit
5. Proposed Addition Exhibit
6. Statement of Intent

Staff Reviewer: Jeffrey M. Lauer, Associate Planner

Petition History

This petition will receive a public hearing at the July 14, 2015, Board of Zoning Appeals meeting.

Analysis

Location: The subject property is 1.02 acres +/- in size and located at 2901 SR 38 E. (see **Exhibit 2**). The Property is zoned the AG-SF1: Agriculture / Single-Family Rural District, which is subject to the side yard setback of the AG-SF1: Agriculture / Single-Family Rural District. The Property currently contains a single family home (see **Exhibit 3**). The surrounding properties include other single family homes.

Variance Request: The Petitioner is requesting this variance to allow the construction of a proposed home addition to the side of the home, as generally illustrated on the Site Plan Exhibit (see **Exhibit 4** and **Exhibit 5**) (also see **Exhibit 6**).

The standard for the Minimum Building Setback Line for the Side Yard is thirty (30) feet (Article 4.2(E)(2)). The home currently has a side yard setback of approximately 20 feet +/- . The Petitioner is requesting a side yard setback of fifteen (15) feet to accommodate the proposed thirty-two (32) foot wide by thirty-eight (38) foot deep home addition. The addition is proposed to be similar in quality and character to the home as depicted in the Proposed Addition Exhibit (see **Exhibit 5**).



Comprehensive Plan: The Westfield-Washington Township Comprehensive Plan identifies this Property within the “Business Park”¹ land use classification. Among other uses, the Comprehensive Plan² contemplates this area of the township to include: manufacturing, subordinate office, retail and services, research and development and warehousing uses.

The Comprehensive Plan notes the basic policy of this area is to accommodate manufacturing, research and development, processing activities, office and service uses that provide jobs and a tax base for the community. Other policies include: (i) reserve the Business Parks for employment-generating uses and related supporting services uses; (ii) locate industrial uses in those areas designated for Business Parks on the Land Use Concept map; (iii) promote development of the business parks as campus-like setting; (iv) locate industrial uses in areas that are removed from residential neighborhoods and other uses that would be detrimentally affected.

Procedural

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Development Standard. This petition is scheduled to receive its public hearing at the July 14, 2015, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals’ Rules of Procedure.

Conditions: The UDO³ and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

Acknowledgement of Variance: If the Board of Zoning Appeals approves this petition, then the UDO⁴ requires that the approval of the variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgement shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

¹ Westfield-Washington Township Comprehensive Plan, Land Use Concept Map (pg. 24).

² Westfield-Washington Township Comprehensive Plan, Suburban Residential (pg. 38).

³ Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.

⁴ Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



Variances of Development Standard: The Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the underlying zoning ordinance. A variance may be approved under Indiana Code § 36-7-4-918.5 only upon a determination in writing that:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
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; and
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.

Department Comments

If the Board is inclined to approve the variance, then the Department recommends the following findings:

Recommended Findings for Approval:

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

Finding: It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community because the AG-SF1 District permits the existing residential use and the proposed improvements will otherwise comply with or exceed the applicable standards of the AG-SF1 District.

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:*

Finding: It is unlikely the use and value of adjacent properties will be affected in a substantially adverse manner. The proposed variance should not have a negative impact on surrounding properties because: (i) the proposed improvement will enhance the value of the subject property; (ii) the side yards abut existing homes zoned in the AG-SF1 District; (iii) the parcel will otherwise comply with or exceed the applicable standards of the AG-SF1 District; and (iv) the approval of the variance will allow for the continued use and improvement of the Property in a manner substantially consistent with the quality and character of the surrounding area.

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

Finding: Strict adherence to the zoning ordinance would result in the inability to improve the Property, as proposed, in accordance with the Unified Development Ordinance. The use is permitted by the Unified Development Ordinance and the proposed improvements and parcel would otherwise be permitted and comply with the Unified Development Ordinance.