

A G E N D A
CITY OF FORT WAYNE HEARING OFFICER

The Zoning Hearing Officer will conduct a public hearing in Room #30, Garden Level, Citizens Square
200 East Berry Street, Fort Wayne, Indiana on Wednesday, December 10, 2014 at 8:30 a.m.

OLD BUSINESS

1. Case No.: SU-2013-0185
Applicant: John Dorsett
Location: 3110 Wayne Trace
Appeal: A request for a special use to allow a scooter sales business in a CM2 zoning district.
(One year status report)

NEW BUSINESS

1. Case No.: DSV-2014-0160
Applicant: 1227 & 1229 West Berry LLC
Location: 1227 West Berry Street
Appeal: An appeal for development standard variances to: 1.) reduce lot width from 50 feet to 25 feet; 2.) reduce house (west) side setback from 5 feet to 0 feet; 3.) reduce lot size from 6000 square feet to 3789 square feet; and 4.) reduce garage (west) side setback from 3 feet to 0 feet to allow division of a property in an R3 zoning district.

2. Case No.: DSV-2014-0161
Applicant: 1227 & 1229 West Berry LLC
Location: 1229 West Berry Street
Appeal: An appeal for development standard variances to: 1.) reduce lot width from 50 feet to 25 feet; 2.) reduce house (east) side setback from 5 feet to 0 feet; 3.) reduce lot size from 6000 square feet to 3746 square feet; and 4.) reduce garage (east) side setback from 3 feet to 0 feet to allow division of a property in an R3 zoning district.

**City of Fort Wayne Board of Zoning Appeals
Staff Report
One Year Status Report**

Case Number: SU-2013-0185

December 18, 2014

Request: A request for a special use to allow a scooter sales business in a CM2 zoning district.

Location: 3110 Wayne Trace



Applicant: John Dorsett

Property Owner: John Dorsett

Legal Description: See File

Size of Property: Approx. 0.8 acres

Applicable Ordinance Section:

- §157.217 (C,2)

Township and Section:

- Adams 18

Notified:

- 10 Property Owners Notified
- Greater McMillan Park

Adjacent Zoning & Land Uses:

- North – CM2/Vacant Lot
- South – CM2/Right of Way
- East – IN2/Industrial
- West – R1/Residential

BZA History:

Case Number 19-2009. A request for a special use to allow vehicle sales in a CM2 zoning district. Denied.

December 2013 Staff Discussion:

The applicant, John Dorsett, is requesting a special use for a scooter sales business located at 3110 Wayne Trace. The property is zoned CM2-Limited Retail and Commercial and a scooter sales business is only available by obtaining a special use through the Board in this zoning classification. The applicant has requested and been denied this use before but it has been several years ago and the applicant is addressing most of the concerns expressed at that time.

Most of the site is paved and includes an old service station awning and sign cabinets. The applicant, Mr. Dorsett, would like to construct a new 1944 square foot building with exterior lighting on all 4 sides as well as two wall signs on the east and north building facades. Mr. Dorsett stated in his application that he plans on employing 4 employees. A new building is proposed that is partially to be located within an existing right-of-way. The applicant is currently going before the Plan Commission and City council to vacate 25 feet of that right-of-way known as Ormsby Street. Staff would like to see that the old sign cabinet is either used or removed.



The proposed hours of operation are Monday through Saturday from 10:00 a.m. to 6:00 p.m. A vehicle (scooter) sales business needs a Special Use approval from the Board of Zoning Appeals because of the current CM2 zoning. To be a permitted use without BZA approval, the property would need to be rezoned to CM3 – General Commercial.

The public convenience and welfare will be served through the renewed use of the property for commercial enterprise. With appropriate conditions, approval of a special use will not be unduly detrimental to the surrounding area as the north and south are zoned commercial and the east of the property is zoned industrial. The character of the use will be compatible with the nearby commercial uses as there are similar developments to the north and south. Vehicular traffic to and from the property will not create undue hazards to normal traffic near the request as traffic volume and test-drives should be minimal in comparison to the former gas station use. The proposed use does not conflict with the Comprehensive Plan since approval would provide reinvestment in the property and not establish an undesirable precedent for the area. The applicant has contacted the Greater McMillan Park Association and two out of the three Board members signed the approval of this request.

Staff is recommending conditional approval of the request with conditions typical of such approvals. The applicant is the owner and occupant of the properties to the west and does want to maintain a clear line of sight for security reasons. Staff does note that improvements are planned for Wayne Trace in this immediate area and that the property is within the target area of the Southeast Strategy. Staff is unaware of any objections to the proposal as of the writing of the staff report.

December 2013 Board Action:

The Board found that the proposal met the legal tests for approval and approved the request with the following conditions:

- The Property Owner/Applicant shall execute and record a written commitment concerning the use and development of the real estate. The terms and conditions of the written commitment shall include the following conditions of approval in conformance with Board's Rules of Procedure. The approval shall not be effective unless and until the property owners of the real estate have recorded, executed and delivered the recorded written commitment to the Zoning Administrator within 30 days of the decision.
1. **Staff shall present a status report to the Hearing Officer in one year. The applicant/property owner shall be present to answer any questions raised by the Hearing Officer or Staff. At that time, the Hearing Officer may set a new public hearing to amend conditions as may be appropriate at that time or to revoke approval if the applicant/property owner is not in operation or not in substantial conformance with approved conditions.**
 2. Permits and approval from all applicable federal, state, and local agencies shall be required
 3. No vehicles shall be stored or displayed within 5 feet of property lines or on any unpaved surface. Any expansion of the parking and display areas shall be paved and meet the applicable permitting and development regulations.
 4. Approval is granted to the applicant only.
 5. Approval is limited to a scooter sales business and scooter repair services including small motorcycles, mopeds, and similar vehicles. All services shall be conducted within the building.
 6. This approval does not include motorcycles over 300 cc, automobiles, trucks, trailers, and other types of vehicles.
 7. The site shall be kept free of any and all refuse, debris, and junk at all times
 8. The hours of operation shall be limited to 10 a.m. to 6 p.m. Monday through Saturday.
 9. The number of employees on-site shall be limited to six.
 10. Waste material shall be disposed of in a manner conforming to local, state and federal regulations.
 11. Outdoor speakers, ringers, and public address systems are prohibited.
 12. Exterior lighting shall be limited to building mounted lighting downward directed, directed away from the residential properties directly to the west and shall not extend into the public right-of-ways.
 13. Wrecked, inoperable, and junk vehicles, used parts, and tires may not be stored on the property.
 14. The applicant shall obtain sign permits for all new signs. All signage must comply with the Sign Ordinance. No banners, pennants, streamers, temporary signs or portable signs may be placed on the property unless otherwise permitted by the Zoning Ordinance. The existing sign cabinets on the canopy structure shall be removed.
 15. **Approval shall be terminated and of no further affect in the event the use of the property for scooter sales is not established within 12 months or discontinued for a period of 24 months. Upon such termination, no reestablishment of the use in any form shall occur without favorable action (including new findings of fact/law and conditions of approval) by Board/ZHO or any successor agency.**
 16. The Board of Zoning Appeals hereby grants the Fort Wayne Zoning Enforcement Officer or her/his designated staff authority upon written request to consider an extension of any Board approved condition, for a period not to exceed six months.

December 2013 Staff Update:

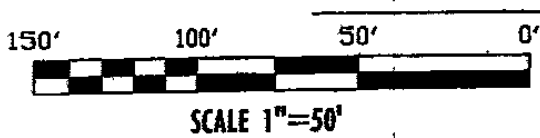
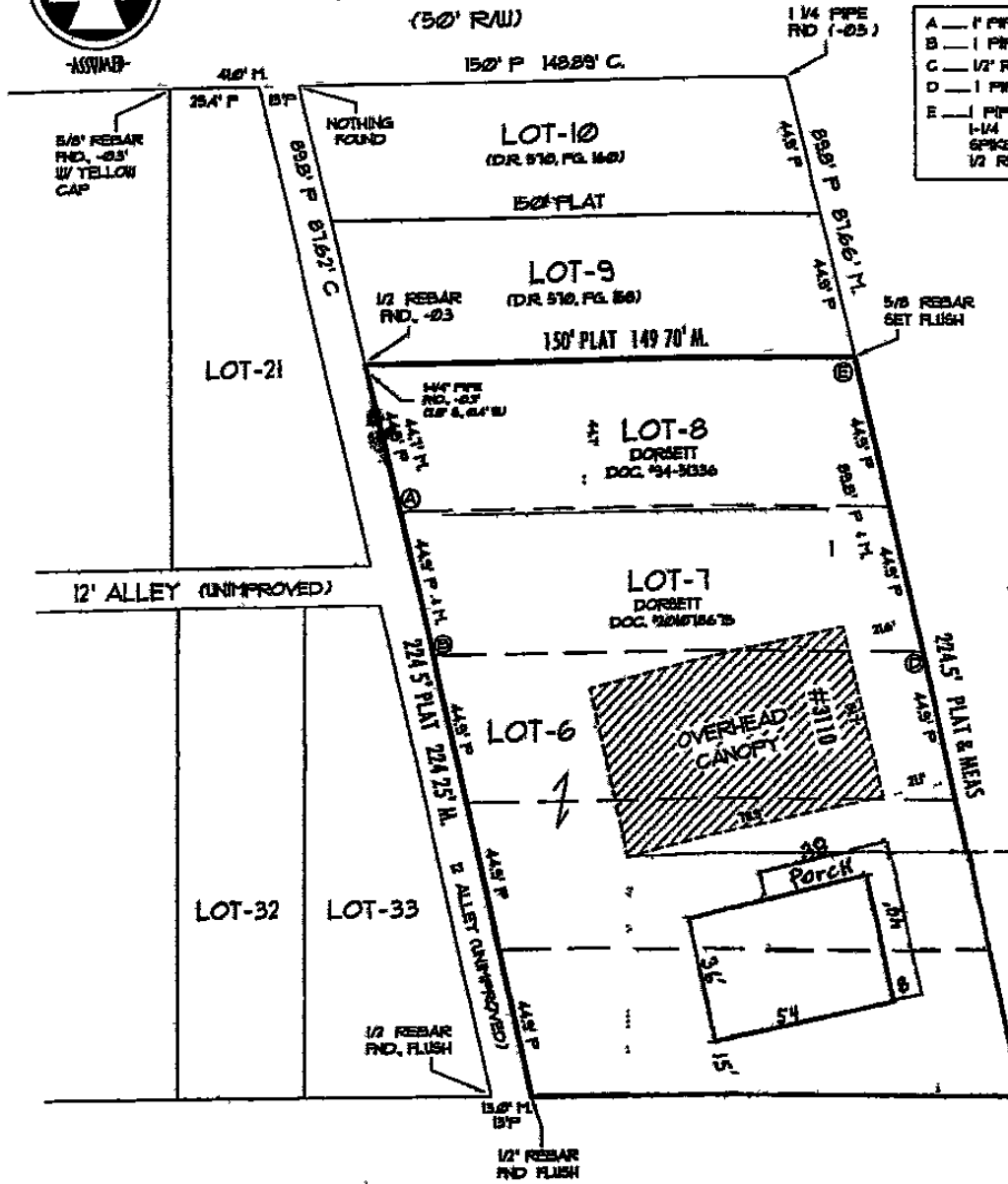
The applicant completed and recorded the written commitment and it is part of the file. The applicant has not however begun operations of the site. Though well-tended, the site remains much as it has for the last several years. No permits have been requested or issued for the site and no State vehicles sales license form has been submitted to or signed by DPS.



EVANS STREET
(50' RAW)

MONUMENTS

- A — 1" PIPE RND -01'
- B — 1" PIPE RND -01'
- C — 1/2" REBAR RND, #02' (02' N, 01' W)
- D — 1" PIPE RND FLUSH
- E — 1" PIPE RND -04' (22 S, 03 E)
- 1-1/4" PIPE RND, -04' (22 S)
- SPIKE NAIL RND FLUSH (01' S, 03 W)
- 1/2" REBAR RND -04' (17 N, 01 W)



Plan B

City of Fort Wayne Zoning Hearing Officer Staff Report

Case Number: DSV-2014-0160 & DSV-2014-0161

December 10, 2014

Request: Appeals for development standard variances to:

- **DSV-2014-0160 (West)**

- 1) reduce lot width from 50 feet to 25 feet;
- 2) reduce house (west) side setback from 5 feet to 0 feet;
- 3) reduce lot size from 6000 square feet to 3789 square feet; and
- 4) reduce garage (west) side setback from 3 feet to 0 feet to allow division of a property in an R3 zoning district for 1227 West Berry Street.

DSV-2014-0161 (East)

- 1) reduce lot width from 50 feet to 25 feet;
- 2) reduce house (east) side setback from 5 feet to 0 feet;
- 3) reduce lot size from 6000 square feet to 3746 square feet; and
- 4) reduce garage (east) side setback from 3 feet to 0 feet to allow division of a property in an R3 zoning district for 1229 West Berry Street.

Location: 1227 & 1229 West Berry Street



Applicant/Owner: 1227 & 1229 West Berry Street LLC

Legal Description: Lot 218 John M. Miller's Add.

Size of Property: 50 feet by 150 feet

Applicable Ordinance Section(s):

- §157.208 (E,1)

Township & Section:

- Wayne 3

Neighborhood Association(s) notified:

- 14 Surrounding Property Owners
- West Central

Zoning & Adjacent Land Uses:

- North – R3/Residential
- South – R3/Residential
- East – R3/Residential
- West – R3/Residential

B.Z.A. History:

None prior to this request.

Staff Discussion:

The applicant is the current owner of a residence on a single lot on the south side of West Berry Street in the West Central neighborhood. The applicant would like to split the lot into two to allow individual ownership of the residential structure and detached garage on their own lots. Multiple variances are needed to accomplish this split.

The property consists of a 50 foot by 150 foot platted lot with a duplex or double house and a detached garage. The split is proposed to run through the center of the house and straight through the garage also. The proposed split will create the following deficiencies for each proposed property:

- Minimum lot size;
- Minimum lot width;
- Interior side yard minimum setback for the residential structure
- Interior side yard minimum setback for the accessory structure

Under the proposed plan the new property line placement will result in the creation of two new lots. The west lot will be is lot will be 3789 square feet and the east 3746 square feet. Both are well under the current 6000 square foot minimum lot sizes, but not unusually small for the neighborhood. The lot widths are similarly reduced. The original lot width is 50.9 feet (measured) and it would be split into one 25.9 foot lot on the west and one 25.0 foot lot on the east. As the property line is proposed to run through the buildings, the side setbacks to the new property line are requested to be zero feet for both the residences and the detached garage. The usual side setback requirement is 5 feet for the residences and 3 feet each for the accessory structures.

The lot is within the historic West Central residential neighborhood. The building was constructed about 1910 as a two family structure. The property is in both the local and National Register historic districts and while the property division does not require approval by the Historic Preservation Commission, major exterior changes would. According to tax records, the finished square footage of the existing structure is 4400 square feet, not counting attic and basement spaces, and the proposed property line would run through the center of the building. The garage is 20 feet deep by 24 feet wide. It would be divided into almost evenly.

Notes if Approved:

Should the Zoning Hearing Officer find that the proposal meets the legal tests for approval; staff would note that property separation would be subject to the following requirements:

- An Administrative Lot Split through the Department of Planning Services is required to separate the new properties.

Notes:

ANDERSON SURVEYING, INC.

Registered Professional Engineers and Land Surveyors
 Indiana Land Surveying Firm Identification Number: 29A

1324 Henry Avenue
 Fort Wayne, IN 46808
 Phone: (260) 483-1724
 Fax: (260) 482-6855
 Toll Free: (888) 483-1724

1947 E. Schug Road
 Columbia City, IN 46725
 Phone: (260) 691-3425
 Fax: (260) 482-6855

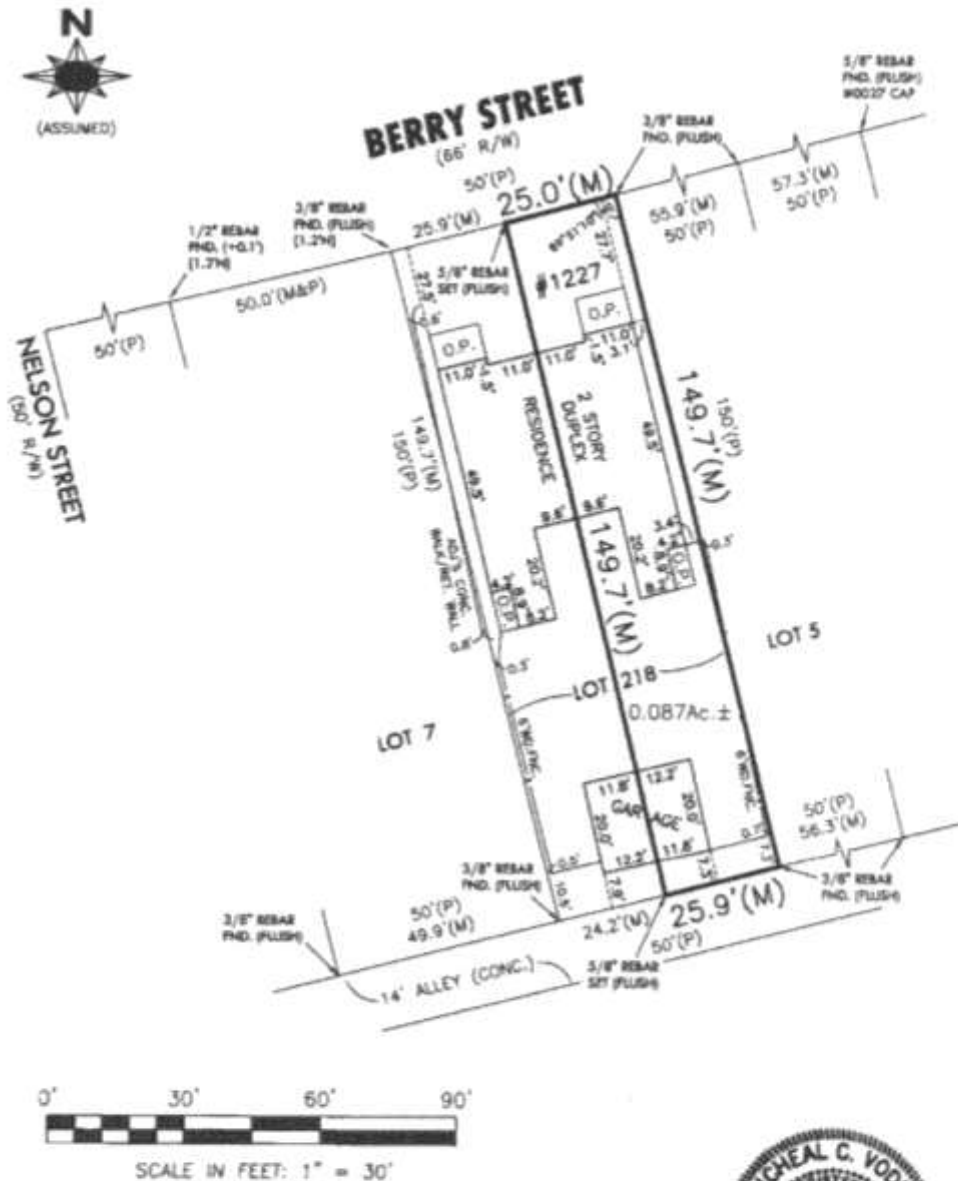


WWW.ANDERSONSURVEYING.COM

(OCTOBER 2014 / 14-10-141-1)

PLAT OF SURVEY (Page 1 of 2)

This document is an original survey of a parcel of land located in Allen County, Indiana.
SEE PAGE 2 OF 2 FOR THE SURVEYOR'S REPORT AND LEGAL DESCRIPTION.



I hereby certify that the above Plat of Survey was prepared under my direct supervision and that to the best of my knowledge and belief was executed in accordance with the requirements of the Indiana Survey Standards as defined in Title 865, Article 1, Rule 12 of the Indiana Administrative Code.

Fieldwork completed on the 30th day of OCTOBER, 2014.

Certified this 31st day of OCTOBER, 2014.

Prepared for: 1227 & 1229 WEST BERRY, LLC

Survey Number: 14 - 10 - 141 - 1



Michael C. Vodde
 Michael C. Vodde, In. L.S. #20100011