



# BOARD OF ZONING APPEALS STAFF REPORT

**To:** Members of the Board of Zoning Appeals

**From:** Sergio Mendoza, Planning Director

**Meeting Date:** October 10, 2023

**Agenda Item:** BZA Docket No. 23-003

**Application Type:** **Developmental Standards**

**Variance Hearing:** **PUBLIC HEARING**

**Summary:** BZA 23-003 Saundarya and Srikanth Ravindran are requesting approval of a variance from TABLE 26-6.405.A-2 to permit the construction of a detached garage which will increase the permitted three garage max spaces to a total of five car garage spaces at 1621 Day Lily Lane.

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**Applicant:** Saundarya and Srikanth Ravindran

**Property Address:** 1621 Day Lily Lane

**Current Zoning:** CD-3.R1 Neighborhood – 70' Lot One Family Residence District

**Adjacent Zoning:** North: CD-3.R1 (Neighborhood- 70' Lot SFR Character District)  
South: CD-3.R1 (Neighborhood- 70' Lot SFR Character District)  
East: CD-3.R1 (Neighborhood- 70' Lot SFR Character District)  
West: CD-3.R1 (Neighborhood- 70' Lot SFR Character District)

**Action Requested:** Continuance of the Public Hearing, per the applicant via email, so legal representation may be present.

**Additional Actions Required:** Findings of Fact

**Staff Recommendation:** **Continue Petition and Public Hearing to the November 14<sup>th</sup> BZA Meeting**

**Attachments:**

1. Photo from Google street view
2. Completed variance application with supporting documentation
3. Steel Building Specifications
4. Plat of survey dated April 14, 2023
5. Covenants submitted by petitioner



Figure 1 Subject property.

## BACKGROUND

Saundarya and Srikanth Ravindran have submitted an application for a variance from TABLE 26-6.405.A-3 of the Munster Zoning Code to allow the construction of a garage which will increase the total number of garage car spaces from three to five at their residence at 1621 Day Lily Lane.

The subject property currently has a 3-car side-load attached garage accessed via a driveway at the front of the property. The applicant proposes to construct an additional 2-car front-load detached garage. An attached plat of survey includes a sketch that shows the location of the proposed garage addition. Attached plans show the design of the garage.

## PROJECT HISTORY

This project commenced in August 2021 when the Town issued a permit for the construction of a carport on the subject property. The concrete pad was then poured and inspected. As construction of the structure was beginning, the Town's Chief Building Inspector determined that the structure was not a carport, but in fact a garage, per the definition of garage in the Town's Zoning Code. After an in-person meeting between the applicants and Town staff failed to find a resolution that was code compliant and acceptable to the applicants, in March 2022 the applicant initiated a lawsuit against the Town and its staff alleging the following:

1. Promissory Estoppel
2. Negligence
3. Unjust Enrichment
4. Misrepresentation
5. Deception
6. Intentional Infliction of Emotional Distress
7. Negligent Infliction of Emotional Distress
8. Violation of Munster Municipal Code and Munster Character-Based Code
9. Specific Performance

A mediation conference was held in October 24, 2022 and the parties agreed to the following:

10. The Ravindrans agreed to dismiss, without prejudice, the complaint against the Town and its employees.
11. The Ravindrans would file one or more petitions with the BZA, appealing the stop-work order by the Town and/or requesting for a variance for the structure they wish to build. The Town agreed that they will not object on the basis of timeliness to the petition(s) filed by the Ravindrans to the BZA.

The applicant has now filed an application for a developmental standards variance, described in this memo, and an application for an appeal of an administrative decision, which they asked to be placed on hold until a decision is made regarding the variance. The BZA heard the petition on May 9, 2023. The BZA requested the petitioner provide the HOA covenants and a photograph of the constructed garage. This information has been submitted by the petitioner and has been included in this staff report.

## DISCUSSION

The applicant is proposing a total of 5-car garage spaces on the subject property with a house that is 4,747 square feet. The Munster zoning code permits no more than a 3-car garage for a house that is less than 5,000 square feet.

### **TABLE 26-6.405.A-2 VEHICULAR PARKING REQUIREMENTS, GARAGE SIZE (MZC pg. 55)**

*"For a residence with 5,000 sf. or more of living space excluding Basements: 4 car Garage max.  
For a residence with less than 5,000 sf. of living space excluding Basements: 3 car Garage max.  
Garages may be attached, detached, or a combination of both, however, the total capacity of said private Garage(s) shall be no more than the number of vehicles indicated above."*



*Figure 2 Aerial photo of subject property, with existing concrete pad shown.*

Table 26-6.405.A-2 of the Munster Zoning Code limits the combined area of all Accessory Structures to the lesser of 30% of the rear yard or 900 square feet. The proposed garage is 650 square feet and would comply with the Lot Coverage standard.

#### **VARIANCE STANDARDS**

The variance process is established to provide relief to a property owner when, due to unique

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circumstances, compliance with the zoning code imposes a hardship or practical difficulty on a property owner. The BZA is under no obligation to grant a variance. It is the petitioner's responsibility to prove a hardship or practical difficulty. The BZA should ask the petition to address the criteria listed below.

Sec. 26-6.804.I of the Munster Zoning Code states that the basis for a variance is as follows:

g. General Standards.

A Variance may be granted only if the Decision-Making Authority has made the following determinations for such Variance:

- i. the practical difficulties or unnecessary hardships that would be incurred by strict application of the Use or Development standard, as applicable, are unique and not shared by all properties in the vicinity and are not self-imposed;
- ii. such Variance is the minimum Variance that will relieve such practical difficulties or unnecessary hardships, as applicable;
- iii. such Variance is in the spirit of the general purposes and intent of this Article as stated in Division 1; and
- iv. such Variance is so designed as to provide reasonable consideration to, among other things, the character of the neighborhood, District, or Civic Zone, the conservation of property values in the vicinity, and the guidance of Development in accordance with the Comprehensive Plan.

h. Specific to Development standards Variances:

A Variance from Development Standards may be approved or approved with conditions only if:

- i. it will not be injurious to the public health, safety, morals, and general welfare of the community;
- ii. 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
- iii. the strict application of the Development standards will result in practical difficulties in the use of the property.

**The applicant has addressed the criteria for a development standards variance on pages 9a and 9b in the attached application. Staff notes that the applicant also has provided responses to the criteria for a conditional use permit and a use variance. While these may provide more information for the BZA's review, they are not to be used as the basis for approval or denial of the Developmental Standards Variance request.**

## STAFF FINDINGS and RECOMMENDATION

On September 18, 2023, staff received an email from Ms. Saundarya Ravindran inquiring about changing the BZA's motion of an October 10, 2023 public hearing to a November public hearing. Ms. Ravindran indicated that their attorney would not be able to attend the October public hearing and it is important for them to have legal representation at their public hearing. Staff responded to Ms. Ravindran on the same day and advised that it would be best to adhere to the BZA's motion and requirement for an

October 10, 2023 public hearing and at that meeting request a continuance of the public hearing from the BZA to the November 14<sup>th</sup>, 2023 meeting. Staff supports and recommends some form of a public hearing continuance to meet Ms. Ravindran's request to have their attorney attend the public hearing.

## **MOTION**

The Board of Zoning Appeals may wish to consider one of the following motions(s):

1. *Motion to continue the public hearing for BZA23-003 to November 14th, 2023.*

or

2. *Motion to open the public hearing for BZA23-003 to hear public comments and leave the public hearing open for additional public comments on November 14th, 2023.*