

**BOARD OF ZONING APPEALS DIVISION II**

**March 12, 2024**

**Case Number:** 2024-DV2-008

**Property Address:** 5669, 5673 and 5677 Broadway Street (approximate address)

**Location:** Washington Township, Council District #17

**Petitioner:** Matt & Lauren Gillot, Maureen Borto and Timothy Smith, by Maureen Borto

**Current Zoning:** D-3 (TOD)

**Request:** Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of an eight-foot tall fence within the side and rear yards (maximum height of six-feet permitted).

**Current Land Use:** Residential

**Staff Recommendations:** Staff recommends denial of this petition

**Staff Reviewer:** Noah Stern, Associate Planner

**PETITION HISTORY**

- This is the first public hearing for this petition.

**STAFF RECOMMENDATION**

- Staff recommends denial of this petition

**PETITION OVERVIEW**

- This petition would provide for the location of an eight-foot tall fence within the side and rear yards (maximum height of six-feet permitted) on the properties of 5669, 5673, and 5677 Broadway Street.
- Fence height standards are in place to allow for a reasonable amount of privacy while maintaining visibility and open space. Additionally, they help preserve and uphold aesthetics of the neighborhood and surrounding context. The subject sites related to this petition contain eight-foot tall privacy fences in the side and rear yards, representing a significant deviation from what is permitted. With fences 8 feet in height being more characteristic of commercial or industrial properties, Staff sees this as over-development, and a considerable departure from typical aesthetics of the neighborhood and residential uses in general.
- Further, Staff believes the development to be unnecessary being that a six-foot wooden fence, as permitted by the Ordinance, is sufficient in creating the privacy and buffer desired. Lastly, Staff does not find there to be any practical difficulty associated with the subject sites themselves that justifies

the requested variance from the permitted standard. For these reasons, Staff is opposed to and does recommend denial of the request.

**GENERAL INFORMATION**

<b>Existing Zoning</b>	D-3 (TOD)	
<b>Existing Land Use</b>	Residential	
<b>Comprehensive Plan</b>	Traditional Neighborhood	
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Surrounding Context</b>
North:	D-3	North: Single-family residential
South:	D-3	South: single-family residential
East:	D-3	East: Two-family residential
West:	D-3	West: Single-family residential
<b>Thoroughfare Plan</b>		
Broadway Street	Local Street	60 feet existing right-of-way and 48 feet proposed
<b>Context Area</b>	Compact	
<b>Floodway / Floodway Fringe</b>	No	
<b>Overlay</b>	Yes	
<b>Wellfield Protection Area</b>	No	
<b>Site Plan</b>	1/30/24	
<b>Site Plan (Amended)</b>	N/A	
<b>Elevations</b>	N/A	
<b>Elevations (Amended)</b>	N/A	
<b>Landscape Plan</b>	N/A	
<b>Findings of Fact</b>	2/22/24	
<b>Findings of Fact (Amended)</b>	N/A	

**COMPREHENSIVE PLAN ANALYSIS**

**Comprehensive Plan**

- Marion County Land Use Plan Pattern Book

**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**

- The subject site lies within ½ mile from the College Avenue and Kessler Boulevard transit station.

#### 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

#### ZONING HISTORY – SITE

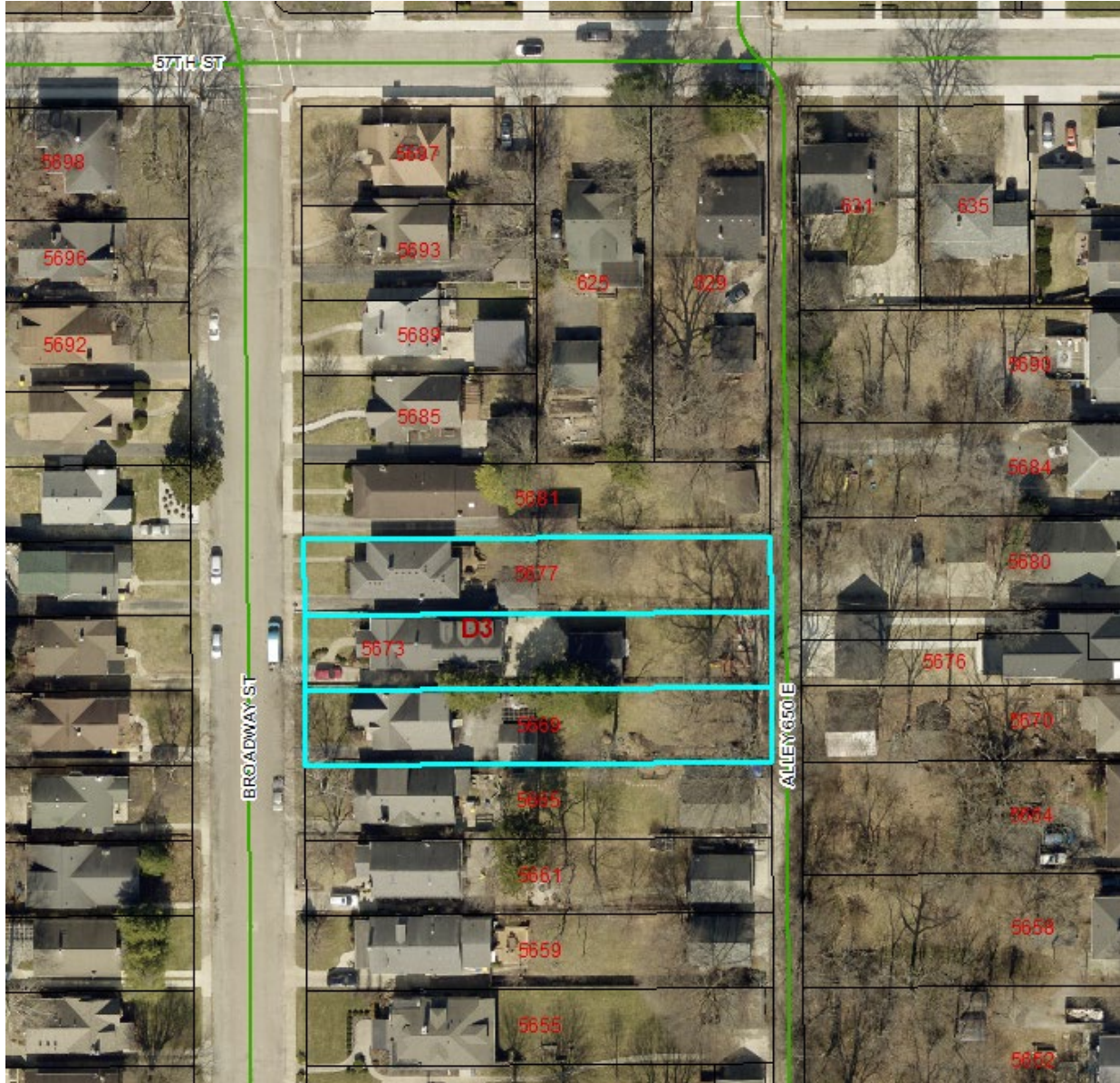
N/A

#### ZONING HISTORY – VICINITY

**2022UV1044; 5702 N College Avenue (north of site)**, Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for an accounting firm (not permitted), **withdrawn**.

**90-V2-129; 5681 N Broadway Street (north of site)**, variance of development standards of the Dwelling District Zoning Ordinance to permit the construction of an addition to the existing house with a 2 foot side yard setback (6 feet setback required) and detached garage with a 2.5 foot setback (6 feet setback required), and with an aggregate setback of 4.5 feet (16 feet aggregate setback required), **approved**.

EXHIBITS





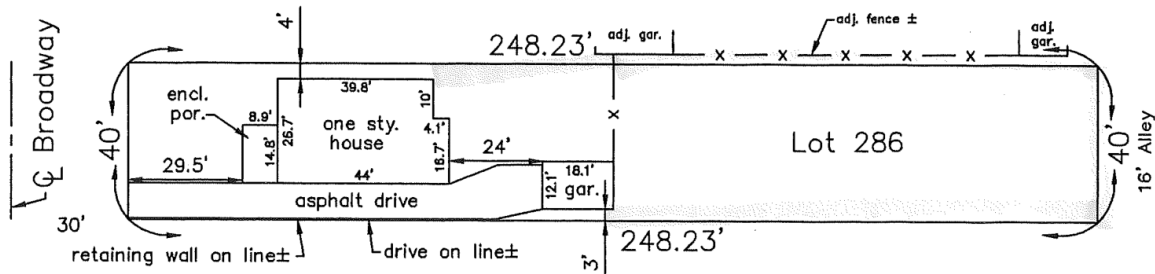
### SURVEYOR LOCATION REPORT

I hereby certify to the parties named above that the real estate described herein was inspected under my supervision on the date indicated and that to the best of my knowledge, this report conforms with the requirements contained in Sections 27 through 29 of 865 IAC 1-1-12 for a SURVEYOR LOCATION REPORT.

Note: Fence extends to adj. garage, 3'± past lot line.



Scale: 1" = 40'



*8 ft. fence*



**HAHN & ASSOCIATES, INC.**  
 Engineers & Surveyors  
 2850 E. 96th St., Indianapolis, IN 46240  
 (317) 846-4119 FAX: (317) 582-0662



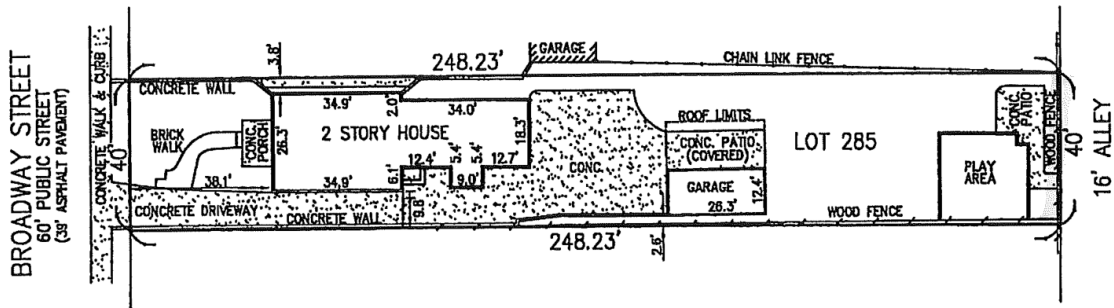
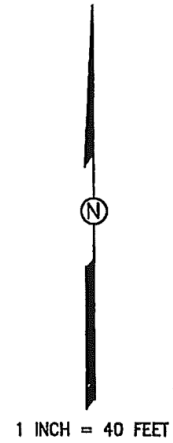
CERTIFIED: 04/30/2004

*Chad D. Hahn*

Chad D. Hahn  
 Registered Land Surveyor,  
 Indiana #20300031  
 Job No.: 2004041584  
 Sheet 2 of 2

### SURVEYOR LOCATION REPORT

I hereby certify to the parties named above that the real estate described herein was inspected under my supervision on the date indicated and that, to the best of my knowledge and belief, this report conforms with the requirements contained in Sections 27 through 29 of 865 IAC 1-12 for a SURVEYOR LOCATION REPORT.



*8 ft wood fence*

**P&H**  
 ENGINEERING/SURVEYING LLC

5251 S. East St., Suite 1  
 INDIANAPOLIS, IN 46227  
 PHONE: 317-974-5555  
 dbholley@phengsur.com

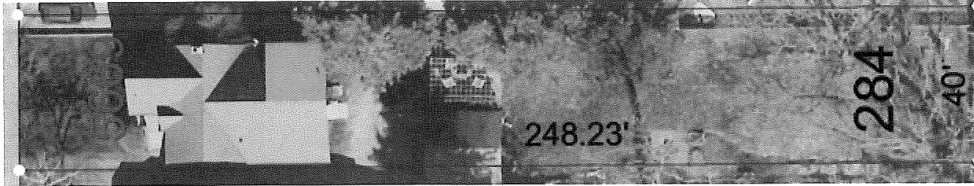


CERTIFIED: 5/24/2021

*David B. Holley*  
 David B. Holley  
 Professional Surveyor,  
 Indiana #890026

Job No.: 21041012  
 Sheet 2 of 2

5669 Site Plan



8 ft. wood privacy fence



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:

The extra two feet of fence is made of wood and would not be injurious to any person, nor does it involve morals, nor impact general welfare.
Anyone living in and around the properties are not impacted.

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 extra two feet of fence follows the property lines, site plans and plats of the petitioners. It does not infringe on any other properties, site plans or plats or the alley used for transportation.
The adjacent areas are able to function as they are zoned to function.

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

The back lot lines of the properties face an alley that is used for transportation. On the other side of the alley are rental homes that face College Avenue, a major car and bus thoroughfare in the city of Indianapolis.
With rental homes, there are constantly changing residents of the properties, which can potentially be a safety concern. One home was being used as an air b and b, which provided noise and light pollution to the petitioners.
Being so close to College Avenue allows for a larger amount of noise and light pollution. In the evenings in the summer, College Avenue is used like a race track for motorcycles and other loud engine machines.
This noise is heard clearly from petitioners' homes.
The petitioners would be subject to light and noise pollution on a daily basis from the rental homes as well as College Avenue.
The safety of the petitioners would be at risk because the alley is used for transportation and there is easy access to College Avenue.

DECISION

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

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_













