

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV2-027
Address: 4110 North Illinois Street (approximate address)
Location: Washington Township, Council District #7
Zoning: D-5 (MSPC)
Petitioner: Rebecca Trenner, by Michael Brannan
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the erection of an eight-foot wooden privacy fence within the side and rear yards (maximum six-foot tall fence permitted).

ADDENDUM FOR DECEMBER 12, 2023

Due to an indecisive vote, this petition was continued from the November 21, 2023, hearing, to the December 12, 2023 hearing.

The petitioner has since **submitted a request to withdraw** this petition. The withdrawal will need to be acknowledged by the Board.

November 21, 2023

RECOMMENDATIONS

Staff **recommends denial** of the request.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

D-5	Single-family dwelling
-----	------------------------

SURROUNDING ZONING AND LAND USE

North -	D-5	Single-family dwelling
South -	D5	Single-family dwelling
East -	D-5	Single-family dwelling
West -	D-5	Single-family dwelling

COMPREHENSIVE PLAN	The Comprehensive Plan recommends traditional neighborhood uses for the site.
--------------------	---

(Continued)

STAFF REPORT 2023-DV2-027 (Continued)

- ◇ The Meridian Street Preservation Commission (MSPC) has jurisdiction over the subject site to grant prior approval of a variance before such a variance petition may be filed with the Department of Metropolitan Development. At their August 15, 2023, hearing, the MSPC granted prior approval of a variance for petition #V-MSPC 23-09 regarding the subject site.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The Consolidated Zoning and Subdivision Ordinance requires that fences not exceed six feet in height to the rear of the primary dwelling and intentionally limits the heights of fences across a given zoning classification to ensure that lots maintain residential qualities and characteristics by promoting orderly development, reducing crime opportunities, and enhancing public safety
- ◇ Staff finds that the requested variance, if granted, would establish a pattern running counter to orderly development. A six-foot tall fence is common as a privacy fence for residential properties. Fences taller than six feet are associated with commercial or industrial uses and create a compound aesthetic within residential neighborhoods.
- ◇ The rear yard of the subject site abuts the end of a dead-end alley. Installing a taller fence around all or part of this alley could make it more difficult to see, hear, or access the alley—potentially creating a more attractive area for people who don't want to be seen. Generally, Staff is also concerned that taller rear yard fences on residential property may decrease safety by slowing public safety response times for identifying and accessing emergency situations.
- ◇ The petitioner has indicated in the findings of fact that the proximity of adjacent properties would diminish privacy and perception of security without the additional requested fence height.
- ◇ The requested privacy and perception of security can be achieved with appropriate plantings and taller landscaping without the need for a variance.
- ◇ There is no practical difficulty associated with the subject site that would warrant the grant of this request, as a swimming pool is not a requirement, and the requested privacy is self-imposed by the desire to have a swimming pool.
- ◇ Staff finds that the proposed findings do not successfully establish a practical difficulty in the use of the property caused by the terms of the Ordinance. Staff recognizes that privacy and safety concerns for property and personal health have profound effects on quality of life. The proposed variance would exceed the measures found on other properties facing similar concerns.
- ◇ The subject site has no natural or manmade physical obstacles that would prohibit compliance with the fence height requirements of the Ordinance, as the existing fence is compliant. Similar adjoining properties are able to comply with the Ordinance requirements on fence height.
- ◇ Therefore, Staff does not believe a practical difficulty has been demonstrated that necessitates an eight-foot tall fence located in the rear and side yard.

(Continued)

STAFF REPORT 2023-DV2-027 (Continued)

GENERAL INFORMATION

THOROUGHFARE PLAN	This portion of North Illinois Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a primary collector, with a 60-foot existing and proposed right-of-way.
SITE PLAN	File-dated September 8, 2023
FINDINGS OF FACT	File-dated September 8, 2023

ZONING HISTORY

2018-DV1-021; 4030 North Illinois Street (south of site), requested a variance of development standards to provide for a seven-foot tall fence in the side and rear yards, **granted**.

97-UV3-66: 40 West 40th Street (east of subject site), requests a variance of use of the Dwelling Districts Zoning Ordinance and a variance of Development Standards of the Sign Regulations to provide for a community center in an existing building with a ground sign being located with a setback of 9 feet from Illinois and 40th Streets, **granted**.

88-V3-80; 4115 North Illinois Street (north of site), requested a variance of development standards to provide for the construction of an enclosed swimming lane at two feet from the side property line, **granted**.

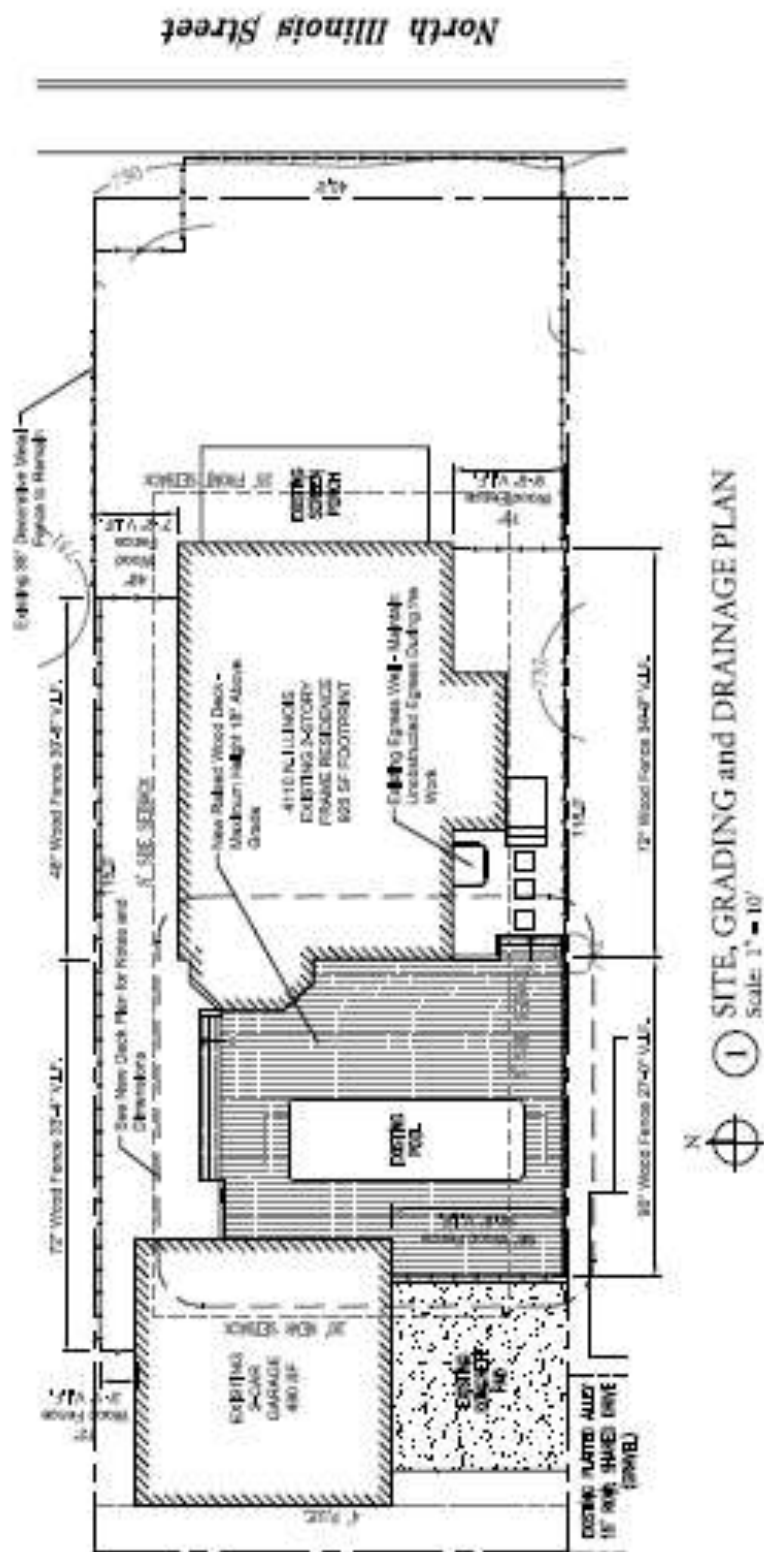
88-V3-112; 4117 North Capitol Avenue (west of site), requested a variance of development standards to provide for a detached garage with a rear setback of 3.5 feet, **granted**.

RU

STAFF REPORT 2023-DV2-027 (Continued)

2023-DV2-027; Location Map





2023-DV2-027; Photographs



Subject sit, looking west



Subject site rear yard swimming pool/swim spa, looking northeast



Subject site existing six-foot rear fence, eight-foot fence proposed, looking east.



Subject site existing six-foot rear and south side fence, eight-foot fence proposed, looking southeast.



Adjacent property to the south, looking west.



Adjacent property to the north, looking west.