BOARD OF ZONING APPEALS DIVISION II — December 12, 2023

Case Number:	**2023-DV2-030**
Property Address:	**3833 E 56th Street (approximate address)**
Location:	**Washington Township, Council District #3**
Petitioner:	**Race Dorsey, and Lauren Hall**
Current Zoning:	**D-3**
Request:	**Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a six-foot fence within the front yard of 56th Street.**
Current Land Use:	**Residential**
Staff Recommendations:	Staff **recommends denial** of the request
Staff Reviewer:	**Noah Stern, Associate Planner**

PETITION HISTORY

ADDENDUM FOR THE DECEMBER 12, 2023 BZA II HEARING

- This petition was heard at the November 21, 2023 hearing but was continued to the December 12, 2023 hearing due to an indecisive vote by the Board.

STAFF RECOMMENDATION

Staff **recommends denial** of the request.

PETITION OVERVIEW

- This petition would provide for the location of a 6-foot fence within the front yard of 56th Street (3.5 feet in the front yard permitted). The fence in question is a 6-foot privacy fence made of wood panels painted white. The fence lies approximately 40 feet from the right-of-way line along 56th Street. The fence was cited for a violation on August 29th, 2023 for exceeding 42 inches in height in the front yard.

- Fence height standards are in place to allow for a reasonable amount of privacy/security and moderate barriers in between properties while maintaining visibility and open space by limiting unreasonable and overly intense fences. Fences located in the front yards of residentially zoned properties are limited to 3.5 feet in height to allow for visibility from the right-of-way and from adjacent properties. Restricting this visibility has the potential to present safety hazards by creating large blind spots on the site. Likewise, the Infill Housing Guidelines document recommends that privacy fences should not be placed in the front yards and that fences should not obstruct views of the front of the

house. The fence pertaining this petition is a privacy fence and significantly restricts the visibility of both the front yard and the primary structure from all points of view.

- The Infill Housing Guidelines also recommends building fences that are in character with the surrounding context/neighborhood. This fence substantially deviates from the aesthetic and built character of adjacent properties, as no other nearby properties contain a 6-foot fence in the front yard. Moreover, fences 6 feet in height tend to represent a departure from residential character and instead begin to resemble commercial or industrial properties. Finally, Staff sees no practical difficulty for the owner to be unable to comply with the required height standard and does not wish to set any precedent for fences that are well beyond that standard. For these reasons, Staff is opposed to and recommends denial of the request for a 6-foot fence in the front yard of the subject site.

GENERAL INFORMATION

Existing Zoning	D-3	
Existing Land Use	Residential	
Comprehensive Plan	Residential use at 0-1.75 units per acre	
Surrounding Context	**Zoning**	**Surrounding Context**
North:	D-6	North: Multi-Family Residential
South:	D-6	South: Multi-Family Residential
East:	D-3	East: Single-Family Residential
West:	D-3	West: Single-Family Residential
Thoroughfare Plan		
East 56th Street	Primary Collector Existing ROW: 55 feet Proposed ROW: 80 feet	
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	No	
Wellfield Protection Area	No	
Site Plan	9/26/23	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	9/26/23	
Findings of Fact (Amended)	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Infill Housing Guidelines

Pattern Book / Land Use Plan

- Not Applicable to the Site. Please see Neighborhood / Area Specific Plan (etc.) below.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site

Neighborhood / Area Specific Plan

- Millersville at Fall Creek Valley Village and Corridor Plan (2015) recommends residential use at a density of 0-1.75 housing units per acre.

Infill Housing Guidelines

- The Infill Housing Guidelines (IHG) document is used to promote good practice with regards to form, massing, aesthetics, landscaping, etc. of new infill housing projects for all scales and types.

- With regards to fencing, the Infill Housing Guidelines document recommends:
  - Design ornamental elements, such as fences, to fit the context of the block and neighborhood
  - Do not obstruct views of the front of the house
  - See-through fences are the safest
  - Do not install privacy fence in the front yard

- The fence that pertains to this petition is a 6-foot privacy fence that obstructs the view of the front of the house from 56th Street. Likewise, it does not fit the context of the surrounding block, as none of the nearby properties have a privacy fence in the front yard along 56th Street. The request is not in accordance with the recommendations of the Infill Housing Guidelines document.

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

81-Z-63; 4045 E 56th Street (east of site), requests the rezoning of 0.81 acres, being in the D-3 District to the SU-9 classification to provide for a Fire Department use, **approved.**

88-Z-126; 5601 Allisonville Road (north of site), requests the rezoning of 20.8 acres from the D-6 district, to the D6II classification to provide for the development of multi-family housing, **withdrawn.**

92-Z-127A; (west of site), requests the rezoning of 40.657 acres from the D-A to the D-4 zoning classification to allow for the development of single-family residences, **approved.**

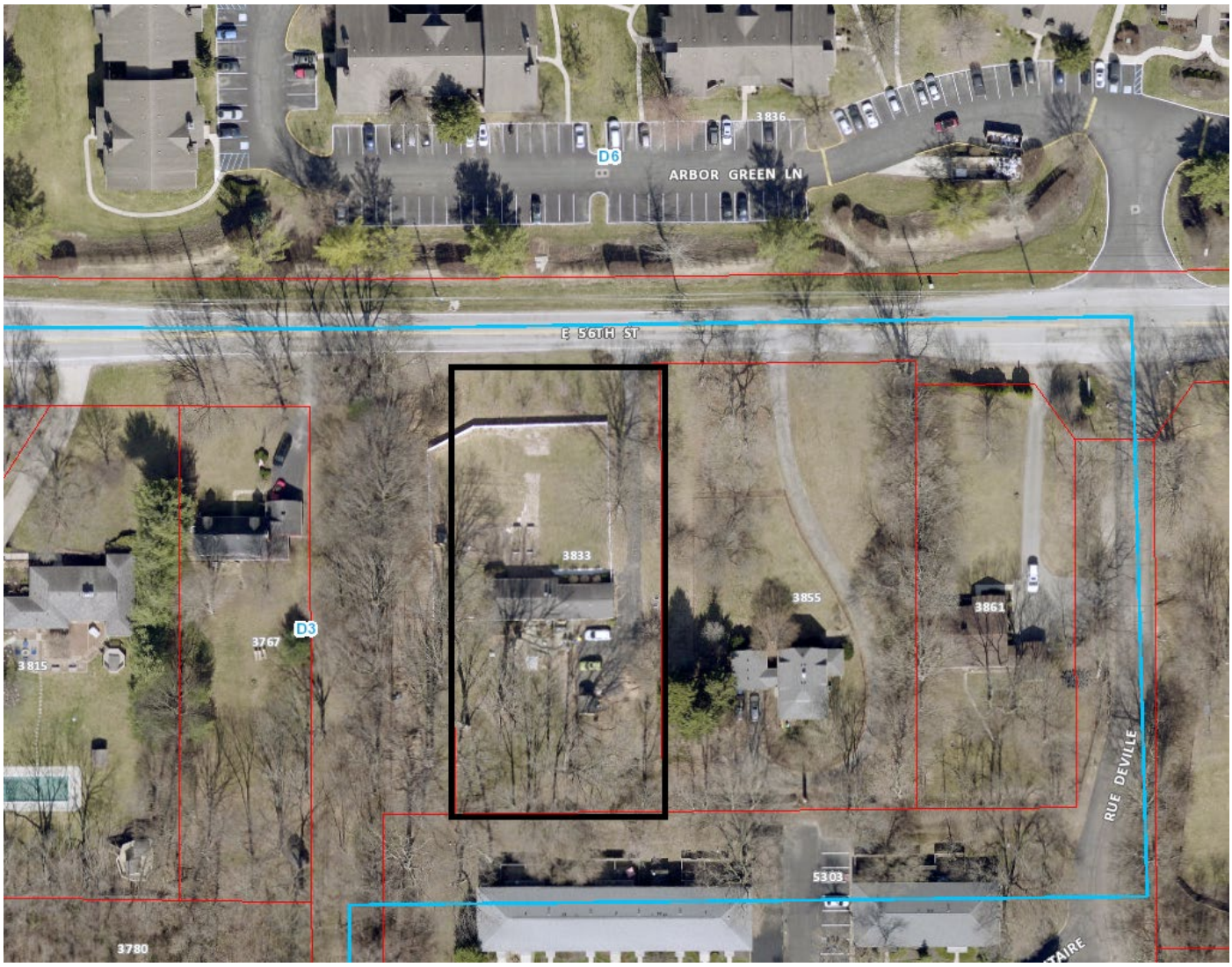
98-Z-19; 4010 E 56th Street (east of site), requests the rezoning of 0.83 acres from the D-P district to the D-P classification to provide for two, two-family dwellings, **approved.**

2005ZON090; 4025, 4047 & 4049 E 56th Street (east of site), rezone of 5.5 acres, being in the D-3 District, to the C-S classification to provide for the construction of a self-storage facility, **approved.**

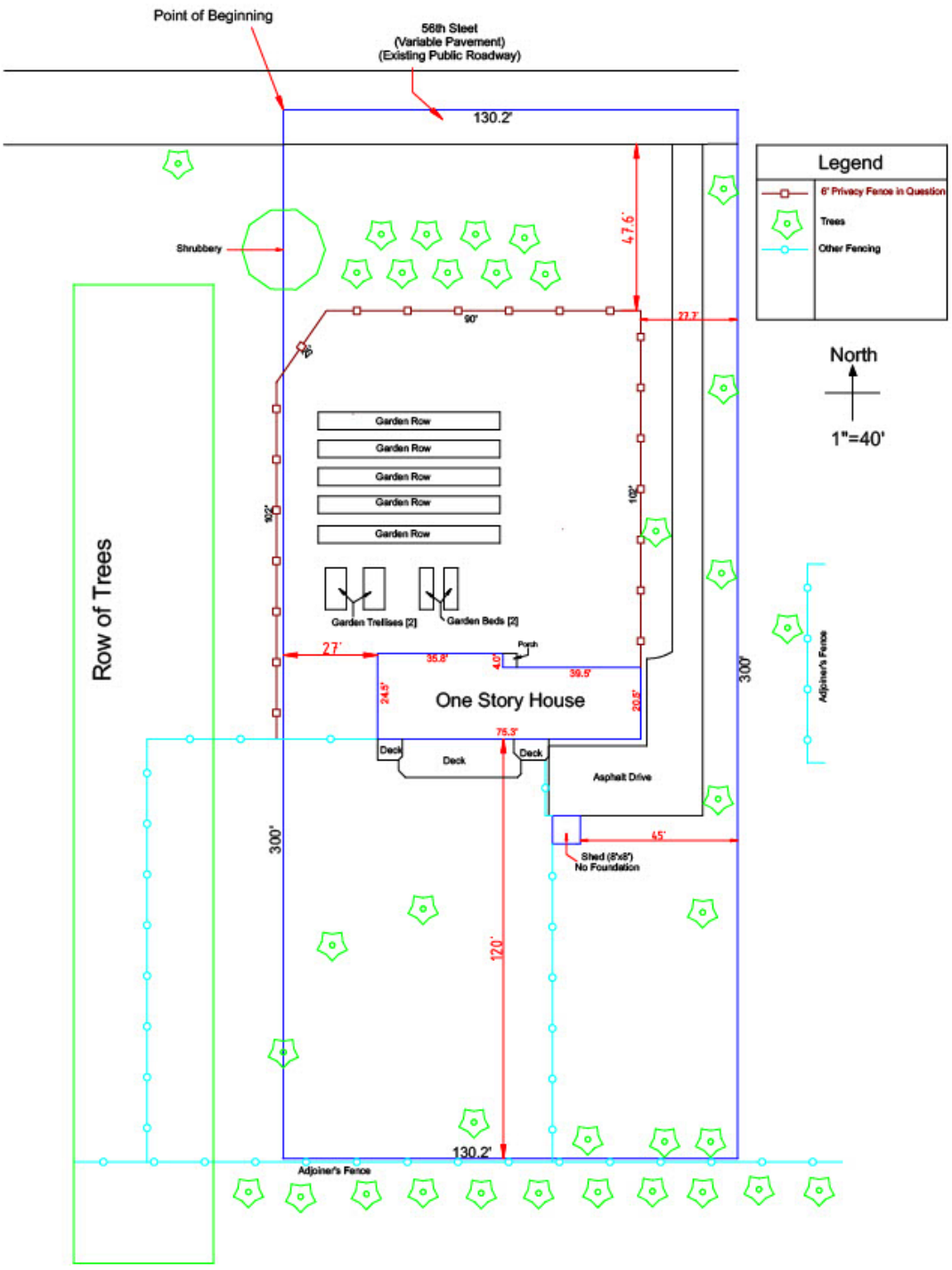
2010ZON052; 3940 E 56th Street (north of site), Rezoning of 7.236 acres, from the D-P District, to the C-2 classification to provide for office and multifamily uses, **approved.**

2016CVR817; 5525 Allisonville Road (west of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a lot without direct access to a public street and without frontage on a public street (not permitted), **approved.**

EXHIBITS


3836
D6
ARBOR GREEN LN
E 56TH ST
3833
3855
3861
3767
D3
3815
RUE DEVILLE
5303
3780

3833 E 56th Street, Site Plan for Privacy Fence



Petition Number _____

METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division II
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 variance for fence height is for a fence that is situated 47.6 feet from the public roadway which exceeds the setback requirement of 30 feet as specified in Table 744-201-1[1] [4]. The fence does not obstruct visibility or create safety hazards for drivers or pedestrians along the roadway. Additionally, the fence is designed to enhance privacy, safety, and security on the property, which is in alignment with the general welfare of the community by providing a secure and peaceful residential environment. The fence is also designed to improve property aesthetics and reduce noise pollution. These benefits contribute to a safer, more harmonious, and visually appealing community.

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 fence complies with, and exceeds, the setback requirements to ensure it does not obstruct views from adjacent lots into the public roadway or vice versa. Additionally, the variance request seeks to improve privacy, safety, and security of the petitioners' property without imposing negative consequences on the usability or the property values of the adjacent area. The fence will be properly maintained and will contribute to the enhancement of the overall neighborhood.

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

The petitioners' property encompasses a total of .896 aces with .47 acres constituting the front yard. The strict enforcement of the zoning ordinance would limit the petitioners' ability to utilize a portion of the property's front yard. Given the unique characteristics of the property (including its size, long rectangular shape, proximity to primary collector and arterial roadways, and the presence of two apartment complexes that overlook the property), the grant for a variance of fence height serves as a necessary enhancement to ensure the privacy, safety, security, and use of the property's front yard. The grant of this variance would resolve these practical difficulties related to the utilization of the property without compromising the overall zoning regulations.

DECISION

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

Adopted this _____ day of _____ , 20 ___

_____ _____

_____ _____

_____


Public
Hearing


Public
Hearing


Public
Hearing