



**BOARD OF ZONING APPEALS DIVISION I**

June 4, 2024

**Case Number:** 2024DV1019  
**Property Address:** 6701 North College Avenue (approximate address)  
**Location:** Washington Township, Council District #7  
**Petitioner:** Broad Ripple Edgewater LLC, by Joseph Lese  
**Current Zoning:** D-9 (TOD) (FF)  
**Request:** Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a pool, related equipment and bathroom with a 24-foot setback from 67<sup>th</sup> Street (25-foot required) and a six-foot tall fence within its front yard (maximum 3.5-foot tall fence permitted).  
**Current Land Use:** Multi-family Residential  
**Staff Recommendations:** Staff recommends **approval** of the requests subject to commitments below.  
**Staff Reviewer:** Michael Weigel, Senior Planner

**PETITION HISTORY**

This is the first public hearing for this petition.

**STAFF RECOMMENDATION**

Staff recommends **approval** of the variance requests subject to the following commitments:

- The fencing installed around the pool perimeter shall match the fence elevations provided to staff file dated April 23, 2024.
- Additional shrubs shall be planted or replanted at the southwest corner of the existing pool deck to provide a consistent vegetative screen between the pool and 67<sup>th</sup> Street.

## PETITION OVERVIEW

- The subject property is currently developed with a multifamily apartment building that offers an on-site swimming pool for the use of tenants within Edgewater Apartments and their guests. The site borders College Avenue to the west, the White River to the North, and is situated near the Indianapolis Art Center and Monon Trail to the east.
- An application for a wrecking permit was made earlier this year to allow for the existing pool to be removed and replaced with a new pool in the same location. New fencing around the pool perimeter would also be installed along with this scope of work. Existing landscape screening to the south, west and east would largely be preserved with any temporary removal to be replaced in kind upon conclusion of the construction. The placement and design of the pool and fence is shown within the Exhibits below.
- Placement of the pool as shown on the site plan would constitute a small encroachment into the required front yard depth of 25 feet for D-9 zoning. Grant of this variance would allow for the pool to be replaced with a front setback of 24 feet as well as for placement of a fence around the pool perimeter with a height of 6 feet (3.5 is the standard maximum height for residential front yards).
- Under most circumstances, a pool within the front yard would be disallowed by ordinance per use-specific standards for swimming pools. However, the section of ordinance governing general conditions for accessory uses within dwelling districts (744-306.A.5) specifically indicates that minor residential structures within D-9 zoning would solely need to comply with front setback requirements. Our offices have determined that this would overrule the use-specific standard and would allow for placement of the pool in front yard without an additional variance.
- The subject site is under the jurisdiction of both the Red Line TOD Strategic Plan as well as the Envision Broad Ripple Neighborhood Plan (additional details below). The parcel is also largely within a 100-year floodplain which would require issuance of a flood permit prior to the development to ensure compliance with relevant flood ordinance.
- The requested encroachment into the required front yard would only be one foot, and the location of the pool to be installed matches the location of the pool currently at the site. Given the minimal relief that would result from utilizing the existing footprint and the lack of other feasible locations at the site to place a swimming pool, staff is supportive of this request.
- Although fences within residential front yards are typically limited to a height of 3.5 feet, most residential front yards do not contain swimming pools. The zoning ordinance specifies that all swimming pools must either have a safety pool cover meeting IAC specifications or a fence with a minimum height of 5 feet. Given legitimate safety concerns and to prevent accidental drownings from people or animals entering the pool area, staff is supportive of a variance to allow for a taller fence height around the pool perimeter. This recommendation is conditioned upon commitments to ensure the fence does not utilize barbed wire and maintains adequate landscape screening.

**GENERAL INFORMATION**

<b>Existing Zoning</b>	D-9 (TOD) (FF)	
<b>Existing Land Use</b>	Multi-family Residential	
<b>Comprehensive Plan</b>	Over 15 Residential Units per Acre	
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Surrounding Context</b>
	North: C-4	North: Floodway
	South: D-4	South: Park
	East: SU-7	East: Special Use
	West: D-3/D-4	West: 3.5-5 Res Units per Acre
<b>Thoroughfare Plan</b>		
College Ave	Primary Arterial	162-foot right-of-way existing and 88-foot right-of-way proposed
67 <sup>th</sup> Street	Local Street	42-foot right-of-way existing and 58-foot right-of-way proposed
<b>Context Area</b>	Compact	
<b>Floodway / Floodway Fringe</b>	Yes	
<b>Overlay</b>	No	
<b>Wellfield Protection Area</b>	No	
<b>Site Plan</b>	04/23/2024	
<b>Site Plan (Amended)</b>	N/A	
<b>Elevations</b>	04/23/2024	
<b>Elevations (Amended)</b>	N/A	
<b>Landscape Plan</b>	N/A	
<b>Findings of Fact</b>	04/23/2024	
<b>Findings of Fact (Amended)</b>	N/A	

**COMPREHENSIVE PLAN ANALYSIS**

**Comprehensive Plan**

- Red Line Transit-Oriented Development Strategic Plan
- Envision Broad Ripple

**Pattern Book / Land Use Plan**

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

**Red Line / Blue Line / Purple Line TOD Strategic Plan**

- The Red Line TOD Strategic Plan recommends this site for the Walkable Neighborhood Typology which emphasizes walkable areas that are primarily residential (small lot single-family attached or detached, with some mixed-use and multifamily at center) but may have a commercial node of one to two city blocks.

### **Neighborhood / Area Specific Plan**

- The Envision Broad Ripple Plan recommends this site for residential development with over 15 units per acre. The site's proximity to College Avenue also designates it as being part of Critical Area 1 which seeks to preserve existing residential uses along the west side of College, limit the height of new multi-family structures along the east side, and maintain appropriate spacing from the Indianapolis Art Center and open space for floodplain protection. The plan makes no specific reference to pools or fences.

### **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

**2015HOV034 ; 888 E 66<sup>th</sup> Street (southeast of site)**, Variance of development standards of the Flood Control Districts Zoning Ordinance to provide for one square inch of openings for every one square feet of enclosed area (one square foot of openings for every two square feet of enclosed area required), **approved.**

**2015CZN801 ; 6616 Ferguson Street (southeast of site)**, Rezoning of 1.34 acres from the D-4 (FF) and D-10 (FF) districts to the D-10 (FF) classification to provide for multi-family development, **approved.**

**2015CVR801 ; 6616 Ferguson Street (southeast of site)**, Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a four-story, 93-unit multi-family dwelling (a) with 15-foot front setbacks from 66th and Ferguson Streets, with the 66th Street entryway having an 11-foot front setback (minimum 25-foot front setback required), (b) with a 10-foot southwest side perimeter yard and zero-foot north and northwest perimeter yards (20-foot perimeter yards required), (c) with a 1.94 floor area ratio (maximum 0.80 floor area ratio required), (d) with a 0.18 open space ratio (minimum 0.87 open space ratio required), (e) with a livability space ratio of 0.10 (minimum 0.49 livability space ratio required), and (f) with a major livability space ratio of zero (minimum major livability space ratio of 0.095 required), **approved.**

**2004ZON804 ; 912 E 68<sup>th</sup> Street (east of site)**, rezoning of 9.03 from C-4, D-9, and SU-7 zoning to the SU-7 designation to allow for Indianapolis Art Center facilities, **approved.**

**2002UV2024 ; 6847 Ferguson Street (east of site)**, variance of use of the Dwelling Districts Zoning Ordinance and the Flood Control Districts Zoning Ordinance to provide for a two-story, 1,352 square foot addition to a single-family dwelling (not permitted), and to provide for venting of the attached residential addition in accordance with the federal standards of one square inch of opening for one square foot of enclosed area (one square foot of opening for two square feet of enclosed area required), **approved.**

**2000UV1020 ; 6630 Ferguson Street (southeast of site)**, variance of use of the Dwelling Districts Zoning Ordinance to provide for an office (not permitted) within an existing single-family dwelling, **approved.**

**84-UV2-47 ; 812 E 67<sup>th</sup> Street (east of site)**, variance of use of the Commercial Zoning Ordinance to provide for a 42 x 60 foot building addition and the addition of seven spaces to the existing parking lot, **approved.**

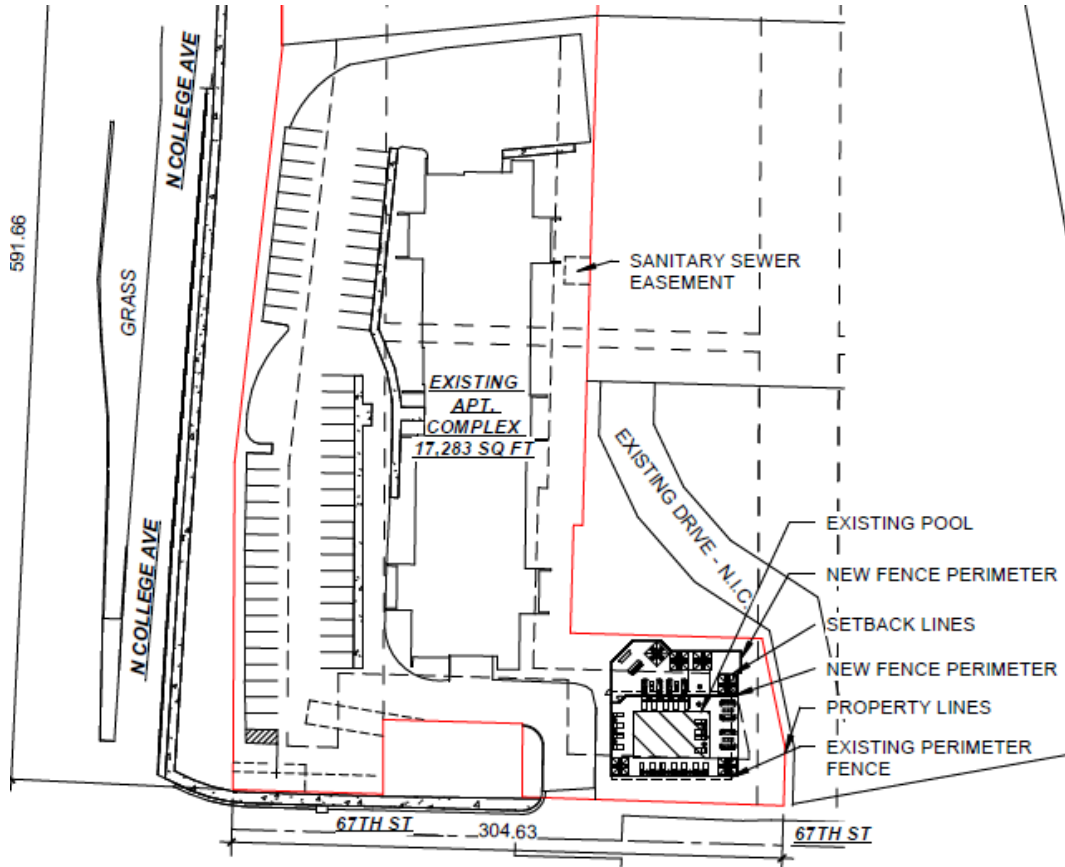


**EXHIBITS**

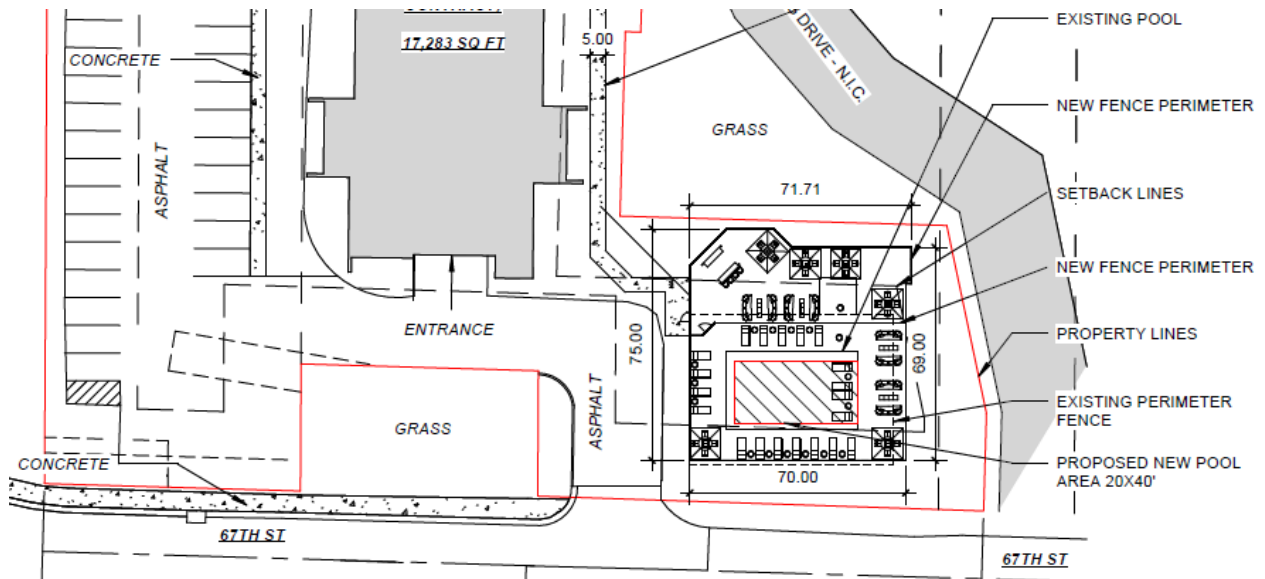
**2024DV1019 ; Aerial Map**



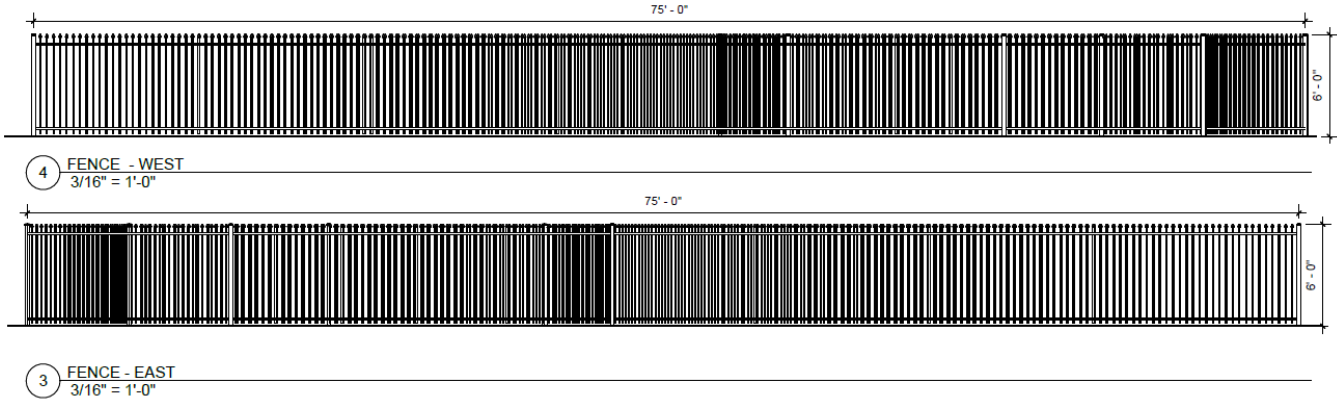
**2024DV1019 ; Site Plan**



**2024DV1019 ; Site Plan (Detail)**



**2024DV1019 ; East/West Fence Elevations (North/South Similar)**



**2024DV1019 ; Findings of Fact**

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because:

the construction work is to reconstruct the existing pool in place and replace the fence with something much more attractive. This will improve the property and will improve a pool that is currently closed down until it can be brought up to modern safety standards.

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 pool, pool deck area and fenced areas will not affect any surrounding property's uses nor will it be detrimental to value as the shuttered pool will be reconstructed in a safe and healthy manner.

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

the existing pool encroaches ever so slightly into the front yard setback, where we are proposing to put this back into the same location. In order to avoid this, the rear yard would end up being compromised so the pool replacement is intended to maintain the existing setbacks. Also, the new fence is required to be a minimum height for pool protection, which based on the position of the pool, violates the ordinance for height in the front yard. However, code requires the taller fence around all sides of the pool for protection and denial of the variance would result in the pool being unusable.



**2024DV1019 ; Pictures**



Photo 1: Subject Site from South



Photo 2: Pool from Southwest



**2024DV1019 ; Pictures (continued)**



Photo 3: Pool from Northwest



Photo 4: Taken from Pool Looking West



**2024DV1019 ; Pictures (continued)**



Photo 5: Taken from Pool Looking South

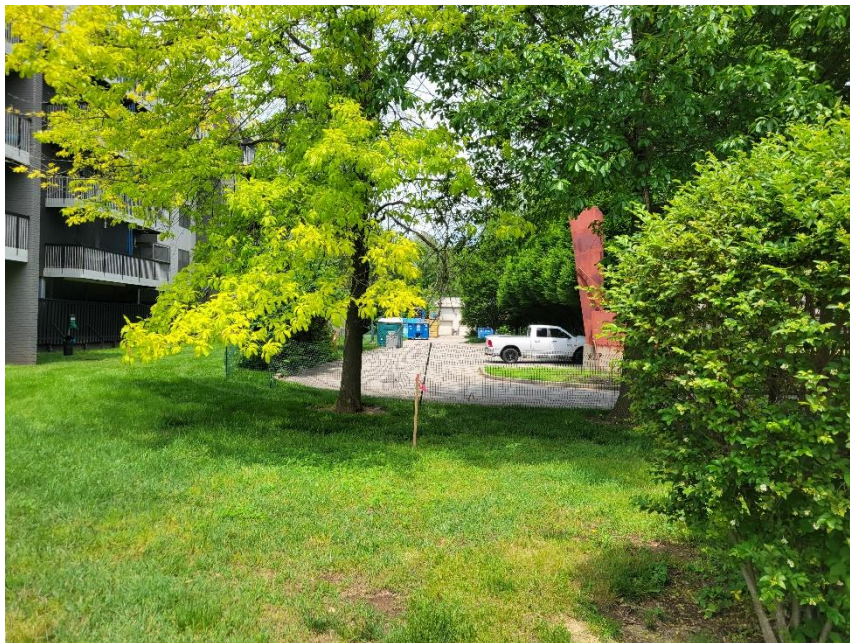


Photo 6: Taken from Pool Looking North