Department of Metropolitan Development
Division of Planning
Current Planning

BOARD OF ZONING APPEALS DIVISION II — November 17th, 2026

Case Number:	2026-DV2-040
Property Address:	6970 North College Avenue (approximate address)
Location:	Washington Township, Council District #2
Petitioner:	Paul Mackowiak, Giles Law Group LLC
Current Zoning:	D-4 (TOD)
Request:	Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to legally establish a 6-foot-tall fence with an opacity of less than 30% in a front yard (4-foot maximum height permitted when 30% or less opacity).
Current Land Use:	Single-family home
Staff Recommendations:	Staff is recommending **denial** of this petition
Staff Reviewer:	Adam Skrzeszewski, Senior Planner

PETITION HISTORY

This is the first public hearing for this petition

STAFF RECOMMENDATION

Staff is recommending **denial** of this petition

PETITION OVERVIEW

The petitioner is requesting to legally establish an already existing 6-foot-tall fence with an opacity of 30% or less in the petitioner's northern front yard on their driveway. A violation was issued for the height of the fence on May 20th, 2026, per Violation Case number: VIO26-004128. The initial inspection was initiated through a Mayor's Action Center request. Per Chapter 744, Article V, Section 10 of the Ordinance, the maximum height of a fence in a front yard of 30% opacity or less is 4 feet. Therefore, the petitioner is requesting to legally establish a fence that is 2-feet taller than what is permitted in a front yard.

- The petitioner's lot is a corner lot in the Metro Context. Per page 44 of the Ordinance, the lot has two front yards, one facing each frontage of public right-of-way on both East 70th Street where the driveway is located, and on North College Avenue.

- The petitioner built the non-conforming fence on the northern front yard facing East 70th Street, along the existing driveway, with a gate for the entrance of the driveway. This fence encroaches into the public right-of-way from being built parallel to the sides of the driveway. Per the Department of Business and Neighborhood Services, any encroachment for a structure including

a fence, into a public right-of-way requires an encroachment license to be obtained before construction. The petitioner did not obtain an encroachment license, and the fence is built on the public right-of-way.

- Per item #3 provided by the petitioner in the Findings of Fact, the petitioner states that the need for the height of the fence within the front yard is required due to petitioner's dog, to enclose the yard for the safety of the child, and to prevent intrusions for safety. Staff does acknowledge that two front yards does create limitations for the height of fences. There is still space on the lot for the petitioner to have a fence at 6-feet in height for the petitioner's child and dog. Fence can be built within the side yard to the south of the driveway and behind the front building line, it would accomplish similar goals the petitioner is aiming to achieve with the fence being placed on the driveway. Therefore, the petitioner's placement of the fence is by choice for enclosure of the driveway and there is adequate space for a fence of this height that would provide the same intended effects that would be permitted.

- If this petition were to be approved, the petitioner is still required to obtain an encroachment license. The criteria for an encroachment license is that the encroachment into the public right-of-way has to be within the interest of the public. Per correspondence with the Multi-Modal Program Manager, the fence encroaching into the public right-of-way may not be within the public's interest to do so. This correspondence is below within the exhibits section of this staff report. If this petition is approved, and the encroachment license is denied due to the fence not being within the public's interest, the fence would be required to be moved onto the petitioner's owned property. This petition is solely pertaining to the height of the fence and its location, but the non-conformity in question is within the public right-of-way as such should be addressed.

- Staff initially had concerns over the fence interfering with AES maintenance personnel for the electrical box and wires adjacent to the fence. AES staff has confirmed they see no issue with the subject fence and its adjacency to the electrical box and wires. This confirmation through correspondence is below within the exhibits section of this staff report.

- There is no sufficient practical difficulty on-site to warrant a fence that is at 6-feet in height within the petitioner's front yard that encroaches into the pubic right-of-way. Therefore, staff recommends **denial** of 2026-DV2-040

GENERAL INFORMATION

Existing Zoning	D-4 (TOD)	
Existing Land Use	Single-family home	
Comprehensive Plan	Suburban Neighborhood	
Surrounding Context	**Zoning**	**Surrounding Context**
North:	D-4	North: Single-family homes
South:	D-4	South: Single-family homes
East:	D-3	East: Single-family homes
West:	D-4	West: Single-family homes
Thoroughfare Plan		
East 70th Street	Local Street	50-foot existing and proposed ROW
North College Avenue	Primary Arterial	112-foot existing and proposed ROW
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	TOD	
Wellfield Protection Area	No	
Site Plan	September 15th	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	September 15th	
Findings of Fact (Amended)	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- The Comprehensive Plan recommends Suburban Neighborhood.

Pattern Book / Land Use Plan

- Not Applicable to the Site.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

- The Infill Housing Guidelines state that fencing should be carefully placed, that see-through fences are the safest, and fences in the front-yard should be ornamental in style and not intended for privacy. The proposed fence to be legalized is see-through and not for privacy; but the fence is within the public ROW outside of the petitioner's parcel, and it is not ornamental in style.

Indy Moves
(Thoroughfare Plan, Pedestrian Plan, Bicycle Master Plan, Greenways Master Plan)

- Not Applicable to the Site.

ZONING HISTORY

ZONING HISTORY – SITE

N/A

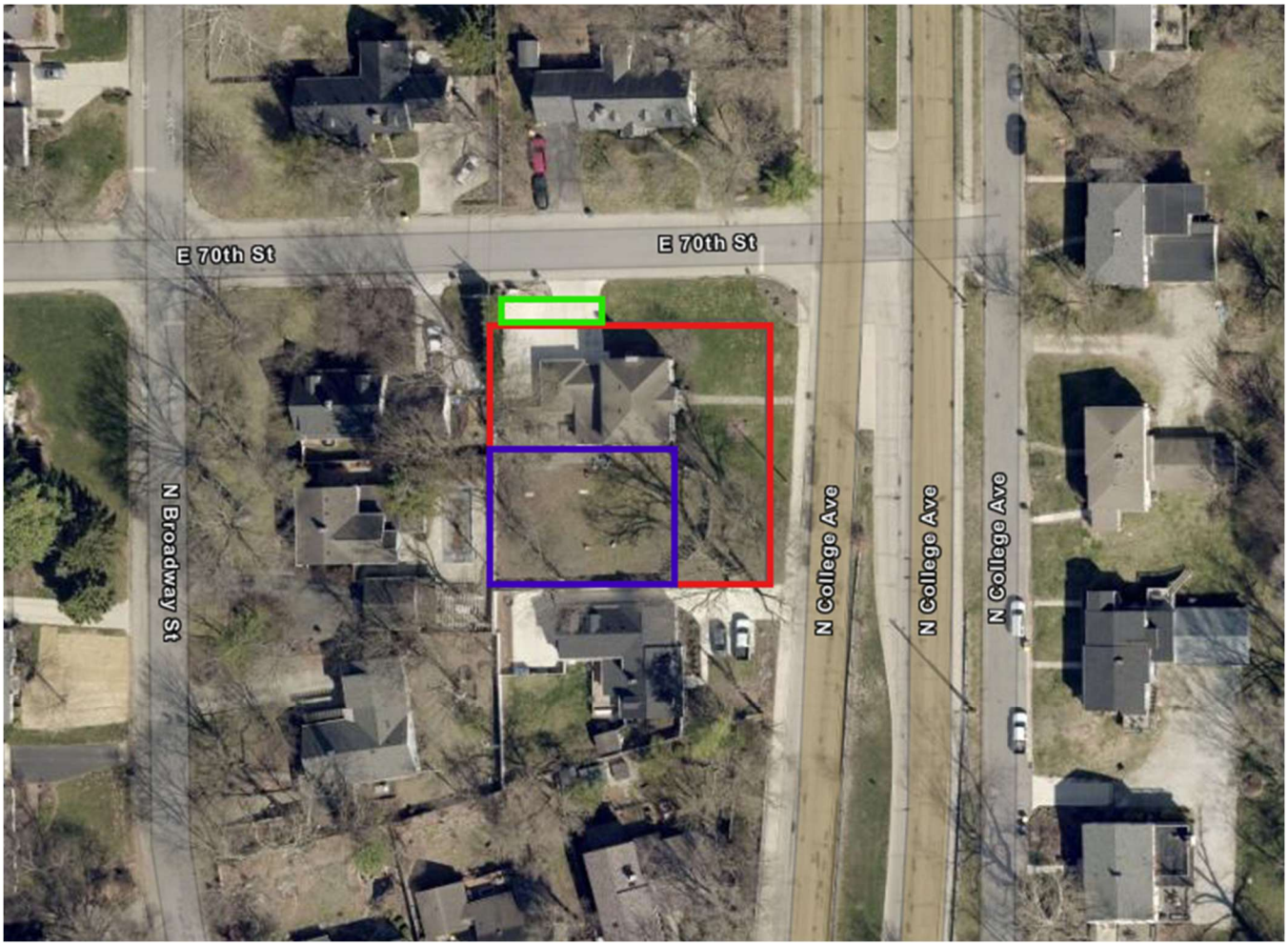
ZONING HISTORY – VICINITY

96-V3-31 ; 6915 Broadway Street (southwest of subject site), 24-foot by 26-foot garage addition with deficient setbacks. **Approved**

2013-DV1-042 ; 715 70th Place (northeast of subject site), Variance of Development Standards of the Dwelling Districts Zoning Ordinance to provide for a 384.75-square-foot garage addition, creating a 3-foot west-side setback and a 14-foot aggregate side setback (minimum 6-foot side setback and 16-foot aggregate side setback required). **Approved**

2007-DV1-046 ; 7064 Broadway Street (northwest of subject site), Variance of Development Standards of the Dwelling Districts Zoning Ordinance to legally establish a six-foot tall fence in the required front yard (not permitted). **Withdrawn, staff recommendation denial**

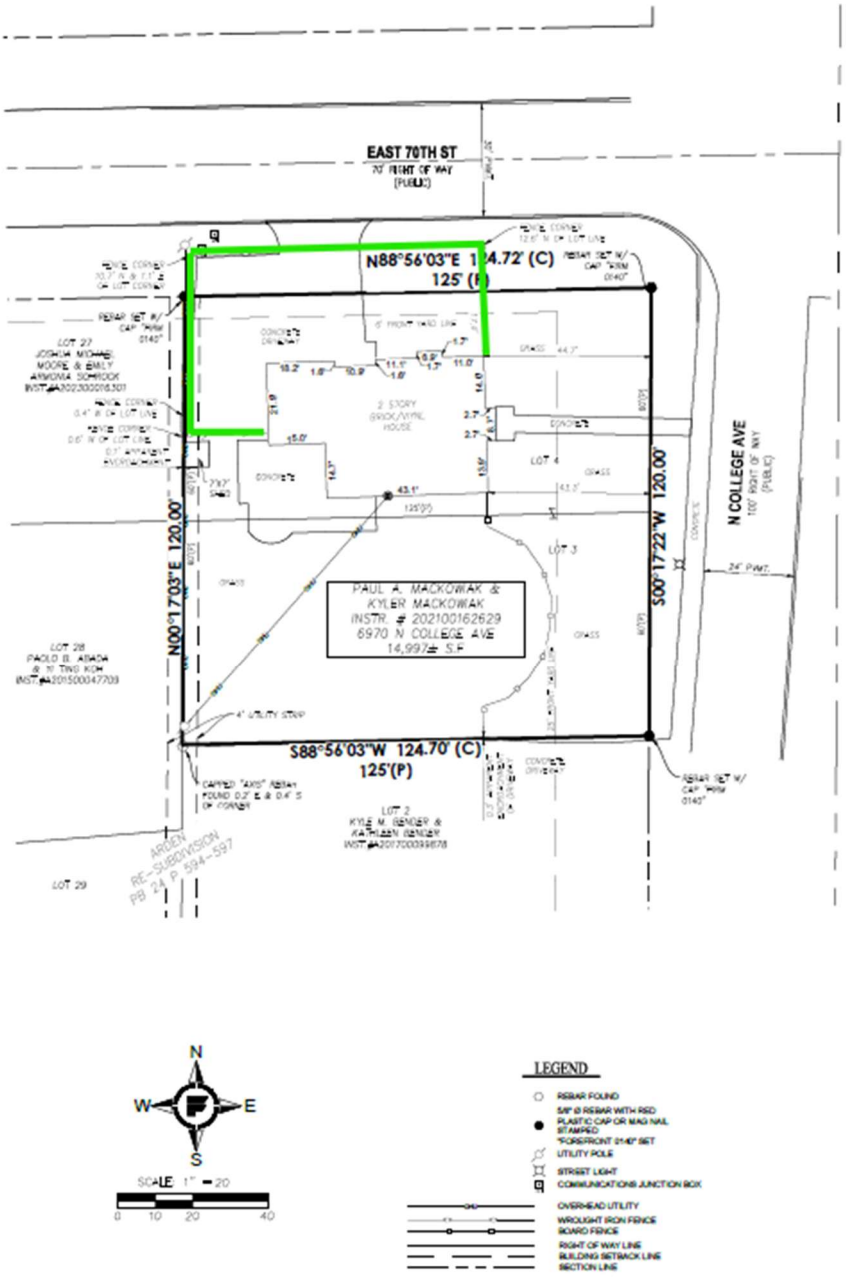
EXHIBITS



Red—petitioner's owned parcel

Green—approximate area of encroachment for fence into public right-of-way

Blue—approximate area of petitioner's side yard where the subject fence would be permitted



Green—approximate location of fence

Skrzeszewski, Adam

From: Palmer, Jill
Sent: Wednesday, October 28, 2026 3:36 PM
To: Skrzeszewski, Adam
Cc: Sheets, Nathan
Subject: Re: 6970 North College Ave fence in public ROW

Follow Up Flag: Follow up
Flag Status: Flagged

Being in the ROW would require an encroachment license . This is in the ROW by quite a lot. I don't think we'd find it in the public interest for the public to be cordoned off from the public right of way. Nor is it appropriate for this property owner to claim untaxed public land for their private use.

Jill Palmer, PE
Program Manager – Multi-Modal
Department of Public Works – Engineering
200 E. Washington St., Suite 1401
Indianapolis, IN 46204

From: Skrzeszewski, Adam <Adam.Skrzeszewski@indy.gov>
Sent: Wednesday, 28 October 2026 13:56:53
To: Palmer, Jill <Jill.Palmer@Indy.Gov>
Subject: 6970 North College Ave fence in public ROW

Hi Jill,

I have a variance petition at 6970 N College Ave for the fence in the picture attached, it is beyond the parcel boundary and within the public ROW, I was asked to know if you had any concerns with this. For context the petition is to legally establish the height of the fence but it's just that it's within the public ROW past the parcel.

Thanks,
Adam Skrzeszewski | Senior Planner
Current Planning | Department of Metropolitan Development | City of Indianapolis
adam.skrzeszewski@indy.gov | 317-327-5123
DMD Website | DMD MuniCode Meetings & Agendas | Submit a Petition | Talk to a Planner | Land Use Petitions Forms & Fees
Citizen Access Portal

Skrzeszewski, Adam

From: Jordan Watkins <jordan.watkins@aes.com>
Sent: Tuesday, November 10, 2026 2:36 PM
To: Blane Boyd; Skrzeszewski, Adam
Cc: Kevin Walker
Subject: Re: potential obstruction of aes maintenance from fence in public ROW 6970 N College Ave

Follow Up Flag: Follow up
Flag Status: Completed

CAUTION: This email originated from outside of the organization and contains an attachment. Unless you recognize the sender and know the contents are safe, do not open the attachment.

It appears to me the red lines are indicating the fence is essentially hugging the driveway around the northwest corner and the utility equipment is outside of the fence. If that's true, I would not expect that to interfere with our ability to maintain our facilities.

Jordan Watkins
Team Leader
Customer Projects Engineering
Office: 317-261-6196

aes Indiana

From: Blane Boyd <blane.boyd@aes.com>
Sent: Tuesday, November 10, 2026 2:04 PM
To: Skrzeszewski, Adam <Adam.Skrzeszewski@indy.gov>; Kevin Walker <kevin.walker@aes.com>; Jordan Watkins <jordan.watkins@aes.com>
Subject: Re: potential obstruction of aes maintenance from fence in public ROW 6970 N College Ave

Hi Adam,

I am going to add Jordan Watkins to the email. Jordan helps make these decisions when we have encroachment requests from landowners. Jordan, our facilities are within the City ROW and so is the fence. Do you believe the fence will interfere with our maintenance of the electrical facilities?

Thanks,
Blane

From: Skrzeszewski, Adam <Adam.Skrzeszewski@indy.gov>
Sent: Wednesday, November 4, 2026 2:42 PM
To: Blane Boyd <blane.boyd@aes.com>
Subject: potential obstruction of aes maintenance from fence in public ROW 6970 N College Ave

DEPARTMENT OF METROPOLITAN DEVELOPMENT
DIVISION OF PLANNING | CURRENT PLANNING

Department of Metropolitan Development
Division of Planning
Current Planning

FINDINGS OF FACT

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

The fence is an open, decoratie wrought-iron fence that does not obstruct drainage, utilities, or emergency access, and does not impair driver sight lines at the driveway or the College Avenue/70th Street corner. The property is a corner double lot whose principal frontage and entrance face College Avenue; the fence runs along the 70th street side, which functions as a side yard for the property. The fence advances public safety rather than harming it: it provides a needed barrier near a busy arterial (College Avenue), preventing the petitioner's young child and dog from reaching the roadway and deterring the repeated incidents in which individuals have entered the property and attempted to enter the home. Granting the variance therefore posses no threat to the health, safety, morals, or general welfare of the 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 is a well-constructed, attractive black wrought iron fence that is consistent with the residential character of the neighborhood and enhances, rather than detracts from, the apperance and value of the property and the surrounding area. Adjacent and nearby property owners have expressed support for the fence, and the petitioner is prepared to submit letters of support. The fence is confined to the petitioner's own lot along the 70th Street frontage, does not encroach on neighboring property, and imposes no adverse impact on the use or enjoyment of adjacent parcels.

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

The property is a corner double lot, created when the prior owner combined two lots, that has two street frontages (College Avenue & East 70th Street). By operation of the ordinance's yard definitions, the 70th Street side is treated as a second front yard, even though it functions as the side of the residence and contains the driveway. This condition is peculiar to the property and was not created by the petitioner. Strict application of the front-yard limit to the 70th Street frontage preents the petitioner from enclosing the driveway of the hom with a fence adequate to contain a dog capable of clearing a lower fence, to protect a young child from the adjacent areterial, and to secure the property against repeated intrusions the household has experienced. A fence limited to the permitted front-yard height would not reasonably serve these needs, imposing a practical difficulty in the use of the property.