

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV1-048 (Amended)
Address: 1305 South Biltmore Avenue (approximate address)
Location: Wayne Township, Council District #22
Zoning: D-3
Petitioner: Virinia Morfin
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a masonry fence with a height of 3.5 feet encroaching within the clear sight triangle of Biltmore Avenue and Chelsea Road (encroachment of clear sight triangles not permitted).

December 5, 2023

The petitioner provided an amended site plan reducing the fence height to 3.5 feet in the front yard and six feet in the side and rear yards, and the fence will be relocated to meet the property line. The only remaining variance is encroaching within the clear sight triangle at the intersection. The relocation of the fence at the intersection results in an encroachment of approximately nine feet—the fence will be approximately 18 feet from the paved street.

The intent of the clear sight triangle requirement is to avoid visual obstructions that may impact traffic and pedestrian safety. Staff confirmed with the Department of Public Works that the slight encroachment as amended would not significantly impact safety standards; therefore, staff is recommending approval of the variance as amended.

November 14, 2023

The petitioner requested a continuance from the October 3, 2023 hearing to the November 14, 2023 hearing to amend the site plan. No new information has been received, so staff is requesting a continuance to the December 5, 2023 for an amended site plan.

October 3, 2023

RECOMMENDATIONS

Staff **recommends denial** of the request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

EXISTING ZONING AND LAND USE

D-3	Compact	Single-Family residential
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SURROUNDING ZONING AND LAND USE

North	D-5	Single-Family residential
South	D-3	Single-Family residential
East	D-3	Single-Family residential
West	D-3	Single-Family residential

(Continued)

STAFF REPORT 2023-DV1-048 (Continued)

COMPREHENSIVE PLAN

The Comprehensive Plan recommends Traditional Neighborhood development

- ◇ The subject site is a corner lot containing approximately 14,600 square feet and developed with a single-family dwelling and an accessory structure. The site is within McConnell and Clark's Chelsea Heights Subdivision, located southeast of the interchange at Interstate-465 and Washington Street, just south of the Transit Oriented Development Overlay for the IndyGo Blue Line.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ This request would provide for a masonry fence in the front yards of Biltmore Avenue and Chelsea Road with a height varying between 32 inches and 6.2 feet tall where a maximum of 3.5 feet is permitted; with 6.5-foot-tall columns where fence posts may only be one-foot taller than maximum permitted height of the fence; and encroaching within the clear sight triangle and encroaching in the right-of-way of Biltmore Avenue and Chelsea Road where encroachment is not permitted.
- ◇ This site is a corner lot in the Compact Context Area, so the front yard would be Biltmore Avenue. The maximum height of a fence in a front yard is 3.5 feet. Posts in a front yard may be up to 4.5 feet per the provision in Section 744-510.C.3. Staff would recommend that the existing fence and posts could be modified to meet the maximum permitted heights and would not support the request for increased height.
- ◇ Chelsea Road is considered a side yard and may have six-foot fence. Staff would suggest that the fence can be lowered from 6.2 feet to meet this requirement and would not support this request.
- ◇ The fence is currently encroaching in the right-of-way of Biltmore Avenue and Chelsea Road. The property line on the northeast portion of the site is curved, but the fence meets in a corner that is outside the property line. Staff would not support any encroachment into the right-of-way. The fence should be moved to be entirely within the property lines.
- ◇ The fence is currently encroaching approximately 28 feet into the clear sight triangle of Biltmore Avenue and Chelsea Road. Fences over 2.5 feet tall are prohibited in the clear sight triangle. This provision is intended for the safety of motorists and pedestrians so that oncoming traffic can be seen when approaching an intersection. The existing fence could be shortened to 2.5 feet to be outside the clear sight triangle, or the fence could be moved outside the clear sight triangle and be permitted the maximum height for residential fences.
- ◇ All the requests in this variance could be resolved by modifying the height or location of the fence—therefore staff is recommending denial of the request.

GENERAL INFORMATION

THOROUGHFARE PLAN

Biltmore Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 50-foot existing and proposed right-of-way.

Chelsea Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 50-foot existing and proposed right-of-way.

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STAFF REPORT 2023-DV1-048 (Continued)

SITE PLAN (AMENDED)

File-dated November 13, 2023

SITE PLAN

File-dated August 9, 2023

FINDINGS OF FACT

File-dated August 9, 2023

ZONING HISTORY—SITE

None

ZONING HISTORY – VICINITY

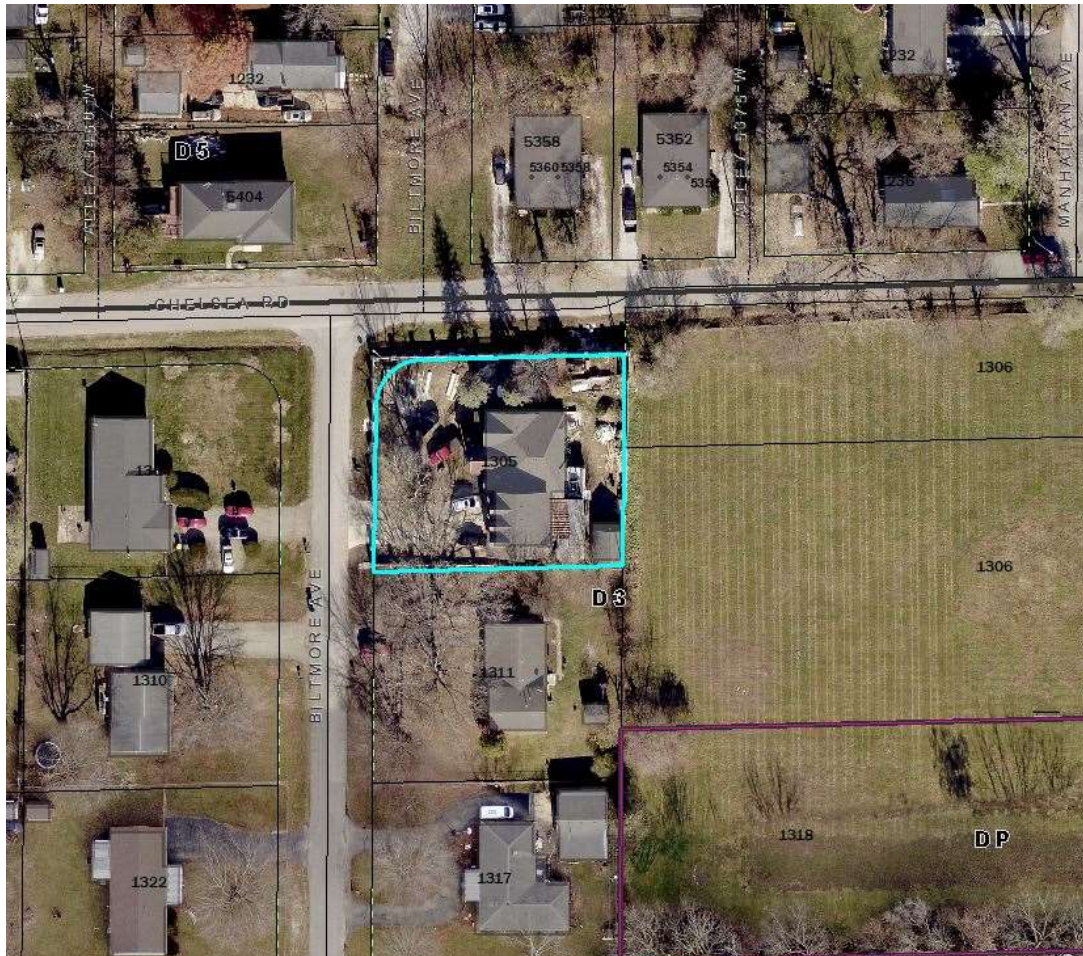
2020-ZON-083, 1318 South Lynhurst Drive, rezoning of 1.65 acres from the D-3 district to the D-P district to provide for 18, 312-square-foot single-family dwellings at a density of 11 units per acre, **approved**.

2009-UV1-033, 1318 South Lynhurst Drive, variance to provide for a homeless drop-in center for young adults, **approved**.

91-V3-98, 1229 South Biltmore Avenue, variance to permit construction of an attached garage with a zero-foot side yard setback and a six-foot aggregate setback, **approved**.

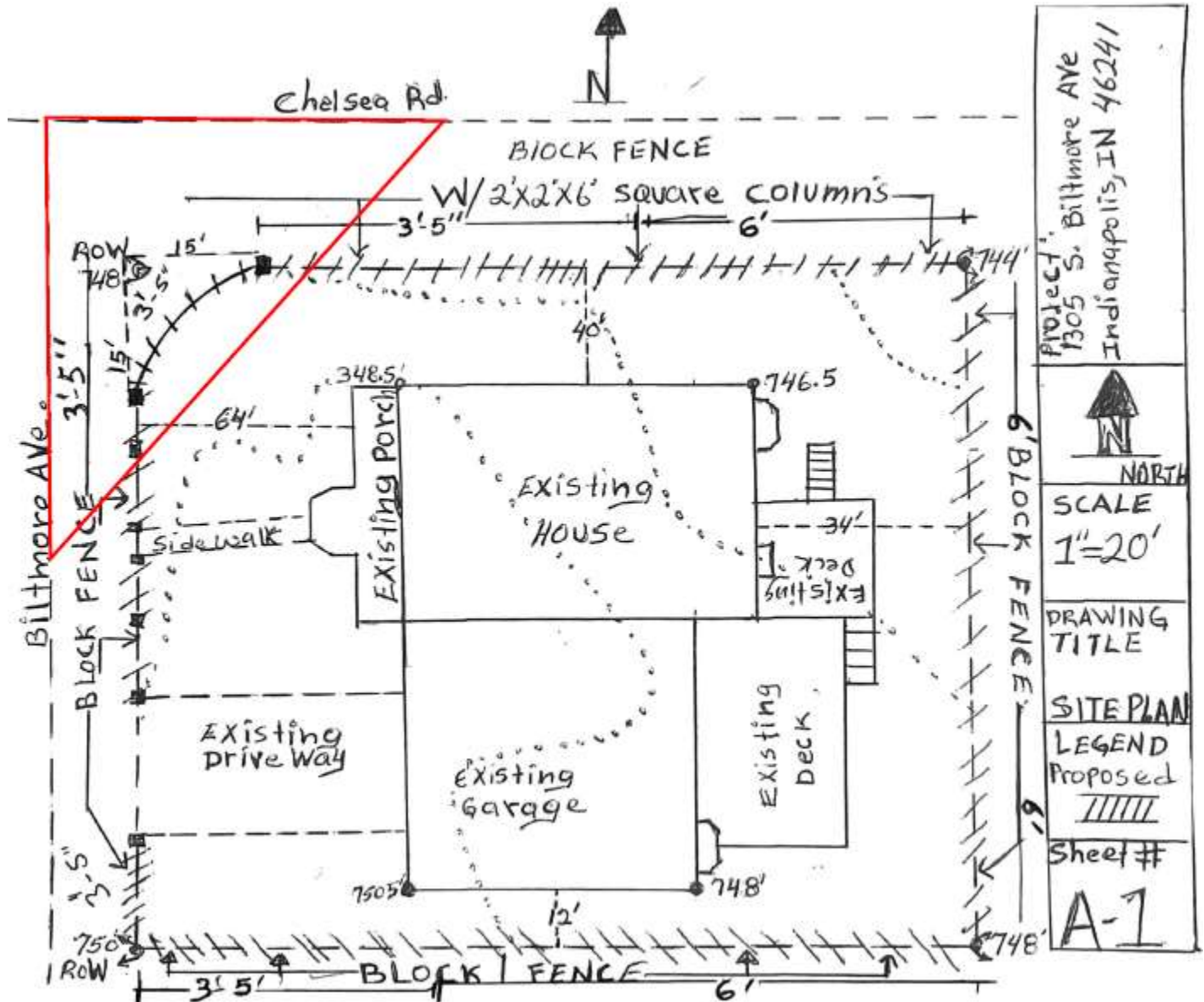
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2023-DV1-048; Aerial Map

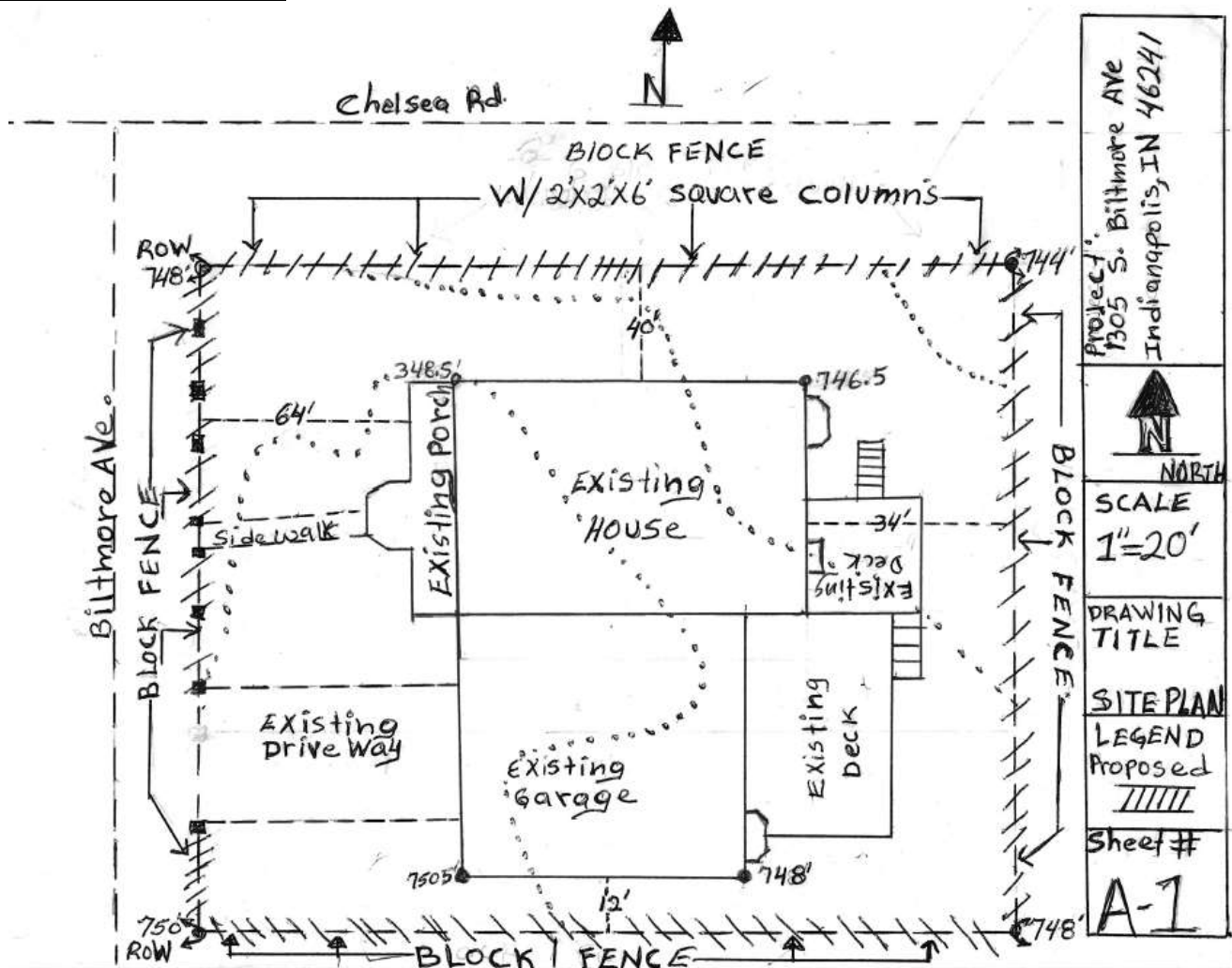


2023-DV1-048; Site Plan (Amended)

Clear sight triangle shown in red



2023-DV1-048; Site Plan



2023-DV1-048; Staff Exhibit—Clear Site Triangle



2023-DV1-048; Findings of Fact

**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 view of the road is not obstructed due to the fence. Both sides of the road are still visible at the stop sign by the fence, oncoming traffic is still visible.

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 not interfering with the area adjacent to the property, it can still be used without any disturbance.

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

It would cause monetary difficulties to to property owner due to expenses, if approval was not granted.

2023-DV1-048; Photographs



Subject site front and side yard fence viewed from Biltmore Avenue, looking north



View of fence in the front yard, looking east



View of fence in the front yard, looking east



View of fence in the right-of-way and clear sight triangle at the intersection of Biltmore Avenue and Chelsea Road, looking east



View of fence in the right-of-way and clear sight triangle at the intersection of Biltmore Avenue and Chelsea Road, looking south



View of fence along Chelsea Road, looking east



View of fence along Chelsea Road, looking south



View of fence along Chelsea Road, looking southwest