

**BOARD OF ZONING APPEALS DIVISION I**

May 12, 2026

**Case Number:** 2026-DV1-016  
**Property Address:** 141 East Pleasant Run Parkway South Drive (approximate address)  
**Location:** Center Township, Council District #18  
**Petitioner:** Richard Tindell and Nicole Hubbard, by Tyler Ochs  
**Current Zoning:** D-5  
**Request:** Variance of Development Standards to allow for a rear yard fence to obstruct the clear sight triangle (not permitted).  
**Current Land Use:** Residential  
**Staff Recommendations:** Staff recommends **denial** of the variance.  
**Staff Reviewer:** Josh Levesque, Senior Planner

**PETITION HISTORY**

N/A

**STAFF RECOMMENDATION**

Staff recommends **denial** of the variance.

**PETITION OVERVIEW**

- 141 East Pleasant Run Parkway South Drive is a mid-block parcel on East Pleasant Run Parkway South Drive between South Madison Avenue and South Delaware Street. The rear of the property can be accessed by an east-west alley off of South Delaware Street and a north-south alley off of Hoefgen Street.
- The petitioner is requesting a variance to allow for a rear yard fence to obstruct the clear sight triangle of an alley. A clear sight triangular area is an area in which (per Ordinance) no buildings, structures, landscaping or other elements may be located within, unless otherwise exempted. This is intended to prevent potential pedestrian and vehicular conflicts. A solid, 6-foot tall fence prevents proper viewsheds, posing public safety risks. Instructions on calculating clear sight triangles and staff's subsequent calculations can be found in the exhibits below.
- Furthermore, as seen in the second aerial map, the north-south alley right-of-way extends north parallel to the subject property and connects to an east-west alley off Madison Street. While this stretch of north-south alley between the two (2) east-west alleys appears to no longer function as an alley, staff has found no record of vacation nor any record of an encroachment easement either for the subject property or the surrounding properties encroaching into the right-of-way. Without

a vacation or an encroachment easement, any variance for a clear-sight obstruction would still leave the fence subject to enforcement action related to the right-of-way obstruction.

- The petitioner has indicated that the fence was rebuilt along the exact footprint of a previous fence at this site. Staff will once again note that no easement or vacation appears on record and any such fence would also have been noncompliant. A right-of-way, developed or not, is still a right-of-way.
- Staff notes that this fence is currently the subject of a property dispute. While this is a civil matter on which staff will not comment, staff does note that any required relocation of the fence would provide the petitioner an opportunity to correct the existing right-of-way obstruction.
- In staff's analysis, there appear to be no site-specific practical difficulties that would prevent the fence from being relocated to comply with clear sight triangle regulations. Given the lack of site-specific practical difficulties, the risks posed by clear site obstructions, and the current right-of-way obstructions, staff recommends denial of this petition.

**GENERAL INFORMATION**

<b>Existing Zoning</b>	D-5	
<b>Existing Land Use</b>	Residential	
<b>Comprehensive Plan</b>	Traditional Neighborhood	
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Surrounding Context</b>
North:	PK-1	North: Undeveloped
South:	D-5	South: Residential
East:	D-5	East: Residential
West:	D-5	West: Residential
<b>Thoroughfare Plan</b>		
East Pleasant Run Parkway South Drive	Local Street	70-foot existing right-of-way and 48-foot proposed right-of-way
<b>Context Area</b>	Compact	
<b>Floodway / Floodway Fringe</b>	No	
<b>Overlay</b>	No	
<b>Wellfield Protection Area</b>	No	
<b>Site Plan</b>	01/30/2026	
<b>Site Plan (Amended)</b>	N/A	
<b>Elevations</b>	N/A	
<b>Elevations (Amended)</b>	N/A	
<b>Landscape Plan</b>	N/A	
<b>Findings of Fact</b>	1/30/2026	
<b>Findings of Fact (Amended)</b>	N/A	

## COMPREHENSIVE PLAN ANALYSIS

### Comprehensive Plan

- Marion County Land Use Plan Pattern Book

### Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book assigns this property the “Traditional Neighborhood” living typology. This typology “includes a full spectrum of housing types, ranging from single family homes to large-scale multifamily housing. The development pattern of this typology should be compact and well-connected, with access to individual parcels by an alley when practical. Building form should promote the social connectivity of the neighborhood with clearly defined public, semi-public, and private spaces. Infill development should continue the existing visual pattern, rhythm, or orientation of surrounding buildings when possible. A wide range of neighborhood-serving businesses, institutions, and amenities should be present. Ideally, most daily needs are within walking distance. This typology usually has a residential density of 5 to 15 dwelling units per acre, but a higher density is recommended if the development is within a quarter mile of a frequent transit line, greenway, or park

### 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

- 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

**2004-ZON-059; 2405 Madison Avenue (east of site)**, Rezoning of 25.345 acres, being in the D-5 (FW) District, to the SU-2 (FW) classification to legally establish educational uses, **approved**.

**2016-ZON-005; 2457 Madison Avenue (southeast of site)**, Rezoning of 0.52 acres, from the D-5 district to the C-3C (MU-2) classification, **approved**.

**EXHIBITS**

**2026DV1016; Aerial Map**



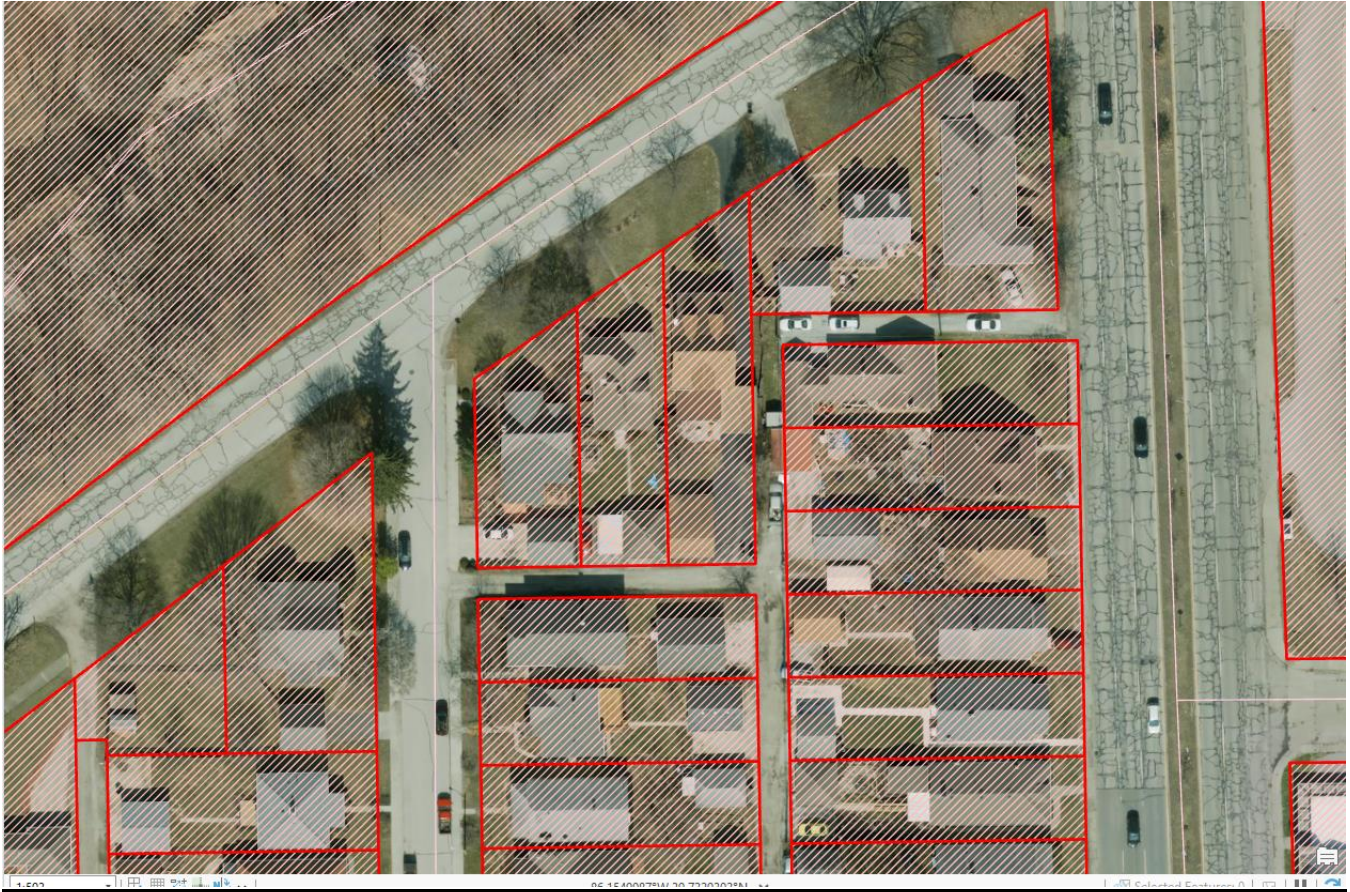
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Stormwater Impervious Area

Mapping Application for Public Safety

**2026DV1016: Aerial Map (continued)**



Aerial Map differentiating between parcels and rights-of-way

**2026DV1016; Site Plan**

<input type="checkbox"/> Leave Dirt by Posts <input checked="" type="checkbox"/> Haul Dirt <input type="checkbox"/> Move Dirt to a spot in the Yard	<input checked="" type="checkbox"/> Take Out and Haul Existing Fence <input type="checkbox"/> Take Out and Stack Existing Wood / Chain Link / Alum Vinyl / Steel	<input type="checkbox"/> Rem. Sections Amt _____ <input type="checkbox"/> Asp / Con Breaks Amt _____ <input type="checkbox"/> New Sod <input type="checkbox"/> Dirt Grade <input type="checkbox"/> Unfinished Grade	<input type="checkbox"/> Attach to Home (circle one) Concrete Brick Wood Siding <input checked="" type="checkbox"/> Ready to Go
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\* Install 218 FT of 6FT Tall All Cedar Privacy + 10FT of 4FT Tall "Traditional"  
 - 4x4 Post set 36" Deep  
 - Two 4FT Wide Gate's

Two 5FT wide gate's at front of home across Drive 4FT Tall

16FT Single Roller Gate in back by Garage Across Drive

4FT wide gate

Neighbor's Garage

4FT wide Gate

Home

Two 5FT wide 4FT Tall Swing Gate's

228FT

Customer Approved Measurements

VISA    MASTERCARD    DISCOVER

<p><b>Payment Terms</b></p> <input checked="" type="checkbox"/> 25% down. Balance Due to Crew Chief or Office upon Completion <input type="checkbox"/> _____% down. Financing Terms _____ <small>Third Party financing may be available to qualified applicants. If customer does not complete and return all documents or instruments required by the third party or qualify for third party financing, payment will be due in full to Timber Ridge.</small>	<p>Payment Amount \$ _____</p> <p>CK # _____ Date _____</p> <p style="text-align: center;">V M D A</p> <p>Exp _____ Appr _____</p>	<p>Payment Amount \$ _____</p> <p>CK # _____ Date _____</p> <p style="text-align: center;">V M D A</p> <p>Exp _____ Appr _____</p>
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Materials	_____
Tax	_____
Labor	_____
<b>Grand Total</b>	<b>10,322</b>
Deposit	2,580
Balance	7,742

\* Tax INCL  
 \* Dirt Removal INCL  
 \* Remove + Haul Old Fence INCL

**Acceptance of proposal:** "YOU, THE CONSUMER, MAY CANCEL THIS CONTRACT BY NOTIFYING TIMBER RIDGE, IN WRITING, ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION."

The signer has read each of the provisions on this page and the specifications on page 1 and the conditions of sale on the back of the contract. The above prices, specifications, and conditions of sale are hereby accepted. This proposal becomes a binding and enforceable contract when received by Timber Ridge either (a) bearing the customer's signature or (b) without signature but accompanied by down payment from the customer as required. All materials are specified as above and all work is to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra charges will be executed upon (a) written order or (b) customer consent and will require an additional charge.

Customer \_\_\_\_\_ Date \_\_\_\_\_

Company Representative Craig Herron Date 5-14-25



**2026DV1016; Findings of Fact**

Petition Number \_\_\_\_\_

**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:

This is the rebuild of a prior existing fence. The right-of-way referred to no longer acts as an alley way as there are cars in the driveway that prevent connection from Madison Avenue. There is no safety hazard created by the fence since the old alley no longer acts as an alley, rather, a driveway.

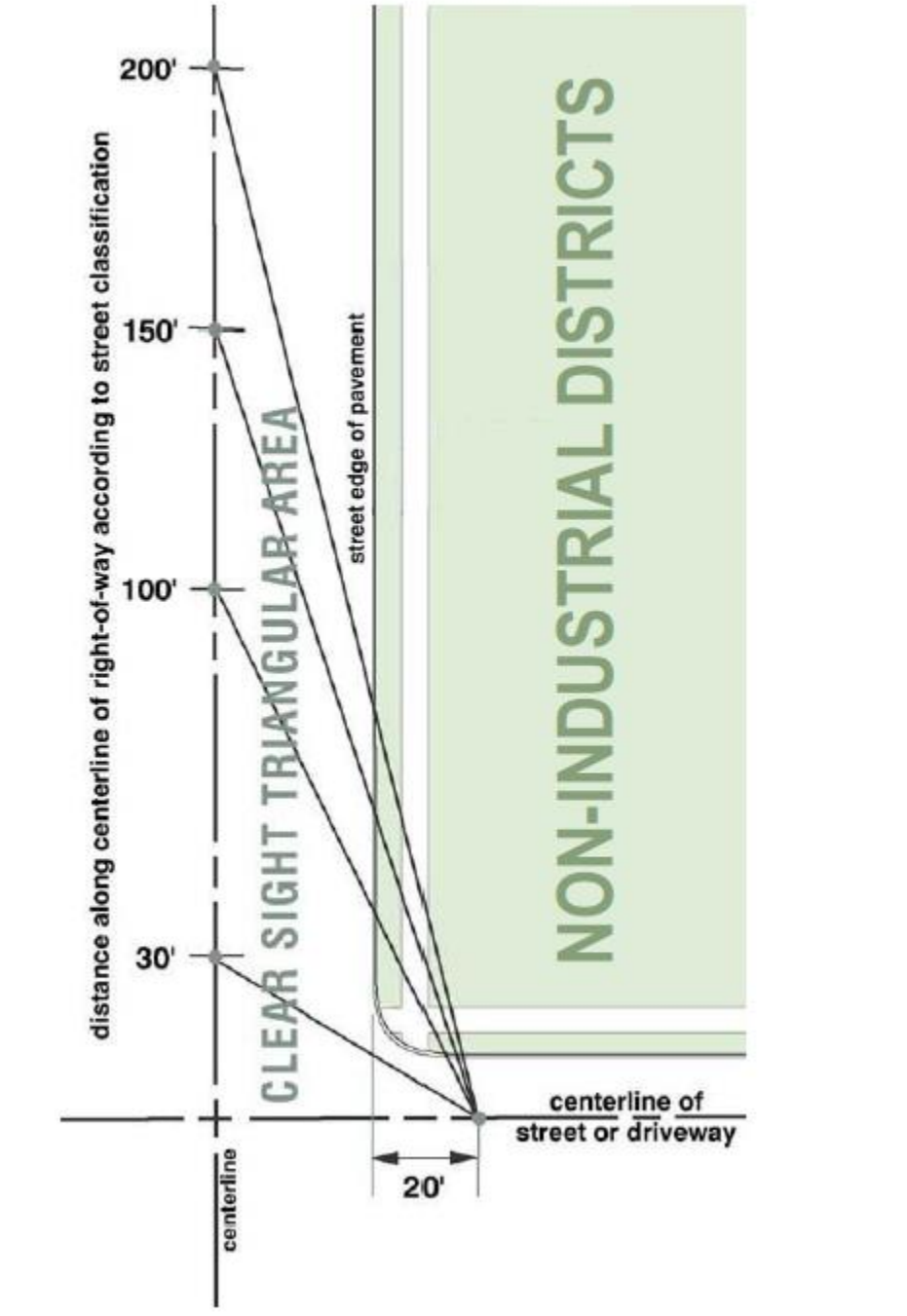
2. The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:

This is the rebuild of a prior existing fence. The prior fence had become old and dilapidated. This new fence adds property value with a new improved aesthetic.

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

Although technically right-of-way based on prior maps, the reality is this neighboring drive is no longer an alley. Rather, it is used as a driveway by the neighbor. Therefore, the application of the ordinance to the fence is not applicable since the alley is no longer used as right-of-way connection to Madison Ave and the triangular-sight requirement would no longer apply.

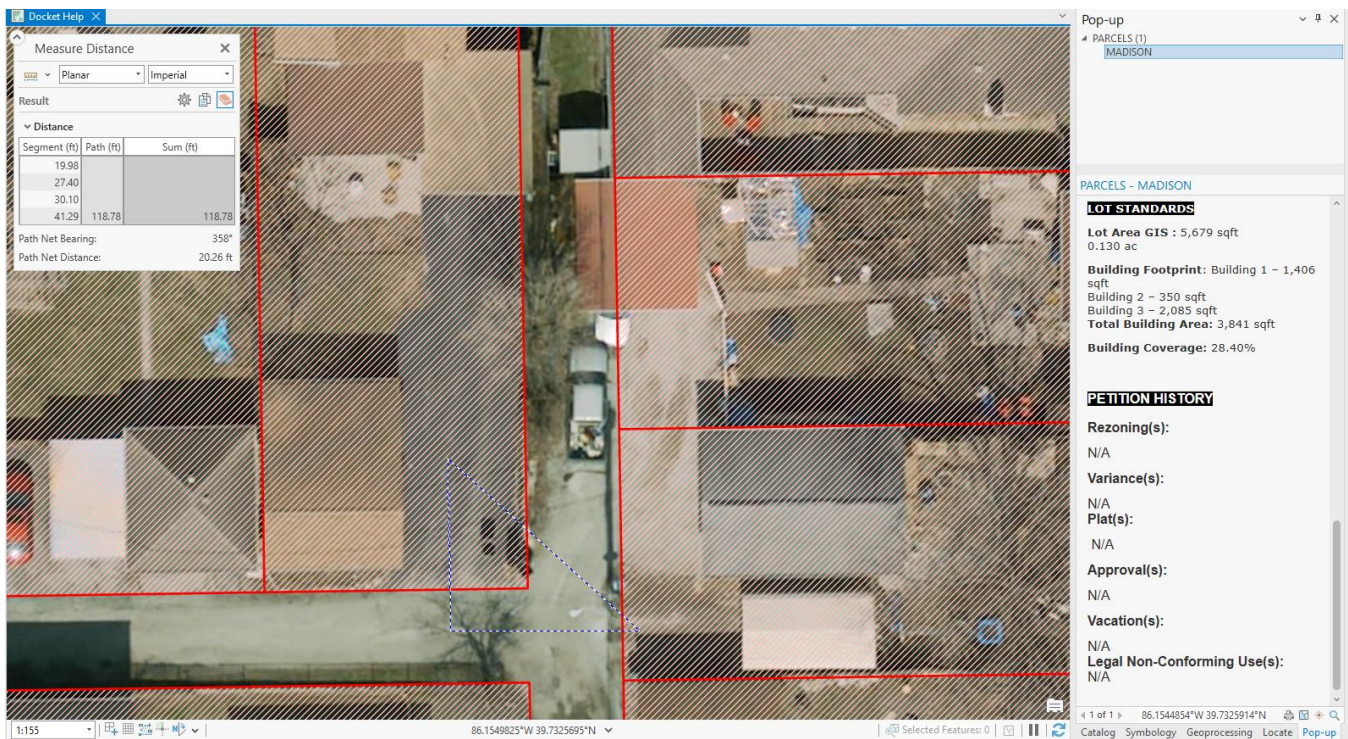
2026DV1016; Clear Sight Triangle Calculations



**2026DV1016; Clear Sight Triangle Calculations (continued)**

Table 740-304-A: Clear Sight distances for non-industrial districts	
Street classification	Distance along the right-of-way centerline
Expressway	Direct access not permitted
Arterials, Highways, or State Roads	200 feet
Collector	150 feet
Local	100 feet
Alley	30 feet
Railroad	75 feet
Greenway	20 feet

**2026DV1016; Clear Sight Triangle Calculations (continued)**



Clear Sight Triangle calculations showing 20 feet into the centerline of the driveway and extending 30 feet into the alley

**2026DV1016; Photographs**



Photo 1: Showing obstructed right-of-way with subject fence on left and behind tree

**2026DV1016; Photographs (continued)**



Photo 2: Close-up of obstructed right-of-way

**2026DV1016; Photographs (continued)**



Photo 3: View of fence from southern part of property where east-west and north-south alley meet.

**2026DV1016; Photographs (continued)**



Photo 4: View showing cars and part of alley behind fence line.