

**METROPOLITAN DEVELOPMENT COMMISSION
OF MARION COUNTY, INDIANA
PETITION FOR VARIANCE OF USE
NEGATIVE FINDINGS OF FACT**

1. BASED ON THE EVIDENCE SUBMITTED THE PETITIONER FAILED TO MEET ITS BURDEN OF PROOF TO SHOW THAT THE GRANT WILL NOT BE INJURIOUS TO THE PUBLIC HEALTH, SAFETY, MORALS, AND GENERAL WELFARE OF THE COMMUNITY BECAUSE the use of a six-foot tall chain link fence in the front yard and clear sight triangle is prohibited. Allowing it to obstruct sight visibility would be injurious to the public health, safety, morals, and general welfare of the community.
2. BASED ON THE EVIDENCE SUBMITTED THE PETITIONER FAILED TO MEET ITS BURDEN OF PROOF TO SHOW THAT THE GRANT OF THE VARIANCE WOULD NOT CAUSE THE USE OR VALUE OF THE AREA ADJACENT TO THE PROPERTY TO BE AFFECTED IN A SUBSTANTIALLY ADVERSE MANNER BECAUSE allowing the proposed six-foot tall chain link fence could create a precedent for other sites to request chain link fences in the front yard which would negatively affect the value of the area adjacent to the property.
3. BASED ON THE EVIDENCE SUBMITTED THE PETITIONER FAILED TO MEET ITS BURDEN OF PROOF TO SHOW THE NEED FOR THE VARIANCE ARISES FROM SOME CONDITION PECULIAR TO THE PROPERTY INVOLVED BECAUSE no substantive data or evidence has been provided to indicate that other alternative security measures had been investigated or that a six-foot tall chain link fence would prevent theft.
4. BASED ON THE EVIDENCE SUBMITTED THE PETITIONER FAILED TO MEET ITS BURDEN OF PROOF TO SHOW THAT THE STRICT APPLICATION OF THE TERMS OF THE ZONING ORDINANCE WOULD CONSTITUTE AN UNUSUAL AND UNNECESSARY HARDSHIP IF APPLIED TO THE PROPERTY FOR WHICH THE VARIANCE IS SOUGHT BECAUSE the site could be used for the uses permitted in the current zoning district without the need of a six-foot tall chain link.
5. BASED ON THE EVIDENCE SUBMITTED THE PETITIONER FAILED TO MEET ITS BURDEN OF PROOF TO SHOW THAT THE GRANT OF THE VARIANCE WOULD NOT INTERFERE SUBSTANTIALLY WITH THE COMPREHENSIVE PLAN BECAUSE the proposed chain link fence was requested for the anticipated automobile repair shop that would not align with the Comprehensive Plan recommendation of traditional neighborhood development.

DECISION

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

Adopted this _____ day of _____, 20 ____
