

BOARD OF ZONING APPEALS DIVISION I

September 1, 2026

Case Number: 2026-DV1-028
Address: 1019 N Beville Avenue (approximate address)
Location: Center Township, Council District #13
Zoning: D-5
Petitioner: Nickolas Gonzalez
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a 7.5-foot tall privacy fence in the side and rear yards (maximum six-foot tall fence permitted in side and rear yards).
Current Land Use: Single-Family Dwelling
Staff Recommendation: Staff recommends denial of this petition.
Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

This petition was previously continued from the July 14, 2026, hearing, to the August 11 hearing, to allow time to provide the required legal notice.

This petition was previously continued for cause to the August 4, 2026, hearing, to allow time for the petitioner to provide legal notice. A Registered Neighborhood Organization automatically continued this petition from the August 4, 2026, hearing to the September 1, 2026, hearing.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

- ◇ Development Standards of the Consolidated Zoning and Subdivision Ordinance permits a maximum fence height of six (6) feet in the rear yard. The purpose of the height limitation is to create an open appearance along public rights-of-way, prevent blocking views at intersections, limit the negative visual impacts on adjacent properties, and prevent a canyonized effect of the streetscape when taller fences are installed.
- ◇ There is no practical difficulty with the site that is not self-imposed, as the fence could be built in the rear yard where proposed, with a height of six feet without the need for a Variance, or landscaping could be provided where additional privacy is needed.

- ◇ The Indianapolis Zoning Ordinance prescribes height limitations for fences to maintain visibility, orderly development, and the appearance of open space while also allowing for reasonable privacy. Although neighboring properties have taller fences in front yards that predate current ordinance standards, it is unclear what inherent practical difficulties exist that would be remedied by an 8-foot fence but not by an ordinance-compliant 6-foot fence. Therefore, staff recommends denial of this request.

GENERAL INFORMATION

Existing Zoning	D-5	
Existing Land Use	Single-Family Dwelling	
Comprehensive Plan	Traditional Neighborhood	
Surrounding Context	Zoning	Surrounding Context
North:	D-5	Single-Family Dwelling
South:	D-5	Single-Family Dwelling
East:	SU-7	Accessory Parking Lot
West:	D-5	Multi-Family Dwellings
Thoroughfare Plan		
North Beville Avenue	Local Street	60-foot existing and proposed right-of-way.
Context Area	Compact area	
Floodway / Floodway Fringe	No	
Overlay	N/A	
Wellfield Protection Area	No	
Elevations	N/A	
Landscape Plan	N/A	
Site Plan	May 28, 2026	
Findings of Fact	May 28, 2026	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- The Comprehensive Plan recommends Traditional Neighborhood for the site.

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends the Traditional Neighborhood typology that 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.

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.

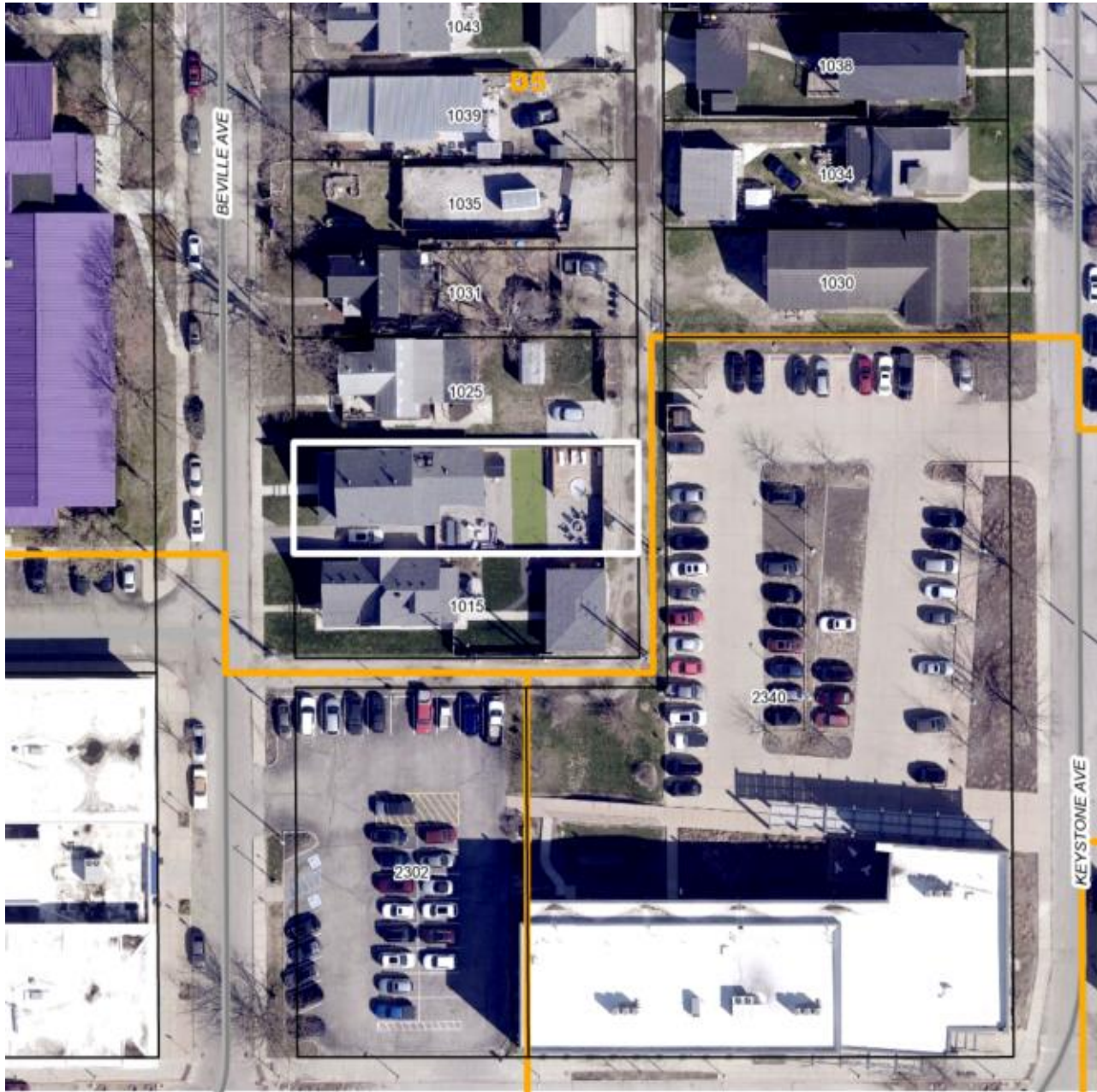
ZONING HISTORY

99-V2-115; 1043 North Beville Avenue (north of site), requested a Variance of Development Standards to provide for the construction of a 25 by 30-foot detached garage, creating 1,283 square feet of detached accessory uses, or 106% of the dwelling main floor area, **granted**.

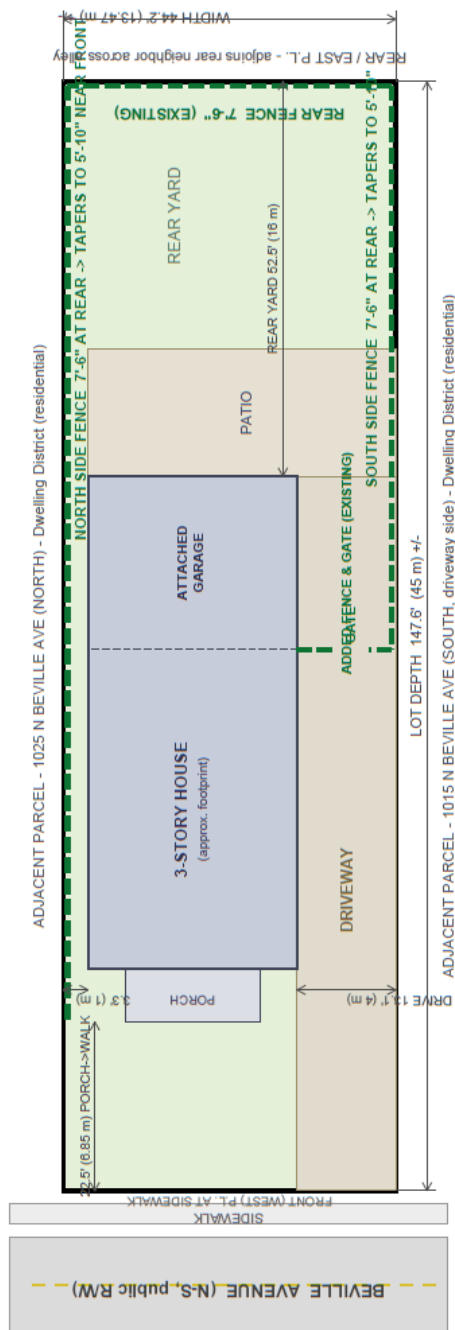
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EXHIBITS

Location Map



Site Plan



LEGEND

- Existing fence (height noted)
Property / boundary line
Building setback line
Building / structure
Driveway / paving

NOTES

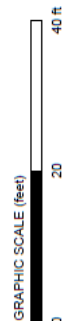
1. Fence already constructed. Rear (east) fence approx. 7'-6"; side fences step down from front 7'-5" at the rear to under 6'-0" (approx. 5'-10") toward the front 7'-5".
2. Added fence & gate across the driveway where it meets the rear yard / patio (existing).
3. Marion County permits max 6'-0" fence in side & rear yards; variance requested for height over 6'-0" (rear = 7'-6").
4. Lot & building dims from owner field measurements (metric in parentheses), footprint approximate - verify before submittal.
5. North orientation per plat; confirm against recorded survey.

SITE PLAN - VARIANCE OF DEVELOPMENT STANDARDS (REAR FENCE HEIGHT)

1019 N Beville Ave, Indianapolis, IN 46201 (Near Eastside)
Local Parcel No. 1008439 -- State Parcel No. 49-07-31-220-042.000-101
Subdivision: Fletcher & Ramsey's Brookside Add. -- Lot Area: 6,534 sq ft (0.15 ac)
Zoning: Dwelling District (residential) - max permitted fence height 6'-0" in side/rear yards
Request: variance to allow existing 7'-6" rear fence (1'-6" over the 6'-0" standard)

dimensions approximate, subject to verification. Date: _____ Drawn by: _____

SCALE: 1" = 20'



Findings of Fact

METROPOLITAN BOARD OF ZONING APPEALS OF MARION COUNTY, INDIANA

Petition for Variance of Development Standards

STATEMENT IN SUPPORT OF PETITION AND PROPOSED FINDINGS OF FACT

Petitioner / Owner: Nickolas Gonzalez

Property Address: 1019 N Beville Ave, Indianapolis, IN 46201 (Near Eastside)

Local Parcel No.: 1008439 **State Parcel No.:** 49-07-31-220-042.000-101

Subdivision / Lot: S K Fletcher & J F Ramsey's Addition to Brookside

Lot Area: ±6,534 sq ft (0.15 ac)

Zoning District: Dwelling District (residential) — D-5

Variance Requested: A variance of development standards to permit an existing rear-yard fence with a maximum height of approximately 7 feet 6 inches, where the Consolidated Zoning / Subdivision Ordinance permits a maximum fence height of 6 feet 0 inches in a side or rear yard — an excess of approximately 1 foot 6 inches along the rear (east) property line.

Case No.: VIO26-003556 **Hearing Date:** N/A

I. Introduction and Nature of the Request

The Petitioner is the owner of the single-family residence located at 1019 N Beville Ave (the "Property"). A privacy fence has been constructed around the rear yard of the Property. The fence runs the full length of the rear (east) property line and returns along both side property lines to enclose the rear yard. Access to the enclosed area is controlled by two gates — one across the driveway on the south side and one at the rear — both of which are self-latching and equipped with locks. The enclosed rear yard is active family recreation space containing an above-ground swimming pool and a wood deck that wraps around the pool.

Because of a natural grade change (fall) across the rear of the lot, the fence measures approximately 7 feet 6 inches in height at the rear property line and steps down gradually to less than 6 feet as it approaches the driveway and the front of the Property. The applicable development standard limits fence height in a side or rear yard to 6 feet 0 inches. The Petitioner therefore requests a variance of development standards to allow the existing fence to remain at its constructed height, an excess of approximately 1 foot 6 inches at the rear.

Indiana Code § 36-7-4-918.5 authorizes the Board to approve a variance of development standards upon written findings on three criteria. The Petitioner respectfully submits that each criterion is satisfied, as set forth below.

II. Proposed Findings of Fact

Finding 1 — The approval will not be injurious to the public health, safety, morals, and general welfare of the community.

Approval of the variance will not be injurious to the public health, safety, morals, or general welfare. The fence is a residential privacy fence located within the rear and side yards of a single-family lot; it does not encroach upon any public right-of-way, sidewalk, alley, or utility easement, and it does not obstruct vehicular or pedestrian sight lines. The fence steps down to below 6 feet as it approaches the front of the Property and the driveway, so it does not create any visibility hazard at the street or driveway approach. The fence contains no barbed wire, razor wire, or electrification and otherwise complies with all applicable provisions of the ordinance. If anything, the enclosure enhances public welfare by improving security, containing the rear yard, and providing a safe, enclosed area on the Property.

The enclosure also serves an affirmative public-safety function. Because the rear yard contains an above-ground swimming pool, the fence operates as the protective barrier around it. By fully enclosing the pool and controlling access through two self-latching, lockable gates, the fence helps prevent unsupervised entry by children and reduces the risk of drowning or injury — the very objective behind residential pool-barrier requirements. A secure barrier of this height therefore advances, rather than undermines, the public health and safety the ordinance is intended to protect.

Finding 2 — The use and value of the area adjacent to the property will not be affected in a substantially adverse manner.

The use and value of adjacent properties will not be affected in a substantially adverse manner. The additional height occurs only along the rear (east) property line, which abuts the alley and the rear of neighboring parcels rather than the front of any adjoining home. Privacy fencing of similar character and height is common throughout this established Near-Eastside neighborhood. The fence is well maintained and consistent with the residential character of the block. Rather than diminishing adjacent value, a finished privacy fence of this type typically supports and protects neighboring property values by screening yards, reducing noise, and defining property boundaries. The immediately adjacent owners at 1025 N Beville Ave (north) and 1015 N Beville Ave (south) are not adversely affected, as the fence sits at the shared rear/side lines and is consistent with surrounding improvements. The above-ground pool and wrap-around deck sit within the interior of the enclosed yard and are screened from neighboring properties by the fence; by shielding the pool and deck area from adjacent view and dampening noise, the privacy fence benefits — rather than burdens — the surrounding owners.

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

Strict application of the 6-foot standard would result in practical difficulties in the use of the Property. The lot is long and narrow (approximately 44 feet wide by 147 feet deep) and the rear yard slopes, with a measurable grade fall toward the rear property line. Because the fence follows the existing grade, a strictly uniform 6-foot height measured at every point would either leave gaps below the fence line at the low points or require re-grading, stepped panels, or removal and reconstruction of fencing that has already been installed. The modest additional height at the rear — roughly 18 inches — is a direct consequence of the topography and lot configuration, not of any desire to exceed neighborhood norms. Requiring the Petitioner to tear down and rebuild a conforming fence to eliminate this grade-driven excess would impose substantial and unnecessary cost and effort while yielding no meaningful

benefit to the public or to adjoining owners. The practical difficulty therefore arises from the physical characteristics of the parcel rather than from any condition created for the Petitioner's mere convenience or financial gain.

The physical conditions are compounded by the improvements in the rear yard. The deck wraps the above-ground pool and stands roughly three to four feet above grade in the rear corner of the lot. From that elevated deck surface, a fence limited to six feet measured at existing grade provides materially reduced effective screening and a lower effective barrier; the additional height restores adequate privacy and a secure pool barrier at the deck and pool level. The need for the extra height thus flows directly from the topography and the placement of fixed improvements on the lot, not from preference alone.

III. Statement of Practical Difficulties (Hardship)

The practical difficulty in this case is rooted in the Property's physical conditions. The rear yard falls in grade from the area near the driveway toward the rear (east) property line. To provide a continuous, secure, and visually consistent privacy enclosure that meets the ground along its full length, the fence was built to follow the slope; this causes the rear segment to stand approximately 7 feet 6 inches tall while the remainder of the fence steps down to under 6 feet near the front and driveway.

A rigid 6-foot limit measured at the highest point of grade does not account for sloping lots and would force the Petitioner to choose between (a) an enclosure that leaves openings beneath the fence where the ground falls away, defeating the privacy and security purpose of the fence; or (b) the expense of removing and rebuilding fencing that is already complete, structurally sound, and harmonious with the neighborhood. Either outcome imposes a real and unnecessary burden without advancing the purposes of the ordinance.

The difficulty is heightened by how the rear yard is used. The enclosed area is active family recreation space containing an above-ground swimming pool and a wrap-around deck, with access limited by self-latching, lockable gates. A secure and private barrier around a pool is a safety feature, not a discretionary preference. Lowering the fence to six feet measured at grade would weaken that barrier and — because the deck is elevated — expose the pool and deck area to view from adjoining yards, contrary to both the family's reasonable use of the Property and the public interest in pool safety.

The requested variance is the minimum necessary to address the difficulty. It applies only to the rear portion of the fence affected by grade, leaves the front and driveway portions in full compliance, preserves sight lines and public safety, and keeps the improvement consistent with fences found throughout the area. For these reasons, the Petitioner respectfully requests that the Board make all three findings in the Petitioner's favor and grant the variance of development standards.

Photographs



Subject site, looking east



Rear of subject site, looking west.



Adjacent single-family dwelling to the south, looking east.



Adjacent single-family dwelling to the north, looking east.