

BOARD OF ZONING APPEALS DIVISION I

October 03, 2023

Case Number: 2023-DV1-045
Property Address: 2236 Manhattan Avenue (approximate address)
Location: Wayne Township, Council District #22
Petitioner: KHH Enterprises LLC, by John Cross
Current Zoning: I-2
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the erection of a six-foot tall perimeter fence (maximum height of 3.5 feet in front yards, no primary building on site).
Current Land Use: Vacant
Staff Recommendations: Staff recommends denial of this petition
Recommended Motion: Motion to approve petition 2023-DV1-045
Staff Reviewer: Noah Stern, Associate Planner

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff recommends denial of this petition

PETITION OVERVIEW

- This request would allow for the erection of a six-foot tall perimeter fence (maximum height of 3.5 feet in front yards, no primary building on site).
- Fence height regulations are in place to maintain open space and visibility, while allowing for a reasonable amount of privacy. Moving beyond the regulations has the potential to present safety issues to the surrounding area by limiting visibility into a site. Additionally, perimeter privacy fences surrounding a vacant site can promote illegal and unsafe outdoor storage and/or dumping. Finally, Staff does not see any practical difficulty associated with this site for the owner to not comply with the Ordinance. Therefore, Staff is opposed to a variance allowing a perimeter fence taller than the allowable height.

GENERAL INFORMATION

Existing Zoning	I-2										
Existing Land Use	Vacant										
Comprehensive Plan	Office/Industrial Mixed-Use										
Surrounding Context	<table border="0"> <tr> <td>Zoning</td> <td>Surrounding Context</td> </tr> <tr> <td>North: I-2</td> <td>North: Single-family residential</td> </tr> <tr> <td>South: I-2</td> <td>South: Single-family residential</td> </tr> <tr> <td>East: I-2</td> <td>East: Single-family residential</td> </tr> <tr> <td>West: I-2</td> <td>West: Single-family residential</td> </tr> </table>	Zoning	Surrounding Context	North: I-2	North: Single-family residential	South: I-2	South: Single-family residential	East: I-2	East: Single-family residential	West: I-2	West: Single-family residential
Zoning	Surrounding Context										
North: I-2	North: Single-family residential										
South: I-2	South: Single-family residential										
East: I-2	East: Single-family residential										
West: I-2	West: Single-family residential										
Thoroughfare Plan											
Manhattan Avenue	Local Street Existing ROW: 50 feet Proposed ROW: 48 feet										
Context Area	Compact										
Floodway / Floodway Fringe	No										
Overlay	No										
Wellfield Protection Area	No										
Site Plan	8/4/23										
Site Plan (Amended)	N/A										
Elevations	N/A										
Elevations (Amended)	N/A										
Landscape Plan	N/A										
Findings of Fact	8/4/23										
Findings of Fact (Amended)	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 recommends the Office/Industrial Mixed-Use working typology for this 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

- 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

65-Z-105; 5200 W Raymond Street (north of site), rezoning of 0.50 acres, being in I-3-S district, to Special Uses (42) classification to permit a jet mixing station by Citizens Gas & Coke Utility, **approved**.

85-UV3-24; 2249 S Biltmore Avenue (south of site), variance of use of Section 2.02(A) of the Industrial Zoning Ordinance to permit an existing auto repair garage, **approved**.

86-Z-230; 2202 S Lynhurst Drive (east of site), request to rezone 0.61 acres to the C-3 district to provide for the construction of a convenience store with gasoline sales, **denied**.

87-UV1-145; 2338 S Lynhurst Drive (south of site), requests a variance of use of the Dwelling Districts Zoning Ordinance to provide for the conversion of a single-family residence into an office, **approved**.

89-UV3-55; 5347 W Raymond Street (north of site), variance of use and development standards of the Industrial Zoning Ordinance to provide for a sandwich shop with a drive-up window and a fifteen-foot side setback (thirty feet required), **approved**.

2001UV3002; 5350 W Raymond Street (north of site), variance of use of the Special Districts Zoning Ordinance to provide for the construction of a 7,700 square foot warehouse for industrial uses (not permitted) and a variance of development standards to provide for the construction of 7,700 square foot warehouse, with a ten-foot side yard setback (minimum 30-foot side yard setback required), **approved**.

2002ZON017; 2250 & 2252 S Lynhurst Drive (east of site), rezone of 0.278 acres from I-2-S to D-5, **denied**.

2005UV1012; 2201 S Lynhurst Drive (east of site), variance of use of the Dwelling Districts Zoning Ordinance to provide for a bed and breakfast (not permitted) in an existing two-story, 2,520-square foot single-family dwelling, and a Variance of Development Standards of the Sign Regulations to provide for an eight-foot tall, sixteen-square foot pylon sign (not permitted) located zero feet from the right-of-way of Lynhurst Drive (minimum fifteen-foot setback required), **approved**.



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:

a 6-foot fence will not impose any harm. This height is permitted in I-3 zoning districts and the subject property is zoned I-2.

The purpose of the fence is to provide safety to the property to protect from trespassers and theft at the property.

I-2 permits 10-foot high fences in side and rear yards and the front fence height is much less than this limit.

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 surrounding properties are all zoned I-2 and some are used for residential purposes though. The comprehensive plan recommends

the property be used for office or mixed-use. A 6-foot fence would not negatively impact an industrial zoned area but would instead

provide screening from potential intensive uses.

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 has been subject to trespassers, squatters, and burglary. The 6-foot fence will provide sufficient safety measures to

protect the property from such activities. A 42 inch fence in the front yard would not be adequate to prevent such activities.

DECISION

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

Adopted this _____ day of _____, 20 ____







