

BOARD OF ZONING APPEALS DIVISION III

July 21, 2026

Case Number: 2026-DV3-014

Property Address: 4202 Carson Avenue (approximate address)

Location: Perry Township, Council District #19

Petitioner: Kevin and Heather Davis

Current Zoning: D-A (FW) (FF) / D-6II

Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a six-foot tall fence within the front yard of Carson Avenue (maximum 3.5-foot tall fence permitted) and encroaching within the required clear-sight triangle (not permitted).

Current Land Use: Residential

Staff Recommendations: Staff recommends **denial** of the requested variances.

Staff Reviewer: Michael Weigel, Principal Planner I

PETITION HISTORY

7/21/26: The petitioner indicated their need for an additional continuance due to a last-minute work obligation impacting their ability to have childcare secured on the afternoon of the hearing. Staff made this request on their behalf, with support for additional continuance unlikely.

6/16/26: The petitioner indicated their need for an additional continuance to allow time for legal notice to be posted and mailed. Staff made this request on their behalf.

5/26/26: The petitioner had a conflict on this hearing date and had indicated their desire to have this petition continued to the June 16, 2026 hearing of Division III. Staff made this request on their behalf.

STAFF RECOMMENDATION

Staff recommends **denial** of the requested variances.

PETITION OVERVIEW

4202 Carson Avenue is a 2.69-acre parcel currently improved with a single-family residence and associated accessory building accessed by private driveway from Carson Avenue to the north. The property has around 517 linear feet of frontage along Carson Avenue, where there are also overhead power lines and a change in grade from the roadway to the interior of the site. The southern portion of the property is partially floodway due to its proximity to the Lick Creek; the fence that is the subject of this variance petition does not fall within that floodway or within any easement related to the power lines.

Surrounding land uses include single-family residences to the west and north, an apartment complex to the south, undeveloped floodway and additional apartments to the east, and the I-465 highway further to

the south. Carson Avenue crosses over the interstate via a bridge, and there is no exit ramp or access from the interstate to Carson directly for vehicles.

Prior to November of 2024, the front yard of the property to the southeast of the existing access drive contained a chain link fence in addition to trees and bushes, running parallel to the property line (visible within Photo 2 of the Exhibits). At that point in time, the existing fence was removed and replaced with a taller opaque wooden fence with a height of 6 feet per measurement by an inspector (see photos 1, 3 and 4). This fence appears to be around 250 linear feet in length placed atop the existing grade change between the road and the house.

In December of 2025, a complaint was filed with the Mayor's Action Center related to the opaque wooden fence, which led to the opening of the violation case VIO26-000584 in January of 2026. That violation cited the property for placing a fence in the front yard with a height of over 42 inches (Ordinance requires a height of 3.5 feet for fences with 30% or greater opacity). Grant of this variance would allow for this fence to remain in place, as well as for the fence to remain partially within the required clear-sight triangle formed between the private access drive and the street edge of Carson Avenue. A diagram within the Exhibits shows that clear-sight triangular area (20 feet from the street edge and 200 feet along Carson).

The property is primarily zoned D-A to allow for agricultural uses as well as for large estate development of single-family dwellings. A small portion to the east overlaps with the D-6II zoning used for apartments on adjacent property. The Comprehensive Plan recommends the developed portions of the site to the Suburban Neighborhood typology and areas to the south near Lick Creek to the Floodway and Environmentally Sensitive Areas designation (information in Comprehensive Plan Analysis below). Additionally, the Infill Housing Guidelines (a component of the Comprehensive Plan) indicate that front-yard fences for residential areas should be ornamental in nature, with privacy fences discouraged.

Findings of Fact provided by the applicant indicate that grant of the variance would be justified due to the proximity of the property to multifamily development and the interstate, and that the new fence is merely a replacement of previous chain-link fence along the northern property line. Staff would note that the new fence is both taller and more opaque than the previous fence, that the natural grade change and landscaping near the property line would already provide a level of visual buffering and separation, and that at the time of installation, no similar front-yard fences existed near the subject property (an adjacent fence to the north was installed within the past year per photos 7-8 in Exhibits).

Alternate options exist to either (a) lower the height of the fence to a compliant front-yard level between 3.5 and 4 feet in height depending on materials used or (b) place the fence outside of the front-yard area (shown within Exhibits below) along the front building line to offer similar levels of security and prevent unwanted access without the need for variance relief. These changes might also remove the small portion of the fence that is currently within the required clear-sight triangular area and more closely comport with applicable Infill Housing Guidelines. For these reasons, staff recommends **denial** of the requested variances related to front-yard fence height and for encroachment into the clear-sight triangle.

GENERAL INFORMATION

Existing Zoning	D-A	
Existing Land Use	Residential	
Comprehensive Plan	Suburban Neighborhood / Floodway	
Surrounding Context	<u>Zoning</u>	Surrounding Context
North:	D-3	North: Single-Family Residential
South:	D-6II	South: Apartments
East:	D-6II	East: Floodway
West:	D-2	West: Single-Family Residential
Thoroughfare Plan		
Carson Avenue	Secondary Arterial	60-foot existing right-of-way and 80-foot proposed right-of-way
Context Area	Metro	
Floodway / Floodway Fringe	Yes	
Overlay	Yes	
Wellfield Protection Area	No	
Site Plan	04/15/2026	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	N/A	
Findings of Fact	03/24/2026	
Findings of Fact (Amended)	N/A	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book
- Infill Housing Guidelines

Pattern Book / Land Use Plan

- The Suburban Neighborhood typology is predominantly made up of single family housing, but is interspersed with attached and multifamily housing where appropriate. This typology should be supported by a variety of neighborhood-serving businesses, institutions, and amenities. Natural Corridors and natural features such as stream corridors, wetlands, and woodlands should be treated as focal points or organizing systems for development. This typology generally has a residential density of 1 to 5 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.

- The Floodway category delineates areas that exhibit a great potential for property loss and damage from severe flooding, or for water quality degradation. No development should occur within the floodway. Nonconforming uses currently within a floodway should not be expanded or altered.
- The Environmentally Sensitive Areas (ES) Overlay is intended for areas containing high quality woodlands, wetlands, or other natural resources that should be protected. The purpose of this overlay is to prevent or mitigate potential damage to these resources caused by development. This overlay is also appropriate for areas that present an opportunity to create a new environmental asset. This overlay is not intended for the preservation of open space.

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

- Fences around dwellings should be carefully placed. See-through fencing is safest. In the front, fences should be ornamental in style. Do not install privacy fences in front yards.

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

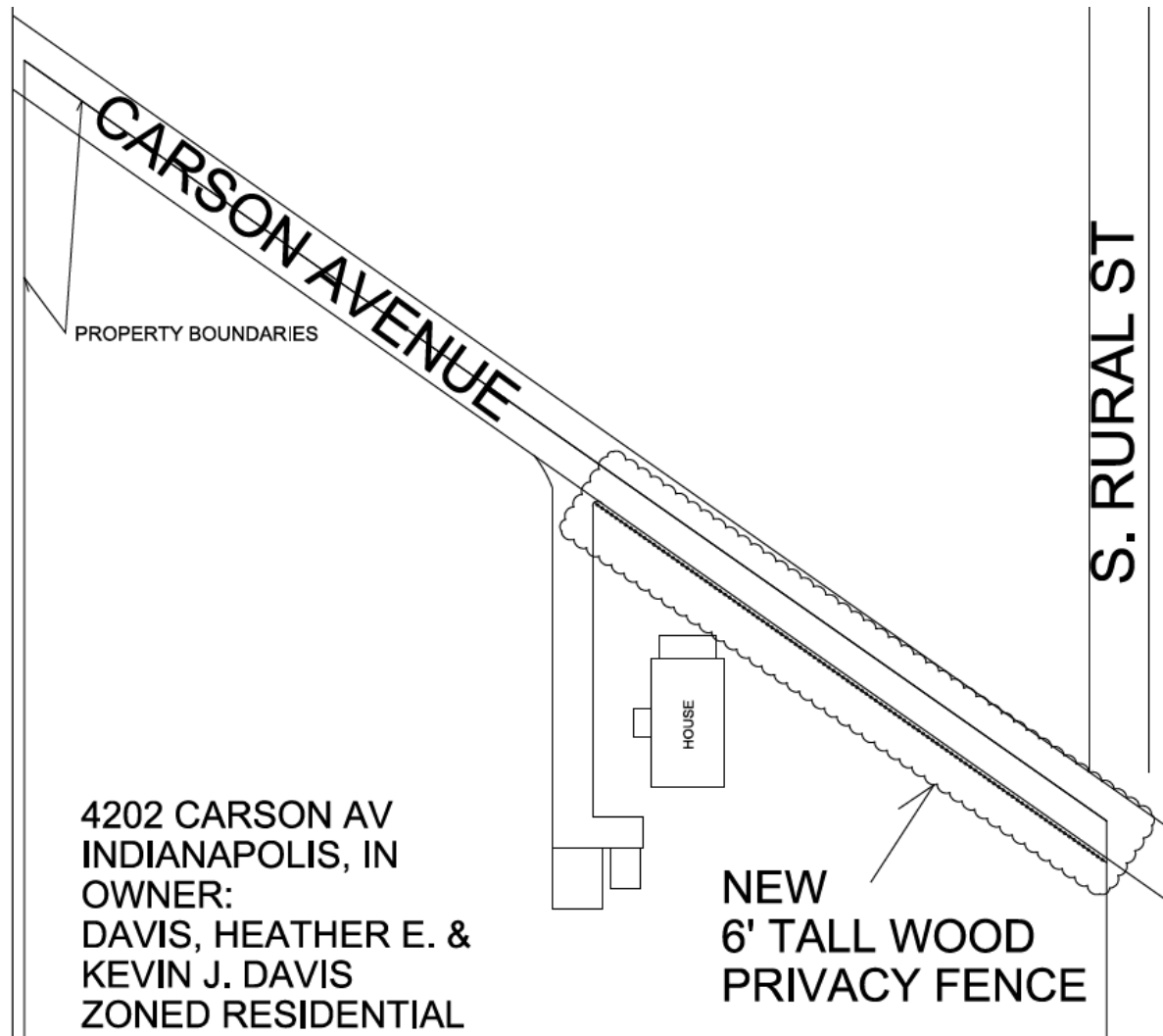
86-UV1-126 ; 4032 South Rural Street (north of site), Variance of Use of the Dwelling Districts Zoning Ordinance to provide for the outside storage of a 60 foot tractor-trailer in the yard of an existing single-family residence, **denied**.

EXHIBITS

2026DV3014 ; Aerial Map



2026DV3014 ; Site Plan



2026DV3014 ; Notice of Violation (VIO26-000584)

RE: 4202 CARSON AVE

Dear DAVIS, HEATHER E & KEVIN J DAVIS:

A recent inspection of the above referenced property indicated violation (s) of the Revised Code of Indianapolis and Marion County as follows:

Section 740 -1005.A.8. Civil Zoning Violation

Specific Violation: Failure to comply with use-specific standards and zoning district development standards for the D-A district; (Table 744-510-2: - Fence height exceeding 42 inches in the front yard with more than 30% opacity...privacy fence along Carson Ave).

2026DV3014 ; Clear-Sight Triangle Diagram



2026DV3014 ; Front Yard Location



2026DV3014 ; Findings of Fact (Height)

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because:
the fence only impacts one side of the residence. Emergency responder personnel has full, unobstructed access to the primary entrance and the existence of this fence has no bearing on the public safety of nearby residents or passing vehicles. On the contrary, the erection of this fence increases the safety and welfare of household residents due to increase in gun violence and shootings at adjacent apartments (Stone Lake Apartments), increased foot traffic of individuals living in houseless community nearby in which drug and firearm use is abundant, and increasing number of accidents at adjacent intersection.

The location of the fence does not impact view of oncoming traffic; a clear sight triangle is maintained.

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 fence or adjacent area does not serve as the primary entrance to the residence and has an increase of value impact on the property without a decrease of value to the surrounding area. As this fence is in the same location as the previous fence, there is still substantial space between the fence and the roadway for emergency vehicles and other various uses such as electrical line repair.

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

it will be exponentially more challenging to protect the safety and welfare of the residents - to include young children and pets - from the increasing dangers and disturbances imposed by nearby traffic accidents, drive by gunfire, and trespassing. Record of 9-1-1 calls made to report said safety hazards can be acquired from local dispatch upon request.

2026DV3014 ; Findings of Fact (Clear-Sight Triangular Area)

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because:

The location of the fence does not impact view of oncoming traffic; despite minor encroachment on the clear-sight triangle. Due to the legal requirement to come to a complete stop at the end of the driveway or heed someone exiting the driveway, there is no scenario in which any slight encroachment is a safety concern. Rather, the curve in Carson Ave. and the infrequent weed mowing by the City are legitimate safety concerns and are of significantly greater impact to the safety of passers by than the location of this fence.

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 fence or adjacent area does not serve as the primary entrance to the residence and has an increase of value impact on the property without a decrease of value to the surrounding area. As this fence is in the same location as the previous fence, there is still substantial space between the fence and the roadway for emergency vehicles and other various uses such as electrical line repair. The fence is a high quality design & construction.

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

It will be exponentially more challenging to protect the safety and welfare of the residents - to include young children and pets - from the increasing dangers and disturbances imposed by nearby traffic accidents, drive by gunfire, and trespassing. Record of 9-1-1 calls made to report said safety hazards can be acquired from local dispatch upon request.

2026DV3014 ; Photographs



Photo 1: Subject Site Viewed from North



Photo 2: Subject Site Viewed from North (August 2022)

2026DV3014 ; Photographs (continued)



Photo 3: Subject Driveway Looking Southeast Along Property Line

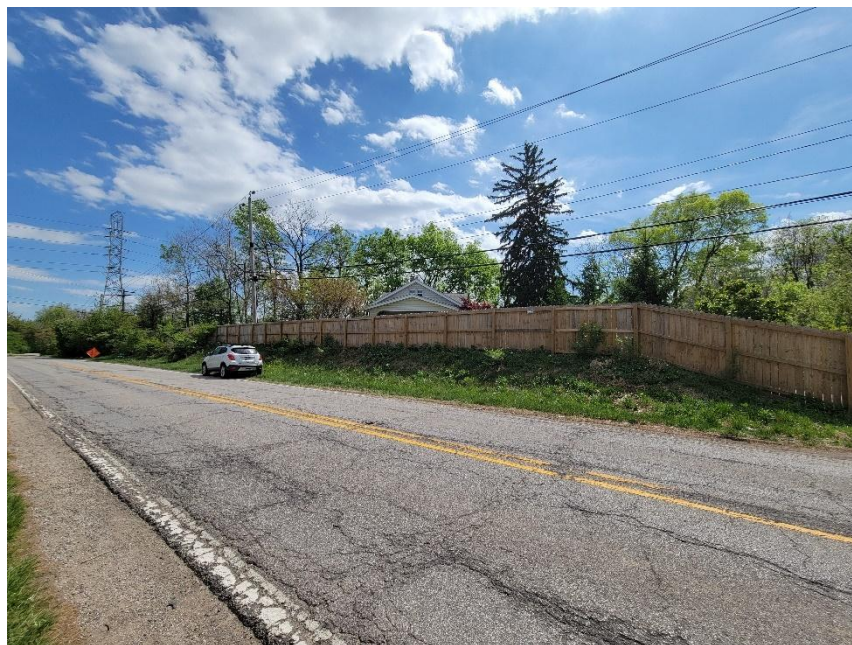


Photo 4: Subject Site Viewed from Northwest

2026DV3014 ; Photographs (continued)



Photo 5: Subject Site Viewed from Northeast

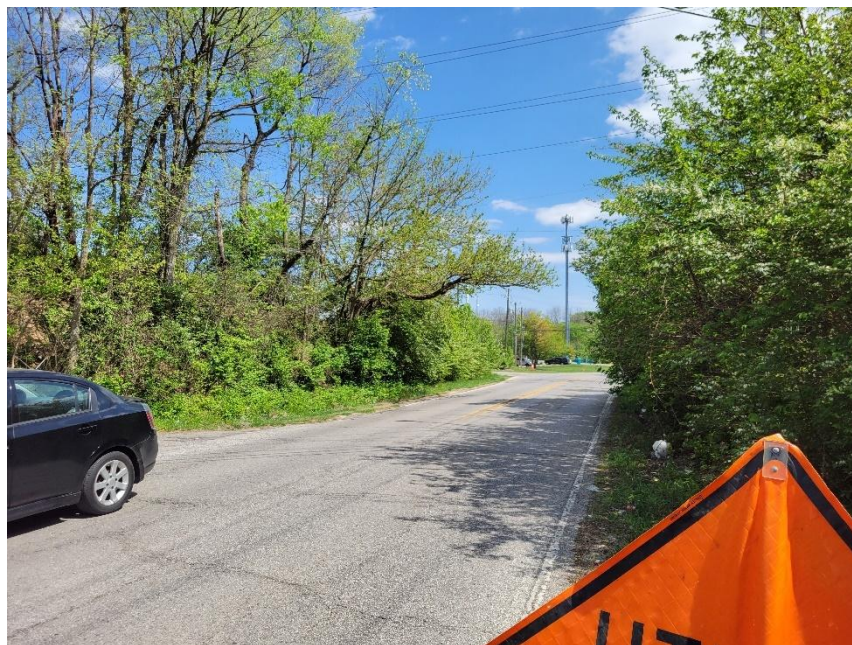


Photo 6: Carson Frontage + Adjacent Property to Northeast

2026DV3014 ; Photographs (continued)



Photo 7: Adjacent Property to North



Photo 8: Adjacent Property to North (May 2025)

2026DV3014 ; Photographs (continued)



Photo 9: Adjacent Property to Northwest



Photo 10: Apartment Complex to East of Subject Site