



**BOARD OF ZONING APPEALS DIVISION II**

May 21, 2024

**Case Number:** 2024-DV2-018  
**Address:** 4032 Crooked Creek Overlook (approximate address)  
**Location:** Washington Township, Council District #6  
**Zoning:** D-2  
**Petitioner:** Onward Estates LLC, by Tyler Ochs  
**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 3.5-foot tall permitted within front yards).

**Current Land Use:** Single-family dwelling

**Staff Recommendation:** Staff recommends denial of this petition.

**Staff Reviewer:** Robert Uhlenhake, Senior Planner

**PETITION HISTORY**

This is the first public hearing for this petition.

**STAFF RECOMMENDATION**

Staff recommends **denial** of this petition.

**PETITION OVERVIEW**

- ◇ The Consolidated Zoning and Subdivision Ordinance permits a maximum fence height of 42 inches within the front yard of a residential district. The purpose of the front yard fence height limitation is to create an open appearance along public right-of-ways, to prevent blocking views at intersections, limit the negative visual impacts on adjacent properties, and prevent a canyonized effect of the streetscape. Fences taller than what the Ordinance allows, tend to be commercial or industrial in nature, and create a compound aesthetic within residential neighborhoods.
- ◇ This property currently houses a single-family dwelling. In January of 2024, a violation case was opened related to the installation of a fence with height exceeding 3.5' in the front yard (disallowed per Table 744-510-2 of the Indianapolis Zoning Ordinance).
- ◇ This petition would seek to provide for and legalize the portion of the six-foot tall perimeter fence already installed in the front yard of the site.
- ◇ Fencing is allowed by right in the front yard, as long as it does not exceed 3.5 feet, or four feet if the fence has 30% opacity or less.



- ◇ 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. No neighboring properties have fences in front yards that exceed the height limitation and are able to comply with the current Ordinance standards.
- ◇ It is unclear what inherent practical difficulties exist that would be remedied by a 6-foot fence, but not by an ordinance-compliant 4-foot fence. Typical ornamental fencing, at lower compliant heights, are harder to cut through and climb, than the proposed six-foot fence constructed from chicken wire and wooden posts.
- ◇ If security is an issue necessitating the increased fence heights, staff believes that the issues could be appropriately mitigated with other measures, such as environmental design and landscape plantings to supplement height compliant fences.
- ◇ As such, staff does not believe a practical difficulty has been demonstrated that necessitates a six-foot tall fence in the front yard, therefore, Staff recommends denial of this request.

**GENERAL INFORMATION**

<b>Existing Zoning</b>	D-2	
<b>Existing Land Use</b>	Single-Family Dwelling	
<b>Comprehensive Plan</b>	Suburban Neighborhood uses	
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Surrounding Context</b>
	North: D-2	Single-Family dwelling
	South: D-A	Single-Family dwelling
	East: D-2	Single-Family dwelling
	West: D-A	Undeveloped
<b>Thoroughfare Plan</b>		
Crooked Creek Overlook	Local Street	50-foot existing and proposed right-of-way.
<b>Context Area</b>	Metro area	
<b>Floodway / Floodway Fringe</b>	No	
<b>Overlay</b>	N/A	
<b>Wellfield Protection Area</b>	No	
<b>Site Plan</b>	April 5, 2024	
<b>Elevations</b>	N/A	
<b>Landscape Plan</b>	N/A	
<b>Findings of Fact</b>	April 5, 2024	

## COMPREHENSIVE PLAN ANALYSIS

### Comprehensive Plan

- The Comprehensive Plan recommends Suburban Neighborhood uses for the site.

### Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends the Suburban Neighborhood typology, which 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. Streets should be well-connected, and amenities should be treated as landmarks that enhance navigability of the 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.

### 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

**2009-DV2-050; 2405 West 42nd Street and 3925 Cooper Road (west of site)**, requested a variance of development standards of the Flood Control Districts Zoning Ordinance to provide for the construction of two single-family dwellings on separate lots with wall openings of one square inch for every one square foot of enclosed area, **granted**.

**2003-DV2-002; 4040 Knollton Road (east of site)**, requested a variance of development standards to legally establish a shed located in front of the established front building line of the primary dwelling, **denied**.

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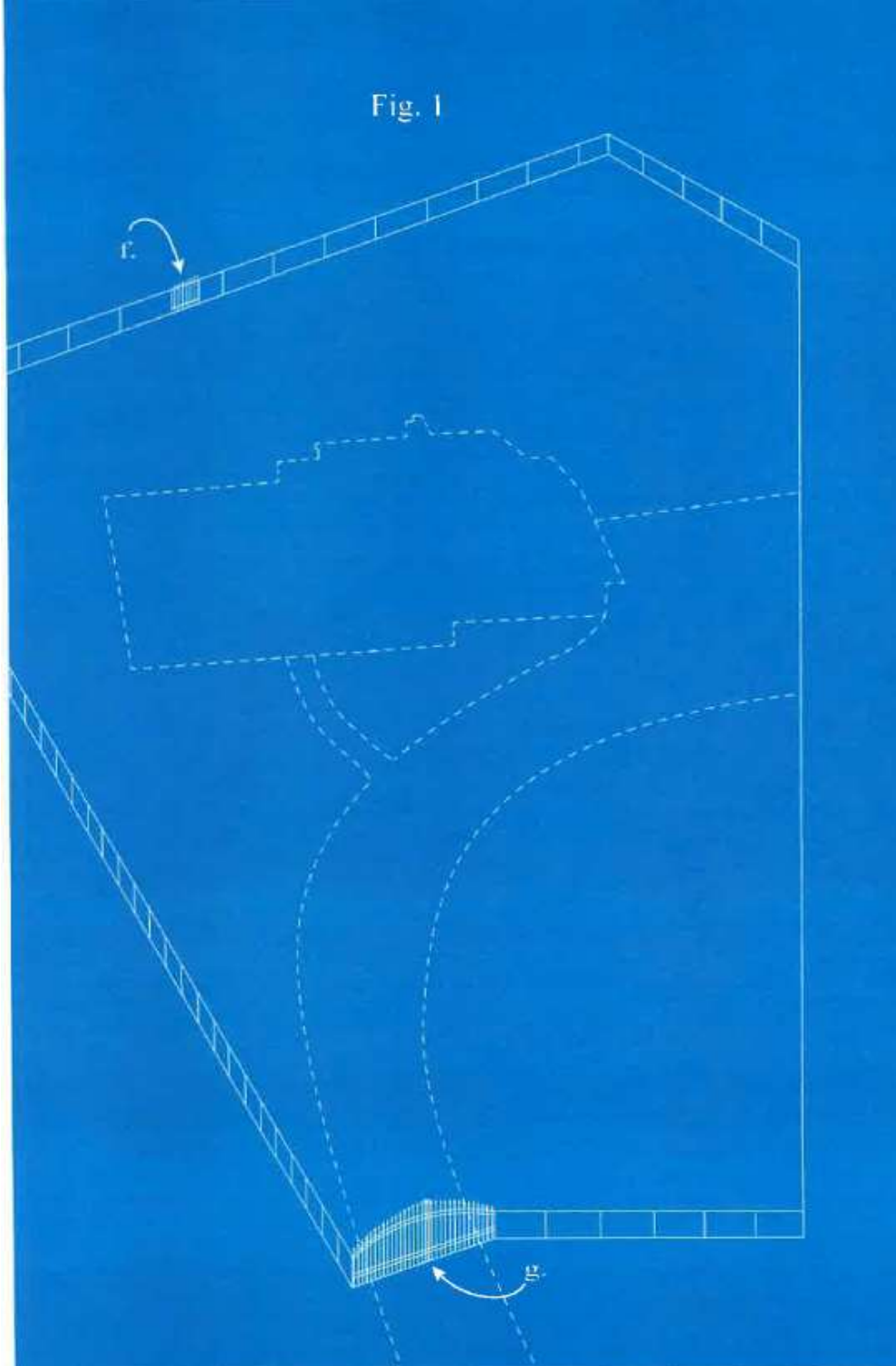
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**EXHIBITS**

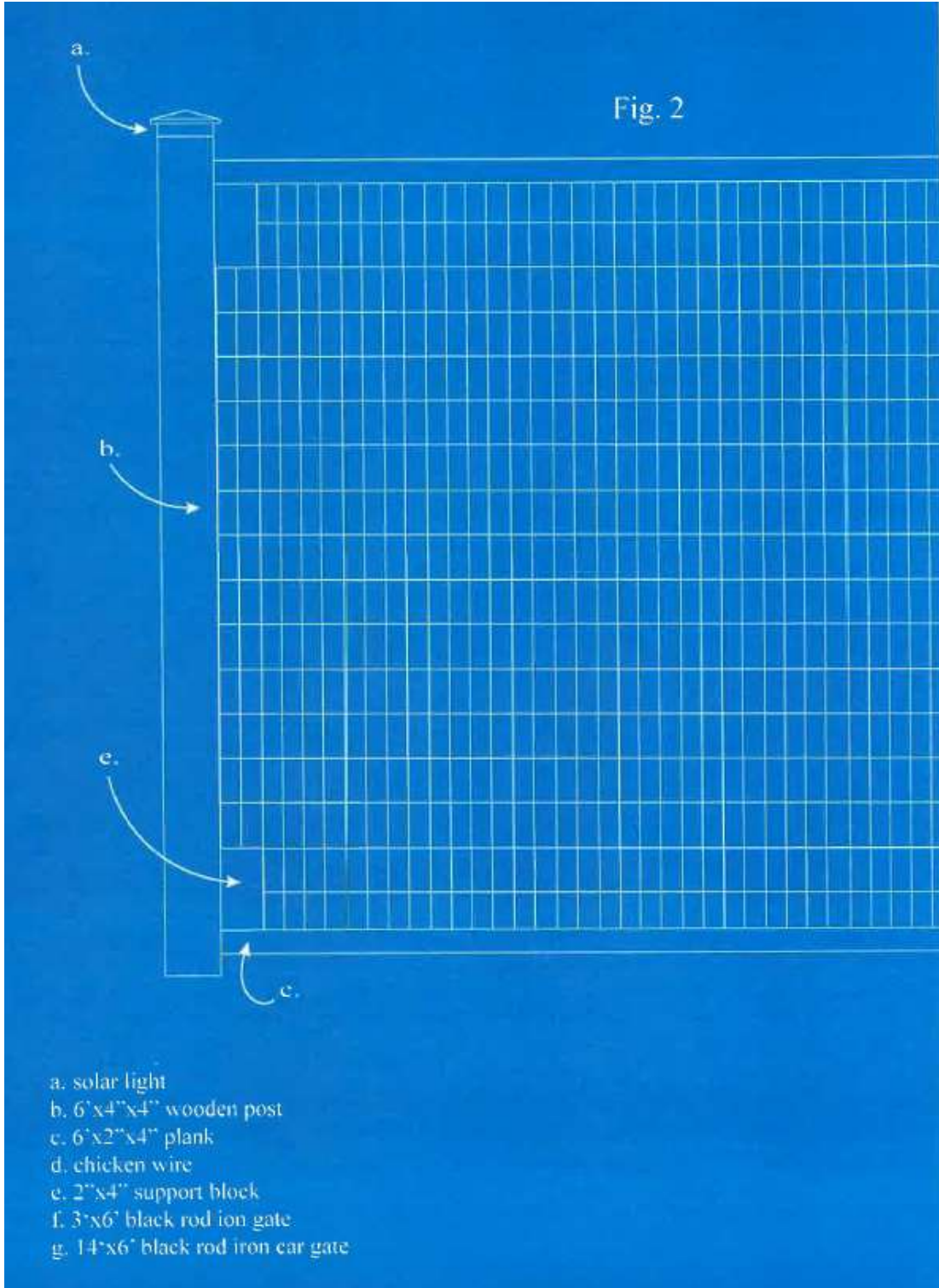
Location Map



Site Plan



**Fence Elevation**





**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 fence is to ensure the safety and privacy of the home owner. The fence is being professionally built and installed and as such, will help increase safety for the homeowner and the neighborhood as a whole.

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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 proposed fence is professionally built and specifically chosen to accompany the aesthetic of the home. The quality of the fence will only help to boost property values in the area. Due to the layout of the lot, the fence is designed to not impede the sightline of the abutting neighbors, while still providing the needed security, safety, and privacy for the resident.

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

The resident is a professional athlete which entails a public schedule of when the resident is out of town or away from the home. Therefore, the six foot fence is adequate to help provide the resident with enough safety so the resident may enjoy use of the property. The strict application, and therefore, a four foot fence, would subject the resident to safety and privacy concerns that would severely limit the ability to use the property as a safe residence.

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Photographs



Photo of the Subject Property, looking southwest



Photo of the east side parcel line with a six foot fence in the front yard. Looking south.



Photo of the west side parcel line with a six foot fence in the front yard. Looking southeast.



Photo fo adjacent neighbor to the west with complaint fencing, looking south.



Photo fo adjacent neighbor to the east with complaint fencing, looking south.



Photo fo adjacent neighbor to the north with complaint fencing.