

BOARD OF ZONING APPEALS DIVISION II

July 8, 2025

Case Number: 2025-DV2-023
Address: 5338 West Edwards Avenue (approximate address)
Location: Decatur Township, Council District #21
Zoning: D-5
Petitioner: Austin Young
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the installation of a six-foot-tall fence within the front yards of Biltmore and Edwards Avenues (maximum 3.5-foot tall fence permitted within front yards) and the location of a shed within the front yard, and maintaining a five-foot front yard setback from Biltmore Avenue (accessory structures not 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 hearing for this petition.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

- ◇ Development Standards of the Consolidated Zoning and Subdivision Ordinance require that fences not exceed 42 inches in height in the front yard of the primary dwelling to ensure that lots maintain residential qualities and characteristics. Fences taller than 42 inches tend to be commercial or industrial in nature and create a compound aesthetic within residential neighborhoods.
- ◇ Dwellings on corner lots in the Metro Context, are considered to have a front yard frontage on each frontage of the intersecting corner.
- ◇ The findings of fact indicate the Ordinance would reduce the amount of usable yard space and would effectively cut the usable outdoor space nearly in half.
- ◇ The Ordinance does not remove the yard space from the property-owner. The yard space is still present and useable as an intended front yard and can be contained with an appropriate and compliant 42-inch or 48-inch fence depending on materials. The ordinance does restrict using a designated front yard as a rear yard which would be inappropriate.

- ◇ Staff believes that the issues of use could be appropriately mitigated with other measures, such as environmental design and landscape plantings to supplement height compliant fences.
- ◇ The proposed fence along Biltmore could be located approximately 46 feet to the west to the leading edge of the dwelling, and still maintain the proposed six-foot height.
- ◇ The proposed shed could also be relocated behind the leading edge of the dwelling along Biltmore, possibly next to the petitioners' second garage, to be Ordinance compliant.
- ◇ There is no practical difficulty associated with the subject site that would warrant the grant of this variance. The subject site has no natural or manmade physical obstacles that would prohibit compliance with the required fence height requirements of the Ordinance.

GENERAL INFORMATION

Existing Zoning	D-5	
Existing Land Use	Single Family Dwelling	
Comprehensive Plan	Suburban Neighborhood	
Surrounding Context	Zoning	Surrounding Context
North:	D-5	Single-family dwelling
South:	D-A	Single-family dwelling
East:	D-5	Single-family dwelling
West:	D-5	Single-family dwelling
Thoroughfare Plan		
West Edwards Avenue	Local Street	50-foot existing and proposed right-of-way.
Context Area	Metro area	
Floodway / Floodway Fringe	No	
Overlay	N/A	
Wellfield Protection Area	No	
Site Plan	June 4, 2025	
Elevations	N/A	
Landscape Plan	N/A	
Findings of Fact	June 4, 2025	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book (2019)

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book (2019) recommends the Suburban Neighborhood typology that 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.

Indy Moves

(Thoroughfare Plan, Pedestrian Plan, Bicycle Master Plan, Greenways Master Plan)

- Not Applicable to the Site.

ZONING HISTORY

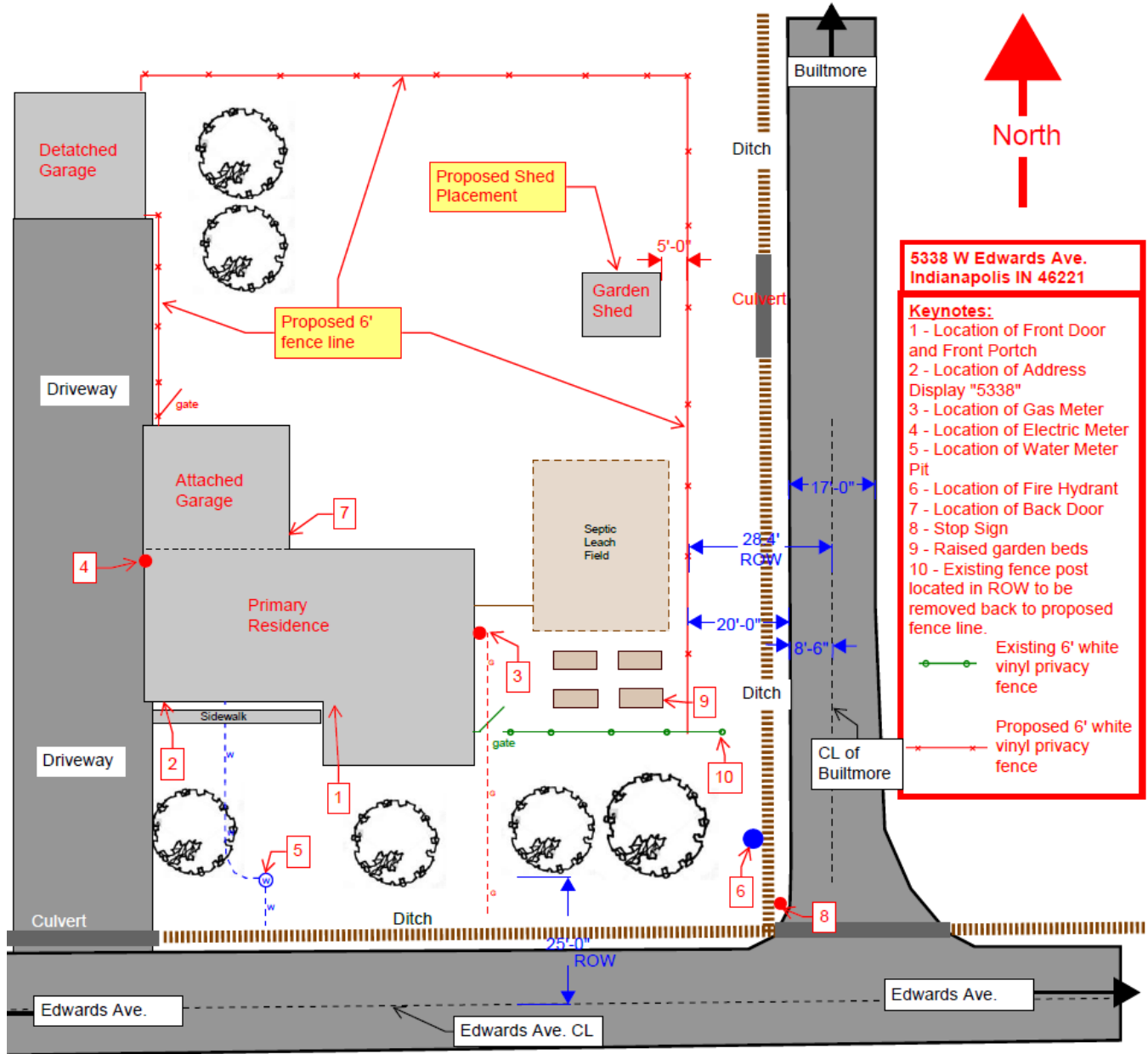
None

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Location Map



Site Plan



Findings of Fact

Petition Number _____

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division II
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:

The proposed 6' fence and existing garden shed are intended to enhance the safe and responsible use of the property. The fence provides necessary containment for the petitioner's large breed dog, reducing the risk of escape and ensuring the safety of pedestrians. The shed supports the organized storage of tools and equipment, preventing clutter and maintaining a clean, orderly yard. Both structures are designed and placed to respect utility access, maintain required setbacks from the ROW and to enhance overall neighborhood aesthetic. The requested variance for the fence and shed plans will not obstruct any traffic views or create sightline hazards. These improvements contribute to the overall safety, aesthetic cohesion, and property values within the community.

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 and existing shed are consistent with the residential character of the neighborhood and do not interfere with the use or enjoyment of any nearby properties. Both structures are modest in scale, visually appropriate, and located in a portion of the yard that functions as a side yard rather than a traditional front yard. The traditional front yard area located to the south of the home, will remain open to view without any fence or accessory structures. Rather than diminishing nearby property values or uses, the improvements support overall neighborhood appeal by promoting safety, organization, and responsible property upkeep. The petitioner has proactively discussed the fence plans with all of the petitioner's immediate neighbors, and is pleased to share that they have expressed full support for the project. The neighbors understand the need for the increased height to ensure the safety of the petitioner's large breed dog and recognize that the fence will be constructed in a respectful, well-maintained manner.

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

The area in question, while technically designated as a front yard, functions as a side yard due to the orientation and layout of the lot. This creates a situation where typical zoning setbacks and restrictions do not align with the actual use and layout of the property. Furthermore, the strict application of the zoning ordinance would significantly reduce the amount of usable yard space. Enforcing the front yard restrictions would effectively cut the usable outdoor space nearly in half. This reduction would not allow for sufficient use of the yard, particularly for exercising and safely containing the petitioner's large breed dog, who requires ample space to run and play. The remaining yard space, compliant with the ordinance as written, is too limited to meet those needs and would compromise the pets well being and quality of life. Granting the variance would allow for reasonable use of the full yard area as it naturally functions, without negatively impacting neighbors or the surrounding community.

Photographs



Photo of subject site primary dwelling, looking northeast.



Photo of subject site, proposed fence location, looking north from Edwards Avenue.



Photo of subject site, proposed fence location, and shed in front yard of Biltmore Ave. looking south.



Photo of subject site, proposed fence location from Biltmore Ave. looking west.



Photo of adjacent property to the south



Photo of adjacent property to the south



Photo of adjacent property to the north with non-compliant fence



Photo of adjacent property to the north with non-compliant fence, looking south.