



**BOARD OF ZONING APPEALS DIVISION I**

**August 6, 2024**

**Case Number:** 2024-DV1-025  
**Address:** 6438 Marble Lane (approximate address)  
**Location:** Franklin Township, Council District #24  
**Zoning:** D-2  
**Petitioner:** Patricia Moore  
**Request:** Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a fence with a maximum height of eight feet within the side yards and front yard of Marble Lane (maximum height of six feet inside yards, 3.5 feet in front yards permitted).

**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 continued for cause by the petitioner from the August 6, 2024, hearing, to the September 3, 2024, hearing.

The petitioner's representative has notified staff that they will be out of town on September 3, 2024, therefore they **will be requesting to continue this petition for cause, from the September 3, 2024, hearing, to the October 1, 2024, hearing.** Staff will not object to the second continuance request but will not support any more continuances after this one.

**STAFF RECOMMENDATION**

Staff recommends **denial** of this petition.

**PETITION OVERVIEW**

- ◇ The request would legally establish the location of a fence with a maximum height of eight feet within the side yards and front yard of Marble Lane.
- ◇ Development Standards of the Consolidated Zoning and Subdivision Ordinance permits a maximum fence height of 42 inches within the front yard, and six 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.



- ◇ The height requirements are in place to limit bulk, create a consistent density and intensity, and keep the environment at a human-scale. This regulation limits the number of “walls” or abnormally tall structures that can be built to ensure neighborhood compatibility and to prevent unreasonable blockage of sunlight.
- ◇ The fence could remain in its current location if reduced to six feet behind the dwelling, and 42 inches where in front of the dwelling. In addition, supplemental plantings could be added to increase any needed privacy.
- ◇ Staff acknowledges there is a grade change on site, but the property, and adjoining neighboring properties have been able to operate without a hardship prior to the current fence being installed
- ◇ 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. Similar nearby properties on adjacent and nearby corners are able to comply with the Ordinance.

**GENERAL INFORMATION**

<b>Existing Zoning</b>	D-2		
<b>Existing Land Use</b>	Single-Family Dwelling		
<b>Comprehensive Plan</b>	Recommends Suburban Neighborhood uses		
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Surrounding Context</b>	
	North:	D-2	North: Single-Family dwelling
	South:	D-2	South: Single-Family dwelling
	East:	D-2	East: Single-Family dwelling
	West:	D-2	West: Single-Family dwelling
<b>Thoroughfare Plan</b>			
	Marble Lane	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>	June 24, 2024		
<b>Elevations</b>	N/A		
<b>Landscape Plan</b>	N/A		
<b>Findings of Fact</b>	June 24, 2024		

**COMPREHENSIVE PLAN ANALYSIS**

**Comprehensive Plan**

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



**Pattern Book / Land Use Plan**

- The Comprehensive Land Use Plan recommends the Suburban Neighborhood typology, which is predominantly made up of single-family housing, but is interspersed with multifamily housing where appropriate. This typology should be supported by a variety of neighborhood-serving businesses, institutions, and amenities. Natural Corridors and natural features 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**

**97-HOV-46; 5221 Sandstone Court (south of site)**, requested a variance of development standards to legally establish a 12 by 17-foot screened porch with a rear yard setback of 18 feet, for an existing single-family dwelling, **granted**.

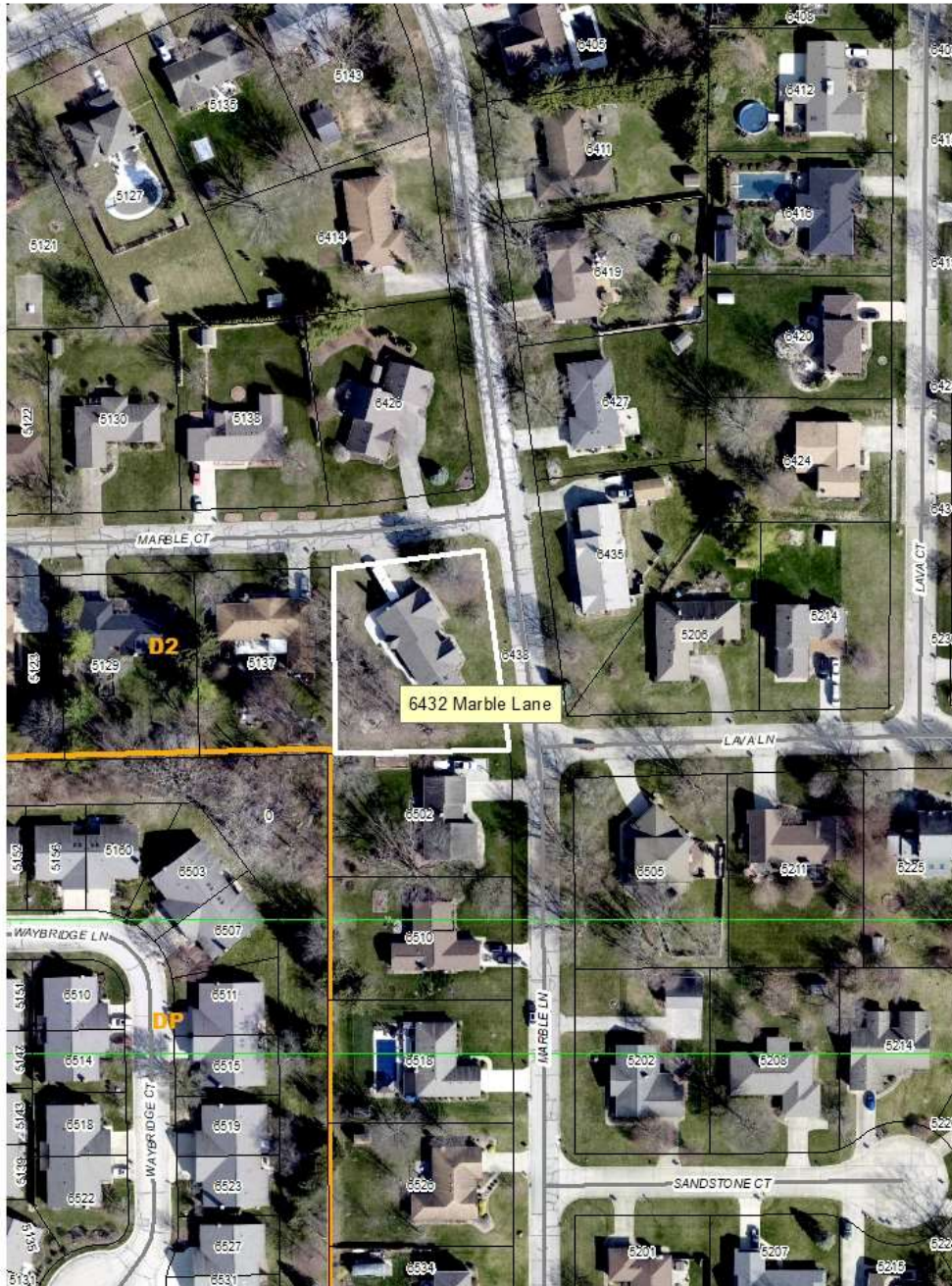
**83-HOV-103; 6419 Lava Court (northeast of site)**, requested a variance of development standards to allow the construction of an attached garage at 9.75 feet from a side property line making the aggregate side setbacks of the lot 20.75 feet, **granted**.

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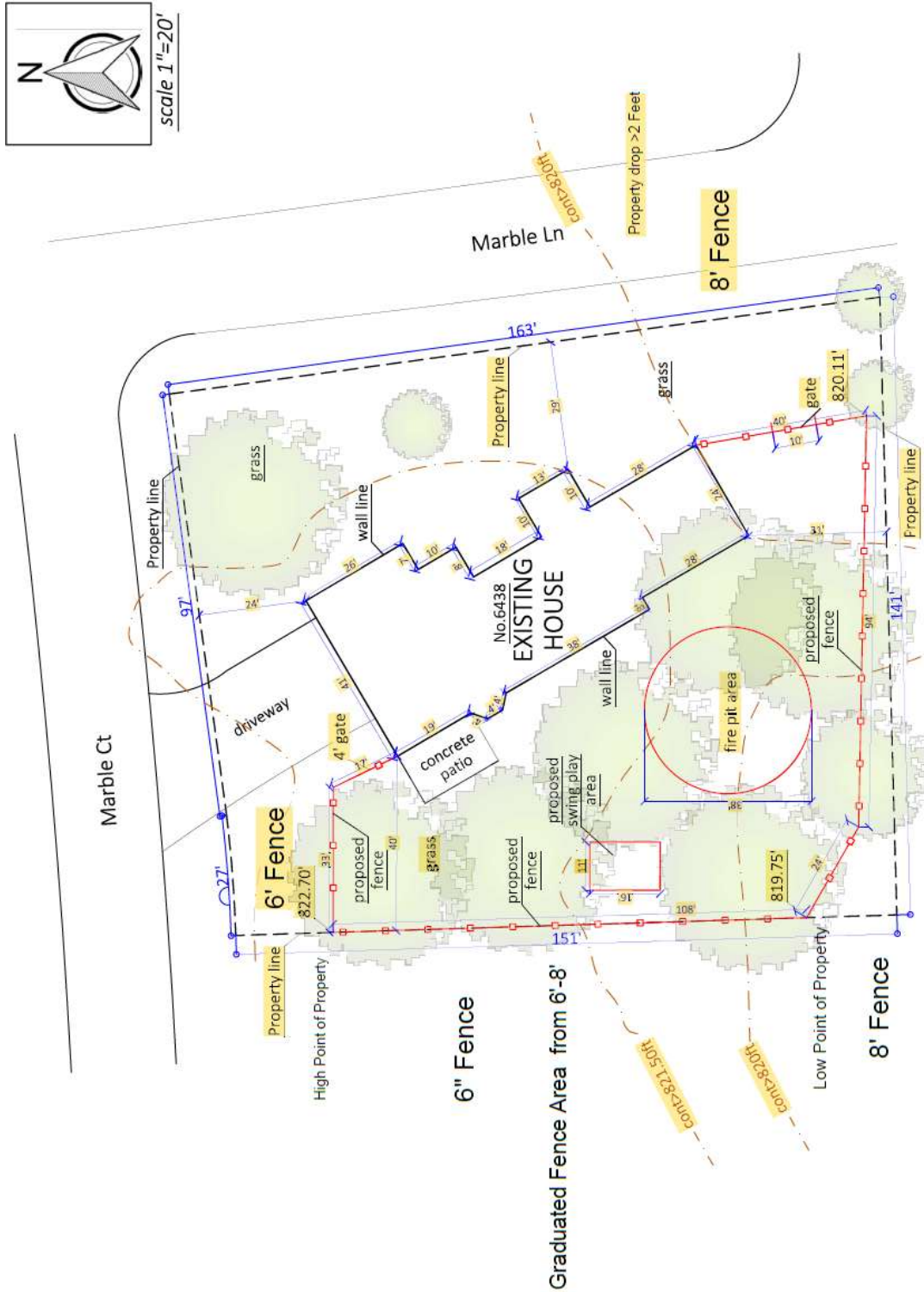
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**EXHIBITS**

Location Map



**Site Plan**





**Findings of Fact**

Petition Number \_\_\_\_\_

**METROPOLITAN DEVELOPMENT COMMISSION  
HEARING EXAMINER  
METROPOLITAN BOARD OF ZONING APPEALS, Division I  
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 request concerns the height of a fence and will have no impact  
\_\_\_\_\_  
on the public health, safety, morals, and general welfare of 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:

\_\_\_\_\_  
There is no impact to the nearby use of residential properties because the location of  
\_\_\_\_\_  
the fence does not impede their use in any way. This is a tasteful fence which should  
\_\_\_\_\_  
not detract from the values of the neighbors' properties but add to them.  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
Section 744-510 provides for a maximum height of residential fences of 6 feet in the  
\_\_\_\_\_  
rear of the house. However, Subsection C, (Exceptions to fence heights) 4, Terrain  
\_\_\_\_\_  
Change Allows for a fence to exceed this 6 feet maximum by an amount equal to the  
\_\_\_\_\_  
drop in topography up to a maximum of 2 feet. The terrain here drops by more than 2  
\_\_\_\_\_  
feet, and the fence is 8' feet tall in those areas and 6' tall in areas with no slope.  
\_\_\_\_\_  
Therefore, the fence meets this exception, and the variance is approved.  
\_\_\_\_\_

**DECISION**

Photographs



Subject property looking southwest.



Subject property looking west.



Subject property looking south.



Subject property looking south.





Subject property looking west.