



BOARD OF ZONING APPEALS FINDINGS OF FACT

APPLICATION(S): BZNA-0153-2022

PROPERTY ADDRESS: 607 Washington Street, Noblesville, Indiana

A Variance of Development Standards application was submitted to the Noblesville Planning Department for the above referenced location. The application submitted by Amy Ballman requested that approval be granted to a Variance of Development Standards application pursuant to Unified Development Ordinance §9.B.4.E to a fence within the front yard to exceed the maximum height required (4 feet allowed; 6 feet requested). The Noblesville Board of Zoning Appeals conducted a hearing regarding this application on September 6, 2022. After testimony was given and evidence was presented to the Board, a motion to APPROVE was made, and the motion carried 4-0.

VARIANCE OF DEVELOPMENT STANDARDS FINDINGS

In its deliberations, the Noblesville Board of Zoning Appeals weighed the evidence associated with the following criteria and made the following findings in granting the request for a Variance of Development Standards. Indiana Code §36-7-4-918.5 states that a Variance of Development Standards may be approved only upon a determination in writing that the following are true:

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

It is likely that this variance will NOT be injurious to the public health, safety, morals, and general welfare of the community. The proposed fence will keep the family dog secured within the fenced yard. The petitioner has concerns about the safety of the dog and the surrounding neighborhood if the dog escaped from the yard due to the possibility of vehicular accident with a loose dog or aggression from the rescue dog if it is hurt or feels threatened. In addition, it is not anticipated that the installation of the 6 foot privacy fence will obstruct the view of vehicles or pedestrians travelling along South 6th Street, Washington Street or Plum Street. The proposed fence will be located outside the vision corner clearance as required by the UDO. There are existing 6-foot fences within the front yard on the properties at the corner of Plum Street and South 6th Street, to the south of the subject site that may impede vehicular sign distance as they do not meet vision corner clearance. In addition, the neighboring property at 604 Plum Street has an existing detached garage that appears to be built on the property lines at the northwest corner of South 6th Street and the alley between Washington Street and Plum Street. This garage is already be impeding the view of traffic on South 6th Street from the alley.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:

It is likely that the use and value of real estate adjacent to the subject site will NOT be affected in a substantially adverse manner by allowing the requested variance. Nearby property owners may remonstrate against this petition if they believe this request will have significant adverse effects on adjacent properties. There are existing 6-foot privacy fences within the required front yard on the properties south of the subject site, at the corner of Plum Street and South 6th Street.

3. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought:

The strict application of the terms of the zoning ordinance WILL result in practical difficulties in the use of the property because of concerns about the safety of the dog and the surrounding neighborhood if the dog escaped from the yard with a 4-foot fence. A vehicular accident may occur if the dog is on the loose. While the temperament of the dog is not aggressive, the dog is a rescue and it is unknown how the dog would react to being threatened or hurt. Moving the 6 foot high fence outside the front yard along South 6th Street would significantly reduce the usable rear yard area, limiting the available fenced area for the petitioner's family.

The findings of fact contained herein are adopted by the Noblesville Board of Zoning Appeals on November 7, 2022.

Mike Field, Chairman

Caleb Gutshall, Secretary