



## BOARD OF ZONING APPEALS FINDINGS OF FACT

APPLICATION(S): BZNA-0156-2024

PROPERTY ADDRESS: 5154 Gateway Avenue, Noblesville, Indiana

A Variance of Development Standards application was submitted to the Noblesville Planning Department for the above referenced location. The application submitted by Alese & Charles O'Donnell requested that approval be granted to a Variance of Development Standards application pursuant to Unified Development Ordinance §9.B.4.E to allow a fence within the front yard setback 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 October 7, 2024. After testimony was given and evidence was presented to the Board, a motion to APPROVE was made, and the motion carried 5-0.

### 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. It is not anticipated that the location of the proposed 6-foot fence on the subject property would impede the view of oncoming traffic at the intersection of Gateway Avenue and Bearsdale Way. The fence would be offset approximately 11 to 12 feet from west property line along Bearsdale Way. There is currently no fence on the property. The installation of a 6-foot fence would increase the safety of the petitioner and the surrounding neighbors by allowing the petitioner's small children and a dog to be safely enclosed within the yard. A 4-foot fence would not prevent the dog or children from jumping or climbing out of the yard. The dog gets limited exercise because there is no fenced yard.**

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. The installation of a 6-foot privacy fence, as proposed, would enclose the yard area at the rear of the existing house. This would shield outdoor furniture, children's toys, play equipment, dog toys, and other outdoor recreation equipment from view by traffic on Bearsdale Way, Summitt Road, and neighboring properties. The addition of the privacy fence has the potential to enhance the overall aesthetics of the neighborhood.**

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 the usable fenced yard area at the rear of the house would be smaller than surrounding properties on interior (non-corner) lots. The proposed 6-foot privacy fence will extend approximately 18 feet into the required 30-foot front yard and be located approximately 11-12 feet from the west property line. The fence, as proposed, would increase the usable enclosed yard area on the subject property. It will provide a secure and safe area for the petitioner's small children and dog, as well as privacy to the rear of the home from vehicle and pedestrian traffic along Bearsdale Way. The proposed fence is consistent with the existing 6-foot fences within the secondary front yard on other corner lots in the Pine Knoll neighborhood as shown in Exhibit 4 of the Staff Report.**

The findings of fact contained herein are adopted by the Noblesville Board of Zoning Appeals on November 4, 2024.

---

Mike Field, Chairman

---

Caleb Gutshall, Secretary