

TOWN OF DANVILLE

**Danville Board of Zoning Appeals
November 16, 2022
5:00 PM**

AGENDA

- I. Call Meeting to Order**
 - Pledge of Allegiance
 - Establish Quorum
 - Approve Minutes
 - Swear In Participants
- II. New Business:**
 - A. Public Hearing: A development standards variance to allow a 6-foot privacy fence to encroach into a front yard on a corner lot in a Planned Unit Development (PUD) district on property located at 573 Waterford Way
(Michael Chatham)**
- IV. Report of Officers and Committees**
- V. Adjourn**

Next Meeting:

December 21, 2022

DANVILLE BOARD OF ZONING APPEALS

Meeting Minutes

August 17th, 2022

5:00 PM

Members Present: Tom Swords, Kevin Tussey, Jill Howard, Gary Eakin, Loris Thompson
Members Absent: None
Staff Present: Lesa Ternet
Guests: Raymond Fox

A quorum was established, the meeting was called to order by Kevin Tussey and minutes from July 20th, 2022, were approved. G. Eakin (motion) and T. Swords (seconded). Motion passed 5-0.

Old Business: None

New Business:

A. Public Hearing: A development standards variance to allow the encroachment of the principal structure within the front building setback in a General Business (GB) district on property located at 1247 West Main Street. (Capital Restaurant Group, LLC)

L. Ternet explained that the new building would sit 10ft further from the road, where the existing building currently sits. T. Swords asked if the utility pole in the rear has a concrete pillar base. The petitioner stated there is not concrete around the utility pole. T. Swords asked if this would have to go before Design Review Committee. L. Ternet stated yes, this will go before Design Review Committee. T. Thompson asked the petitioner to ask the gas company for protection around the gas meter. L. Ternet stated this will also have to go before Plan Commission, and that issue can be addressed there as well. G. Eakin asked about accel/decel lanes on US 36. L. Ternet stated that would be up to the Indiana Department of Transportation (INDOT). There was a brief recess to allow time for H. Smiley (petitioner's architect) to arrive. H. Smiley explained the large cost of having the utility ran under ground and how he decided to design around it to avoid the large cost. K. Tussey opened the meeting to the public. No public comment. Meeting closed to the public. J. Howard made a motion to approve. T. Thompson seconded the motion.

Roll Call Vote:

T. Swords – Aye

K. Tussey - Aye

L. Thompson – Aye

J. Howard -Aye

G. Eakin – Aye

Motion passes 5-0

There being no further business before the board, J. Howard made a motion to adjourn T. Thompson seconded.

The meeting was adjourned at 5:25 P.M.

Kevin Tussey - President

Tom Swords – Vice President

Meeting Briefing

November 10, 2022

573 Waterford Way: Development standards variance to allow a 6-foot privacy fence to encroach into a front yard on a corner lot

This request is to allow a fence to extend into a front yard by 3.7 feet. A drawing showing the proposed location of the fence is included in your packet. This is a public hearing and will require a vote.

CASE SUMMARY

DEVELOPMENT STANDARD VARIANCE

Case: 2022-2118
Michael Chatham, petitioner

Request: Seeking a variance from Section 13.8.D to allow a 6-foot privacy fence to encroach into a front yard on a corner lot

Location: 573 Waterford Way (Clear Creek Subdivision)

Zoning: PUD

Staff Summary:

The zoning ordinance does not allow 6-foot privacy fences to encroach into a front yard. A front yard by definition is any yard that abuts a street. In this case, the property is located on the southwest corner of Watertford Way and Rapidbrook Crossing, which means the property has two front yards. Even though the house faces Waterford Way, this definition applies at all times regardless of which way the house is oriented.

The petitioner is requesting a variance to allow the installation of a vinyl fence that encroaches into the front yard adjacent to Rapidbrook Crossing. As shown in the petitioner's illustration, the fence will extend 3.7 feet in front of the building setback line. That leaves another 21.3 feet to the property line. Beyond that, the fence is about 28.8 feet to the edge of the road, so there is no issue with vision clearance for motorists at either intersection of Waterford Way.

As of this writing, staff has not received any inquiries about this request.

Staff is not opposed to the petitioner's request to a privacy fence to encroach into the front yard up to 3.7 feet for the following reasons: (1) the proposed location of the fence is still set well back from the property line, (2) the orientation of the house gives the general impression that this area is part of the backyard where a privacy fence would normally be permitted, and (3) the proposed fence location does not obstruct vision clearance for motorists or the property owner exiting the driveway.

BZA options include the following:

- Approve the variance request
- Deny the variance request
- Approve the variance request with conditions or modifications

Date of Hearing: 11-16-22

Plan Commission Action: _____

BZA

App. No. 2022-2118

Fee: \$ 350.00

Received By: LT

APPLICATION FOR APPROVAL (Check all that apply)

☐ Appeal ☐ Special Exception ☐ Use Variance ☒ Development Standard Variance

* Please fill out the form in its entirety

Applicant (s) Michael + Tammy Chatham

Address (s) 573 Waterford Way Danville

Phone (s) 317-716-9034 Email (s) tmac83338@gmail.com

Owner (s) Michael + Tammy Chatham

Address (s) 573 Waterford Way Danville

Phone (s) 317 716 9034 Email (s) tmac83338@gmail.com

Owners' Representative (Subdivider, if any) and /or Registered Engineer or Land Surveyor: _____

Address (s) _____

Phone (s) _____ Email (s) _____

Address of Subject Property: 573 Waterford Way

Area (in acres): 0.23 Number of Lots: 1

Parcel ID#: 17-2-08-51W 237-006 Current Zoning District: PUD

Requested Action From The Danville BZA: TO Allow Construction of an 8 Foot Extension of Privacy Fence to be installed on the North side of Home at a Height of 6 Feet. 20 Sec. 13.8 D Height + type

STATE OF INDIANA)

) SS:

HENDRICKS COUNTY)

The undersigned certifies that the above information is true and correct to the best of his (her) knowledge.

Michael Chatham
Signature of Owner/Applicant (s)

Owner
Title of Applicant



DULY ENTERED
FOR TAXATION

JUL 24 2013

Cinda Kattan
AUDITOR HENDRICKS COUNTY
CT Avon
466308

WARRANTY DEED

017-208512-237006

THIS INDENTURE WITNESSETH, That Margaret L. Klein, an Adult (Grantor) CONVEY(S) AND WARRANT(S) to:

Michael A. Chatham and Tamara S. Chatham, Husband and Wife (Grantee) for the sum of Ten Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the following described real estate in Hendricks County, State of Indiana:

LOT NUMBER 95 IN CLEAR CREEK, SECTION IV, A SUBDIVISION IN HENDRICKS COUNTY, INDIANA, AS PER PLAT THEREOF, RECORDED JULY 9, 2003 AS INSTRUMENT NUMBER 200300028327, IN THE OFFICE OF THE RECORDER OF HENDRICKS COUNTY, INDIANA.

Property Address: 573 Waterford Way, Danville, IN 46122
Tax ID No.: 32-11-08-237-006.000-003

Subject to current taxes not delinquent, and all easements, agreements and restrictions of record and all public rights of way.

IN WITNESS WHEREOF, Grantor has executed this deed on the 1st day of July, 2013.

Margaret L. Klein
Margaret L. Klein

STATE OF INDIANA)
COUNTY OF Hendricks) SS.

Before me, a Notary Public in and for said County and State, personally appeared Margaret L. Klein, an Adult, who acknowledged the execution of the foregoing deed.

Witness my hand and notarial seal on the 1st day of July, 2013.



Susan L. Baker
Notary Public
Resident of _____ County
My Commission expires: _____

Prepared by: J. David Clossin, for the benefit of Chicago Title Company, LLC

✓ Grantee's Address and Tax Billing Address:

573 Waterford Way
Danville, IN 46122

I affirm, under penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law *Susan L. Baker* File No. 466308

Plan # 4
 STR. # 200328327
 C.C. # 5 SL. 78, PGS. 2 A & B
 Center Township, Hendricks County
 SEC 08, T15N, R01E
 573 Waterford Way (50' R/W)
 Prepared Date: 7/11/03 : By: ARW

Community Restrictions:

Side Yard = 6'
 Rear Yard = 10'
 Zoning = R3

C.P.Morgan Co., INC.

Finished Floor Elevation Information

Pad Grade = 981.5 per plan
 Pad Grade + 1.0' = Garage FFE (982.5)
 Garage FFE + 0.3' = Residential FFE(982.8)

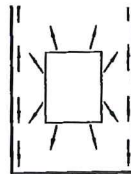
Sod Calculations:

Drive = 439 SF±
 Apron = 168 SF±
 Public Walk = 757 SF±
 Private Walk = 98 SF±
 Rear Yard = 299 SY±
 Sod = 664 SY±, from 15' behind front
 of home.

| | |
|-----------------|-----------------------------|
| 000.0 | Proposed Grades |
| 000.0 | Existing Grades |
| 000.0 | Contour Grade |
| * | Approx. Lateral Location |
| S | Sanitary Sewer Lines |
| ST | Storm Sewer Lines |
| w | Water Service Lines |
| - - - | Sub-Surface Drain Lines |
| ● | Manhole (Sanitary or Storm) |
| ⊙ | Beehive Inlet (Storm) |
| ⊠ | Curb Inlet (Storm) |
| D | End Section (Storm) |
| ⊙ | Fire Hydrant |
| - . . . - . . . | Flow Line of swale |
| - - - | Building Line (BL / BSL) |
| - - - | Easement Line |



Assumed North
Scale : 1" = 30'

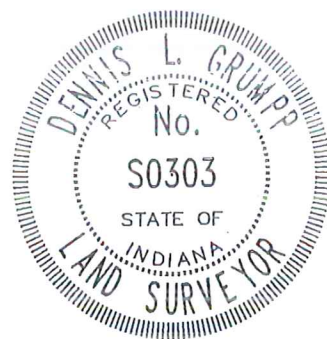


Note: Builder to ensure positive drainage away from structure(s).

Note: Sanitary Sewer

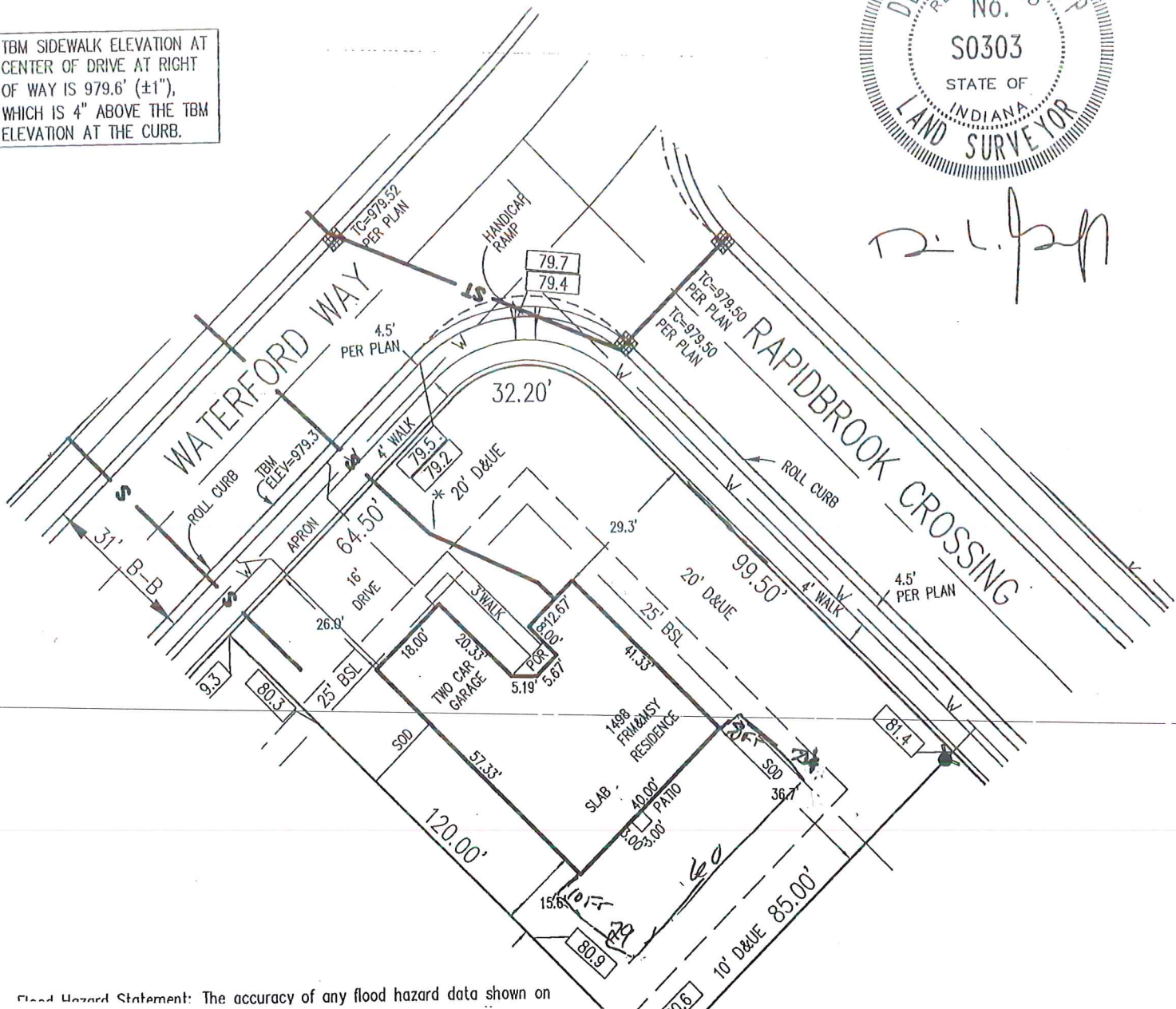
Top of Casting Information
 Upstream Manhole, TC= 980.60
 Downstream Manhole, TC= 978.60
 per plan.

FLOOD HAZARD STATEMENT
CERTIFICATION



D.L.G.

TBM SIDEWALK ELEVATION AT
 CENTER OF DRIVE AT RIGHT
 OF WAY IS 979.6' (±1"),
 WHICH IS 4" ABOVE THE TBM
 ELEVATION AT THE CURB.



4340 Hull Street, Indianapolis, IN 46226
Office: 317 571-1200



Customer Name: Michael Chatham
Address: 5733 Waterford Way
City: Danville 46122
Phone: 317-716-9034
Email: Tmcham8333@gmail.com
Subcontractor: Clear Creek

Special Order Items on this Ticket: V 3331
Principal Date: 7/6/22
Target Installation Date: 10-26

Survey Provided: Y / N
Location Report: []
Legal Survey: []
Found Pins: []
Amenities Staked Yard: []
Amenities Staked Yard (Not Official): []
Survey: Y / N
Total Foliage: 136
Job Conditions: []
Bushes / Trees: []
New Sod: []
Graded Dirt: []
Ready to Go: []

Vinyl Color: [] White [] Sandstone [] Khaki [] Other: A B C D
Height: 3ft 4ft 5ft 6ft 7ft 8ft Other: _____
Custom Color Designs: Rails (W) (S) (K) Posts (W) (S) (K) Boards (W) (S) (K)
Boards: [] 2"x2" [] 3" [] 5.5" [] 6" T&G [] 12" T&G
[] Dog Ear [] Spade [] T&G [] Pyramid [] None

Fence Designs:
Spaced Picket: []
3" Picket Stk: []
Approx 3" spacing: []
Patterns: []
Rail: []
Semi-Privacy: []
Privacy: []
6" T&G Stk: []
Aprox 1/2" spacing: []
Straight Top: []
Traditional: []
Scalloped: []
Arch: []
Lattice Top: []
Hampton Top: []
3" board stk on Top: []
Luxington Top: []
Dog Ear: []
Spade: []
Scalloped: []

Construction: []
Fitted: []
Bracket: []
Rails: []
Top Rail: []
Middle Rail: []
Bottom Rail: []
Aluminum Stiffener in Bottom Rail for Reinforcement: []
Post Designs: []
Single: []
Double: []
2-Way: []
Slide Bolt: []
Drop Rod: []
Specialty Order: []
Post Stiffeners: []
4" x 4": []
5" x 4": []
4" x 4": []
5" x 5": []

Customer Responsibilities:
- Obtain Permit / Variance
- Seek HOA Approval
- Provide a Legal Survey
- Clear Fence Lines as Needed
- Contain Animals
- Dirt Removal Not Included
- Local Private Utilities

Amerifence calls today (811) for Public Utility Locates. Customer to locate private utilities (including sprinkler lines, drain lines, electric lines, sump pump, and other private utility lines).
Customer acknowledges that Amerifence is not responsible for removal of the dirt. However, we offer the service of dirt removal for an additional fee (see below).

Customer: Co. Inc. Initial: []
Haul Dirt: []
Move Dirt to a spot in the Yard: []
Notes: []

Rem. Sections: []
Asp. / Con Bricks: []
Core Drill Holes: []
Post Stiffeners: []
4" x 4": []
5" x 4": []
4" x 4": []
5" x 5": []

Quick Reference Guide:

- ☐ Take out/Haul OR Stack
- ☐ Removable Sections
- ☐ Leave Dirt by Posts
- ☐ Asph / Concrete Streets - Home
- ☐ Survey Attached
- ☐ Haul Dirt
- ☐ Attach to Home/Corner (Concrete Brick Siding Wood)

Where Specified

Tushill 6th Row (sandstone) vinyl

Privacy

2 Tongue & Groove Boards

2 rails with 5x5x9ft post with wethered

Applied Construction with Double gate

all post set 3ft in corner

New England post cap etc

\$7420 w/corner Appl

Heavy Brush or Trees

Homeowner Clear Lines

Amerifence Clear Lines

Amerifence Find Best Line

Job Conditions

New Sod

Dirt/Unfinished Grade

Ready to Go

Materials

Tax

Labor

Grand Total

Deposit

Balance

491

7911

5511

7/6/22

Shannon Barker

Company Representative

Customer

Date

Signature

Signature

FINDINGS OF FACT

DEVELOPMENT STANDARD VARIANCE

Address: 573 Waterford Way

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

It Does Not Create a ~~Line~~ Line of Sight ~~Problem~~ Problem.
It makes The Position of The Fence Feasible Due to Not
Having to Incroach on The Rear Easement And No Utilities
are Involved.

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 because:

The Fencing is a material that will Compliment
my Property and is used on other Fences Throughout the
Neighborhoods. Fencing will Be Professionally Installed.

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 because:

The Surrounding Properties and Immediately adjacent
all have 6 Foot Privacy Fences. This would Be a ~~hardship~~ hardship
on using my whole or Partial Back yard to use 60% of
my yard. The Fence will Provide Privacy for my family.



Note—if denying a request, you only have to use ONE of the findings below to deny.
But you need to explain why the request fails to meet the finding you have chosen.

**BOARD OF ZONING APPEALS
DANVILLE, INDIANA**

**ACTION ON PETITION FOR A VARIANCE
FROM DEVELOPMENT STANDARDS**

MOTION

I move that we **approve / deny** the variance sought by Petitioner Michael Chatham in BZA petition 2022-2118 to allow a 6 foot privacy fence to encroach into a front yard for property located at 573 Waterford Way. This petition has **satisfied / not satisfied** the requirements for variances under state law for the following reasons:

1. The approval **will / will not** be injurious to the public health, safety, morals, and general welfare of the community
 - a) **for the reason(s) stated in the staff report;**
 - b) **for the reason(s) stated in Petitioner’s proposed findings of fact; and/or**
 - c) **because:** _____

2. The use and value of the area adjacent to the property included in the variance **will / will not** be affected in a substantially adverse manner
 - a) **for the reason(s) stated in the staff report;**
 - b) **for the reason(s) stated in Petitioner’s proposed findings of fact; and/or**
 - c) **because:** _____

3. The strict application of the terms of the Zoning Ordinance **will / will not** result in practical difficulties in the use of the property
 - a) **for the reason(s) stated in the staff report;**
 - b) **for the reason(s) stated in Petitioner’s proposed findings of fact; and/or**
 - c) **because:** _____

[note #1: An adverse finding on any one of the above requires Board denial of the variance.]

[note #2: None of the words in bold italics should be used if the motion is to approve a variance.]

And, I move that this approval be made subject to the following conditions:

[note #3: If the majority votes against a motion to approve a variance, a subsequent motion should be made for findings of fact to reflect that the Petitioner did not establish the three requirements of state law to have been met. This motion should indicate which requirement(s) were not met or cite reasons stated in the staff report, if the staff recommendation was against approval.]

DECISION

(After a second is made to the motion and a vote is taken, the presiding officer makes the following announcement): “It is therefore the decision of this body that this variance petition is **approved / denied** (and if conditions have been imposed)...**subject to the conditions made a part the adopted motion.**”