

BOARD OF ZONING APPEALS DIVISION II

August 08, 2023

Case Number: 2023-DV2-014

Property Address: 28 E 40th Street (approximate address)

Location: Washington Township, Council District #7

Petitioner: Rachel & Tee Hellman, by Bob Abbott

Current Zoning: D-2 (MSPC)

Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a detached garage with a three-foot rear yard and east side yard setback (five-foot rear and side yard setback required).

Current Land Use: Residential

Staff Recommendations: Staff **recommends approval** of this petition

Recommended Motion: Motion to approve petition 2023-DV2-014

Staff Reviewer: Noah Stern, Associate Planner

PETITION HISTORY

This is the first public hearing for this petition

STAFF RECOMMENDATION

Staff **recommends approval** of this petition

PETITION OVERVIEW

- This request would provide for a detached garage on the .12-acre site with three-foot rear yard and east side yard setbacks (five-foot rear and side setback required).
- The proposal calls for the demolition of the existing detached garage which has dimensions of 16'x22'. The new detached garage will have dimensions of 22'x24'. The existing garage also sits 3 feet from the both the rear property line and the east side property line. With the new garage sitting an equal distance from the property lines as the existing garage, there will not be any resulting adverse effects to the adjacent properties, nor the surrounding community.
- The driveway is shared with the adjacent property to the east, which also has a detached garage, located directly to the east of the detached garage of the subject site.

- Detached garages are a normal development for the single-family detached houses in the surrounding area.

GENERAL INFORMATION

Existing Zoning	D-2		
Existing Land Use	Residential		
Comprehensive Plan	Traditional Neighborhood		
Surrounding Context	Zoning	Surrounding Context	
	North:	D-2	North: Single-family residential
	South:	D-9	South: Multi-family residential
	East:	D-2	East: Single-family residential
	West:	D-2	West: Single-family residential
Thoroughfare Plan			
40 th Street	Local Street Existing ROW: 40 ft Proposed ROW: 48 ft		
Context Area	Compact		
Floodway / Floodway Fringe	No		
Overlay	No		
Wellfield Protection Area	No		
Site Plan	12/22/2022		
Site Plan (Amended)	N/A		
Elevations	N/A		
Elevations (Amended)	N/A		
Landscape Plan	N/A		
Findings of Fact	12/22/2022		
Findings of Fact (Amended)	N/A		

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Land Use Plan Pattern Book
- Infill Housing Guidelines

Pattern Book / Land Use Plan

- The Marion County Land Use Plan recommends the Traditional Neighborhood living typology for this site

- In Traditional Neighborhood settings, the Pattern Book recommends garages should be loaded and accessed from an alley or side street, when possible.

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

- The Infill Housing Guidelines (IHG) document is used to promote good practice with regards to form, massing, aesthetics, landscaping, etc. of new infill housing projects for all scales and types.
- With regards to detached garages, the Infill Housing Guidelines document recommends:
 - Locate accessory structures behind primary building
 - Access accessory buildings from alleys, when possible.
 - Don't overshadow primary buildings
- The proposal is in accordance with these recommendations.

Indy Moves

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

- Not Applicable to the Site

ZONING HISTORY

ZONING HISTORY – SITE

EXISTING VIOLATIONS

N/A

PREVIOUS CASES

N/A

ZONING HISTORY – VICINITY

2017DV1027; 4008 N Pennsylvania Street (east of site), Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the expansion of a detached garage and a covered porch, creating 64.8% open space (75% required), **approved**.

2005DV2049; 3939 N Delaware Street (east of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a 576-square foot detached garage with a 1.5-foot north side yard setback, and with a 1.5-foot rear yard setback, **approved**.

2005DV2003; 3915 N Delaware Street (east of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a 418-square foot attached garage with a 3.2-foot south side yard setback, **approved**.

2008DV2040; 4180 N Pennsylvania Street (east of site), VARIANCE OF DEVELOPMENT STANDARDS of the Dwelling Districts Zoning Ordinance to provide for the construction of a twenty-foot tall, 840-square foot detached garage with a three-foot north side setback (minimum seven-foot side setback required), **approved**.

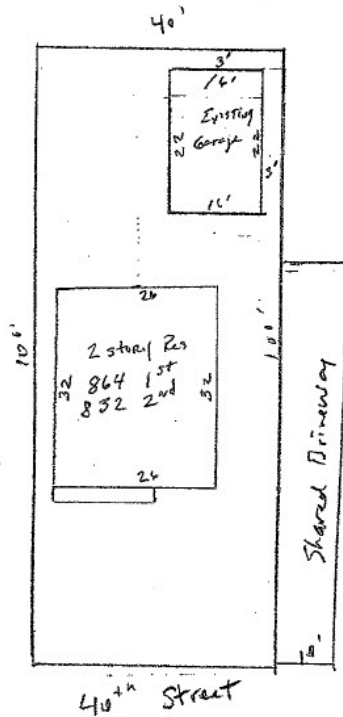
2006UV3032; 3965 N Meridian Street (west of site), Variance of use of the Commercial Zoning Ordinance to legally establish an office use and provide for limited C-2 and C-3 uses in the ground floor of the existing building, **approved**.

2004ZON028; 3951 N Meridian Street (west of site), Rezoning of 0.54 acre, being in the D-9 District, to the C-1 classification to legally establish office uses, **approved**.

2017CZN817, 3901 N Meridian Street (south of site), Rezoning of 1.5 acres from the C-1 and D-5 districts to the MU-1 district, **approved**.

2021CZN815A; 4011 N Pennsylvania Street (east of site), Rezoning of 1.5 acres from the SU-1 district to the C-S classification to provide for the existing religious use and opera center and other arts and culture-related uses, **approved**.

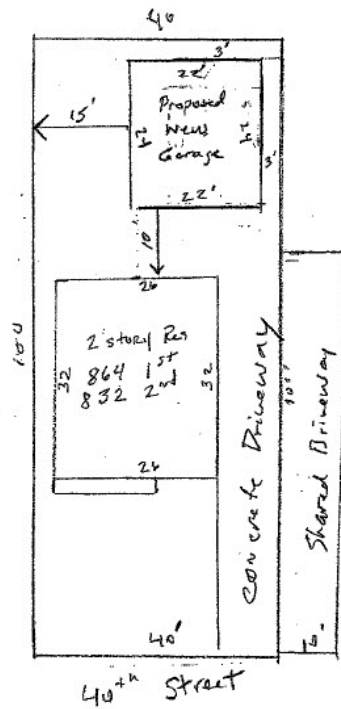
2021CZN815B; 4011 N Pennsylvania Street (east of site), Rezoning of 0.98 acre from the SU-1 district to the D-2 classification to provide for residential development, **approved**.



Ownership	
Name HELLMANN, RACHEL M & TEE J HELLMANN	
Address 25 E 40TH ST INDIANAPOLIS, IN 46205-262	
Account	3053405
Book	Page
Legal MARTINDALE & CO'S SUB 40FT W SIDE OF 166FT E END 100FT S SIDE L15	

North

1 inch
20 feet



Ownership	
Name HELLMANN, RACHEL M & TEE J HELLMANN	
Address 28 E 40TH ST INDIANAPOLIS, IN 46205-262	
Account	3053405
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Legal MARTINDALE & CO'S SUB 40FT W SIDE OF 159FT E END 100FT S SIDE L15	

North

1 inch
20 feet

Petition Number _____

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

A detached garage as a common addition to a primary structure and will only be used for legal parking of vehicles
and storage of property and residential uses.

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:

Side and rear set backs will be the same as before and same as adjacent garage to the East/

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

The nature of narrow property with narrow driveway makes ingress and egress to garage door very difficult without garage
being 3 feet from side and rear. Garage door to be positioned 2 feet off of garage given only the narrowest of access to garage door being only 10 feet
off of house. Driveway is a shared drive for 3 properties and thus is provides limited access to garage

DECISION

IT IS THEREFORE the decision of this body that this VARIANCE petition is APPROVED.

Adopted this _____ day of _____, 20 ____



MERIDIAN STREET PRESERVATION COMMISSION

In the matter of an application filed by
Bob Abbott on behalf of Rachel Hellman
for a Prior Approval of a Variance for the property
located at 28 E. 40th Street

FINAL ORDER GRANTING PRIOR APPROVAL OF A VARIANCE #V-MSPC 23-04

The Meridian Street Preservation Commission, at a meeting held at 4:00 p.m. on June 20, 2023, in the second floor conference room of the Meridian Street United Methodist Church at 5500 N. Meridian Street, and heard evidence and considered an application for a Prior Approval of a Variance filed by Bob Abbott on behalf of Rachel Hellman, for improvements to be made at the property located at 28 E. 40th Street.

Being duly advised in the premises, the Commission, by a vote of 6-0 of its six (6) members present and voting AYE: (Norman, Fujawa, Hess, Welling, Madden, Vanderstel), NAY: (None), ABSTAIN: (None) finds that:

1. The Commission has jurisdiction of this matter under Indiana Code 36-7-11.2-61.
2. The Certificate of Appropriateness requested approval for the:
 - Construction of a new garage with the reduction of rear setback (5ft. to 3ft.) and side setback (5ft. to 3ft.) required in D-5 zoning.
3. Such improvements shall be per plans on file with the Commission, except as amended below.
4. Said improvement is appropriate to the preservation of the area comprised of Meridian Street and bordering properties and complies with the architectural and construction standards in said area.
5. The Certificate of Appropriateness requested by the applicant should be **GRANTED**, with the following commitment(s): None.

*It is, therefore, ORDERED AND DECREED by the Meridian Street Preservation Commission that the Prior Approval of a Variance for the aforesaid construction is hereby **GRANTED**, to be evidenced solely by this Final Order. This Final Order must be acted upon within 2 years of the hearing date of the Meridian Street Preservation Commission and all aspects must be completed in whole.*

Shannon Norman
Shannon Norman, Chair

June 20, 2023
Date



Department of Metropolitan Development
Division of Planning
Current Planning

4002 N. Pennsylvania Street
Indianapolis, IN 46205

November 21, 2022

To Whom It May Concern:

My name is Tim Moriarty. My residence is on the Northwest corner of 40th and North Pennsylvania Street. The address is 4002 N. Pennsylvania Street, Indianapolis, IN 46205. I have lived at this address for 30 years and have shared the driveway with the residence to my North (4008 N. Pennsylvania Street) and directly West (28 East 40th Street). Our shared driveway provides the only driveway access for these three homes. Directly behind my garage sits the garages for 4008 N. Pennsylvania Street, and 28 East 40th respectively. My understanding is that TJ and Rachel Hellmann would like to build a new garage to replace their existing garage and in so doing are requesting a variance of 3' instead of 5' adjacent to the garage @ 4008 N. Pennsylvania Street. This new garage would replace the existing one car garage and provide ample parking for owners of 28 East 40th Street. This would be a welcome addition to this property and does not hinder or obstruct in any way the access to my garage or my neighbor directly to the North. This would be a property value improvement for all three homes.

Sincerely,

Tim Moriarty
4002 N. Pennsylvania Street
Indianapolis, IN 46205
Phone: 317-376-3413
Email: trmoriarty1@gmail.com

November 17, 2022

Dear Members of the Board of Zoning Appeals,

I am writing this letter to express my support for the requested variance of my neighbors, Rachel and Tee Hellmann (28 E 40th Street, Indianapolis, IN). The variance would allow the Hellmann's to construct a new garage within 3' of their East and North property lines.

As you may realize, the Hellmann's property is quite unique since it shares a driveway with myself and another home owner. It is common for two homes to share a singular driveway in our neighborhood but very uncommon for three homes to share a singular driveway. Because of this, it is especially important that the Hellmann's receive the variance. The variance will ensure that there is plenty of common space in our communal drive so that we have appropriate turning radius to enter garages and that all vehicles can be moved in and out of the driveway in a safe and efficient way. This will not only benefit the Hellmann's but will benefit my wife and I as well.

Lastly, allowing the Hellmann's the easement would allow for their construction to be lined up with our garage that we recently constructed. Lining up the garages is not only the logical decision in terms of ease of use of the space but also makes sense aesthetically.

Thank you in advance for your time and consideration.

Sincerely,

Cliff Pittman
4008 N Pennsylvania Street
Indianapolis, IN 46205







