

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-DV1-042
Address: 5354 North Delaware Street (*Approximate Address*)
Location: Washington Township, Council District #7
Zoning: D-4 (MSPC)
Petitioner: Charles and Brenna Carroll, by Todd Williams
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an attached garage with a one-foot south side yard setback (four-foot side yard setback required).

RECOMMENDATIONS

Staff **recommends approval** of this request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING, CONTEXT AREA, AND LAND USE

D-4	Compact	Single-family dwelling
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SURROUNDING ZONING AND LAND USE

North	D-4	Single-family dwelling
South	D-4	Single-family dwelling
East	D-4	Single-family dwelling, two-family dwelling
West	D-4	Single-family dwelling

COMPREHENSIVE LAND USE PLAN The Washington Township Comprehensive Plan (2018) recommends Traditional Neighborhood.

- ◇ The subject site was platted in 1915 as a part of the Ambleside Addition. It sits on the southwest corner of Delaware Street and 54th Street. 54th Street curves as it passes the site, which creates an unusually shaped lot that is significantly narrower on the west end than the east end. The site is not served by an alley.

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STAFF REPORT 2023-DV1-042 (Continued)

- ◇ Historic mapping and aerial photography indicate that the structure predates the mid-1950s and is quite possibly older than that. An aerial photograph from 1937 shows a structure on the site, but the photo is too blurry to determine if it is the existing structure. The Assessor's property card gives a build date of 1928 for both the house and garage.
- ◇ The 2018 Comprehensive Land Use Plan recommends Traditional Neighborhood for the site. This land use typology is intended to provide for a variety of housing options including single-family dwellings.
- ◇ The subject site is within the jurisdictional area of the Meridian Street Preservation Commission. This State agency has the authority for prior approval of variance petitions within its jurisdiction. If the MSPC gives prior approval to a variance, the petition may proceed through the City's land use petition process. However, the MSPC's prior approval does not obligate the Board of Zoning Appeals to approve a petition.
- ◇ This request was heard by the MSPC on July 18, 2023 and was given prior approval.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The petition seeks a variance to provide for the construction of an attached garage with a one-foot south side yard setback, where the Ordinance requires a four-foot side yard setback. The existing garage was constructed with a one-foot side setback.
- ◇ Among the reasons that the Ordinance regulates setbacks is to provide adequate space around buildings for air movement, drainage, and maintenance space without trespassing onto the neighbor's property.
- ◇ The petitioner is interested in building a workshop addition onto the existing garage. The addition would meet the standards of the Ordinance. However, it was discovered that over time the structure of the garage had deteriorated to the point that it could fail. Total demolition and rebuilding is warranted. However, demolition of the existing garage would remove any legal non-conforming status that the garage might have, so a variance is required to replace the garage on its existing footprint, as is proposed by the petitioner.
- ◇ An Ordinance-compliant location for a garage would be difficult on this site given its unusual shape. Moving the garage to the north to a point where it would be compliant would shorten the driveway to the extent that a vehicle parked in the driveway would be partially in the right-of-way and possibly obstructing the public sidewalk. The existing garage is modest in size, so reducing its footprint would render it impractical.

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- ◇ Staff takes the setback provisions of the Ordinance seriously, and if this was a completely clear site and a new build, staff would be unlikely to recommend approval of a one-foot side setback. However, given the positioning of the existing dwelling, the development history of the site, and the unusual shape and narrow width of the site, staff believes the deviation from the Ordinance is warranted and is recommending approval of the variance.

GENERAL INFORMATION

THOROUGHFARE PLAN

Delaware Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Local Street, with a 60-foot existing right-of-way and a 48-foot proposed right-of-way.

54th Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Local Street, with a 50-foot existing right-of-way and a 48-foot proposed right-of-way.

FLOODWAY / FLOODWAY FRINGE

This site is not located within a floodway or floodway fringe.

WELLFIELD PROTECTION DISTRICT

This site is not located within a wellfield protection district.

ZONING HISTORY – SITE

None.

ZONING HISTORY – VICINITY

2013-HOV-055; 5332 North Delaware Street (south of site), requested a variance of development standards to provide for a garage with a 3.5-foot rear setback, **approved.**

2004-HOV-027; 5353 North Delaware Street (east of site), requested a variance of development standards to provide for an accessory structure with a two-foot rear setback and a two-foot side setback, **approved.**

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STAFF REPORT 2023-DV1-042, Location



STAFF REPORT 2023-DV1-042, Aerial photograph (2022)



2023-DV1-042; Findings of Fact

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:

Current Garage location is original to home. As far as we are aware there has never been an objection to the existing location..

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:

Garage will be reconstructed in exact existing location. The original brick will be salvaged as much as possible and reused.

The proposed garage workshop extension on the west side of the garage will be 5' off the property line and will not expand the non-conformity.

The structure will have gutter and downspouts installed diverting the water away from the neighbors and the use will remain the same (personal storage).

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

To comply with current set back requirements would move garage into the driveway making the driveway not functional and limit use.

DECISION

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

Adopted this _____ day of _____, 20 ____

_____	_____
_____	_____
_____	_____

2023-DV1-042; Photographs



Looking west across Delaware Street at the subject site.



Looking west along the south property line of the subject site showing the existing south setback.



Looking southwest along the curve of 54th Street.



Looking south across 54th Street at the site.



Looking southeast across the site from its northwest corner.



Looking north across 54th Street from the subject site at the neighbors to the north.



Nearby setbacks along an alley.



Looking southeast at the neighbor to the east.



Nearby side yard setback.