

**BOARD OF ZONING APPEALS DIVISION II**

**November 13, 2024**

**Case Number:** 2024-DV2-040  
**Address:** 2010 Mansfield Street (approximate address)  
**Location:** Center Township, Council District #12  
**Zoning:** D-5 (W-1)  
**Petitioner:** Jennifer & David Ojo  
**Request:** Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of a parking area without exclusive alley access and a zero-foot south side yard setback (alley access required, five-foot side yard setback required).

**Current Land Use:** Single-family dwelling

**Staff Recommendation:** Staff recommends denial of this petition.

**Staff Reviewer:** Robert Uhlenhake, Senior Planner

**PETITION HISTORY**

This is the first hearing for this petition.

**STAFF RECOMMENDATION**

Staff recommends **denial** of this petition.

**PETITION OVERVIEW**

- ◇ The request would legally establish the location of a parking area without exclusive alley access and a zero-foot south side yard setback.
- ◇ The Ordinance was amended in April of 2016 to regulate access and connectivity for the zoning districts. This property is required to gain exclusive access from the existing improved alley for any new driveway, per Section 744-301 of the Ordinance. The “Access to accessory parking areas” provision states that “... if a lot abuts an improved alley and the street frontage is less than 200 feet, vehicle access to that lot shall be exclusively from that alley.” In addition, per Section 744-401 of the Ordinance. The “Access to and from parking lots and garages” provision states that “... no curb cut for street access to an accessory parking area in the Compact Context area, shall be approved if the property has an improved alley along the side or rear lot line.”
- ◇ The Department of Business and Neighborhood Services has determined that the abutting alley to the west of the property is an “improved” alley, and therefore access from Mansfield Street to the parcel would not be allowed, per the Ordinance.



- ◇ Although the driveway was recently installed, it has had a history of providing parking access from the alley access. Aerial photos from as recent as Spring of 2022 show a vehicle accessing the lot from the alley.
- ◇ Alley access where available, helps the pedestrian environment by reducing the number of new curb cuts across sidewalks and preserves valuable curbside parking, along with reducing the amount of pavement needed for driveways, which causes significant storm water runoff into city drainage systems.
- ◇ The adjacent dwelling to the north at 2012 Mansfield Street has an existing garage with alley access, as indicated in Staff photograph #6. As does several other properties on the block.
- ◇ Staff will acknowledge that there are existing driveways with illegal non-permitted curb cuts similar to the subject site, and other driveways with legal curb cuts. These legal curb cuts and driveways predate the current Ordinance and are considered legally non-conforming. If the legally non-conforming driveways were to be removed, then they could not be replaced, and would have to have access installed from the alley as the subject site is required to do.
- ◇ No practical difficulty exists for the property since the site has previously established access from the improved alley and could continue to do so by right without a variance. In addition, adjacent properties have demonstrated their ability to provide garage access to the alley as well. Any practical difficulty related to the non-permitted curb cut access from Mansfield Street would be self-imposed, by the need to continue the use of the non-permitted and illegally installed driveway.
- ◇ Development Standards of the Consolidated Zoning and Subdivision Ordinance requires a parking area to have a five-foot side setback, similar to other structures. The purpose of the setback is to provide for adequate separation and ventilation between structures and use areas. Allowing the reduced setback in this instance, would limit the area needed for emergency response between dwellings and would hinder that response. Possibly allowing additional damage to the primary dwelling and the adjacent dwelling.
- ◇ There is no practical difficulty associated with the subject site that would warrant the grant of this variance. The subject site has no natural or manmade physical obstacles that would prohibit compliance with the required alley access and setback requirements of the Ordinance. Similar nearby properties on adjacent and nearby corners are able to comply with the Ordinance.

**GENERAL INFORMATION**

<b>Existing Zoning</b>	D-5	
<b>Existing Land Use</b>	Single-Family Dwelling	
<b>Comprehensive Plan</b>	Recommends 3.5-5 dwelling units per acre	
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Surrounding Context</b>
	North:	D-5 North: Single-Family dwelling
	South:	D-5 South: Single-Family dwelling
	East:	D-5 East: Single-Family dwelling
	West:	D-5 West: Single-Family dwelling



Thoroughfare Plan		
Mansfield Street	Local Street	50-foot existing and proposed right-of-way.
<b>Context Area</b>	Compact area	
<b>Floodway / Floodway Fringe</b>	No	
<b>Overlay</b>	N/A	
<b>Wellfield Protection Area</b>	Yes, One Year	
<b>Site Plan</b>	October 14, 2024	
<b>Elevations</b>	N/A	
<b>Landscape Plan</b>	N/A	
<b>Findings of Fact</b>	October 14, 2024	

**COMPREHENSIVE PLAN ANALYSIS**

**Comprehensive Plan**

- The Comprehensive Plan recommends 3.5-5 dwelling units per acre for the site.

**Pattern Book / Land Use Plan**

- Not Applicable to the Site.

**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**

- Not Applicable to the Site.

**Indy Moves**  
 (Thoroughfare Plan, Pedestrian Plan, Bicycle Master Plan, Greenways Master Plan)

- Not Applicable to the Site.

**ZONING HISTORY**

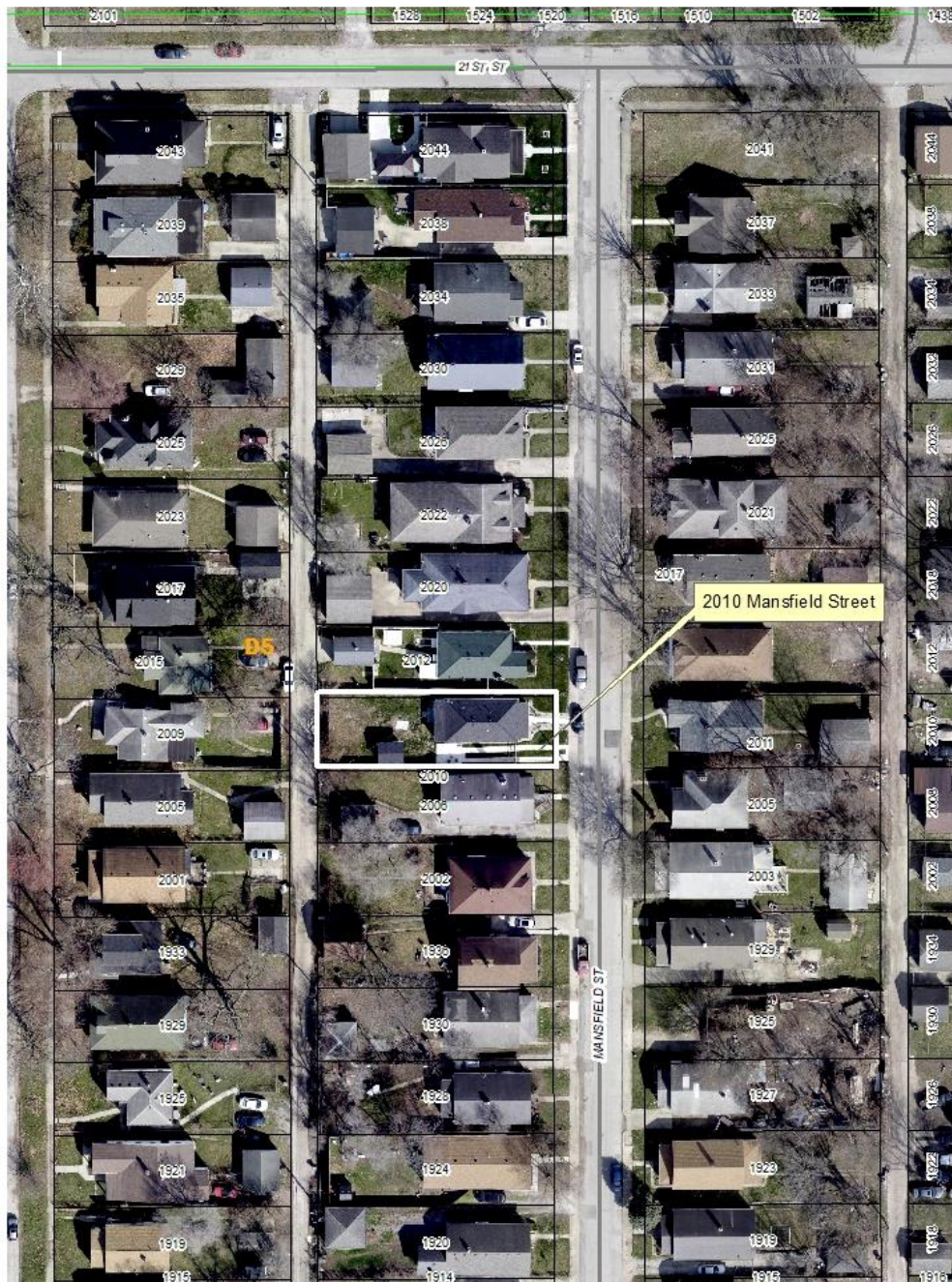
None

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**EXHIBITS**

**Location Map**







**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:

The variance will allow access to the property in a way that is common on this street and in this neighborhood.

It provides for ample off street parking allowing for vehicle using the roadway to have a clear path for travel and for parking.

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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:

The manner by which the vehicles access this property is common in this area.

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

If the variance is not granted the current front driveway access would have to be dug up and removed. Fencing would have to be removed and/or replaced. Access to off street parking would be more cumbersome because the property does not have a garage and access to the back yard. The property "curb appeal" will be diminished.

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**Photographs**



Photo 1 - Subject property looking west.



Photo 2 - Subject property existing low rise curb, that is driven over to access the non-permitted driveway, looking northwest.



Photo 3 - Subject property existing zero-foot side setback parking area (through the gate) looking west.



Photo 4- Adjacent property to the south with legally non-conforming driveway, permitted and installed prior to current ordinance, looking west.





Photo 5 - Subject site improved alley access, looking east



Photo 6 - Adjacent property to the north with alley access, looking east.