

## STAFF REPORT

### Department of Metropolitan Development Division of Planning Current Planning Section

**Case Number:** 2023-DV1-013  
**Address:** 607 South Whitcomb Avenue (approximate address)  
**Location:** Wayne Township, Council District #22  
**Zoning:** D-5  
**Petitioner:** Napier Homes LLC, by Earl Owens  
**Request:** Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a detached garage expansion resulting in a four-foot north side yard setback (seven-foot side yard setbacks required).

### RECOMMENDATIONS

Staff **recommends denial** of the variance petition.

### SUMMARY OF ISSUES

#### LAND USE

##### EXISTING ZONING AND LAND USE

Compact	D-5	Single-family dwelling
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##### SURROUNDING ZONING AND LAND USE

North	D-5	Single-family dwelling
South	D-5	Single-family dwelling
East	D-5	Single-family dwellings
West	D-5	Single-family dwellings

COMPREHENSIVE PLAN	The Comprehensive Plan recommends 5-8 residential units per acre, with a Transit Oriented Development overlay for the Blue Line strategic plan.
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### VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The request would provide for a detached garage expansion resulting in a four-foot north side yard setback. The submitted site plan may not be to scale, as upon Staff's visit to the site, the setback actually appears to be a one-foot north side setback, if the fence is on the property line.
- ◇ Development Standards of the Consolidated Zoning and Subdivision Ordinance, specifically those relating to setbacks, are intended to ensure orderly development and protect surrounding property values, by providing for open buffer areas along lot lines, and to ensure adequate access around structures to help maintain the property without requiring access through adjacent properties.

(Continued)

## **STAFF REPORT 2023-DV1-013 (Continued)**

- ◇ No peculiar condition exists on site for staff to be supportive of the request. Instead, this is a self-imposed difficulty since the existing legally compliant garage could be expanded in a manner to remain legally compliant, or a new garage could be located in another area of the site, without the need for a variance of development standards.
- ◇ 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 setbacks of the Ordinance. Given that there is no practical difficulty associated with this site, the existing legally compliant garage could be expanded in a manner that meets the standards of the Ordinance, or a new garage could be located in another area of the site to address storage needs.
- ◇ This variance request is the result of a zoning violation, particularly related to the petitioner's failure to obtain a permit prior to illegally constructing the garage expansion within the side setback. Staff does not support variance requests to retroactively correct zoning violations created due to the lack of due diligence to discourage such practices.
- ◇ The denial of this variance would not prevent the current use or location of the original garage for personal uses, which could remain as originally built without the need for a variance.

## **GENERAL INFORMATION**

THOROUGHFARE PLAN	This portion of Whitcomb Avenue is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 50-foot existing and proposed right-of-way.
SITE PLAN	File-dated March 1, 2023.
FINDINGS OF FACT	File-dated March 1, 2023

## **ZONING HISTORY**

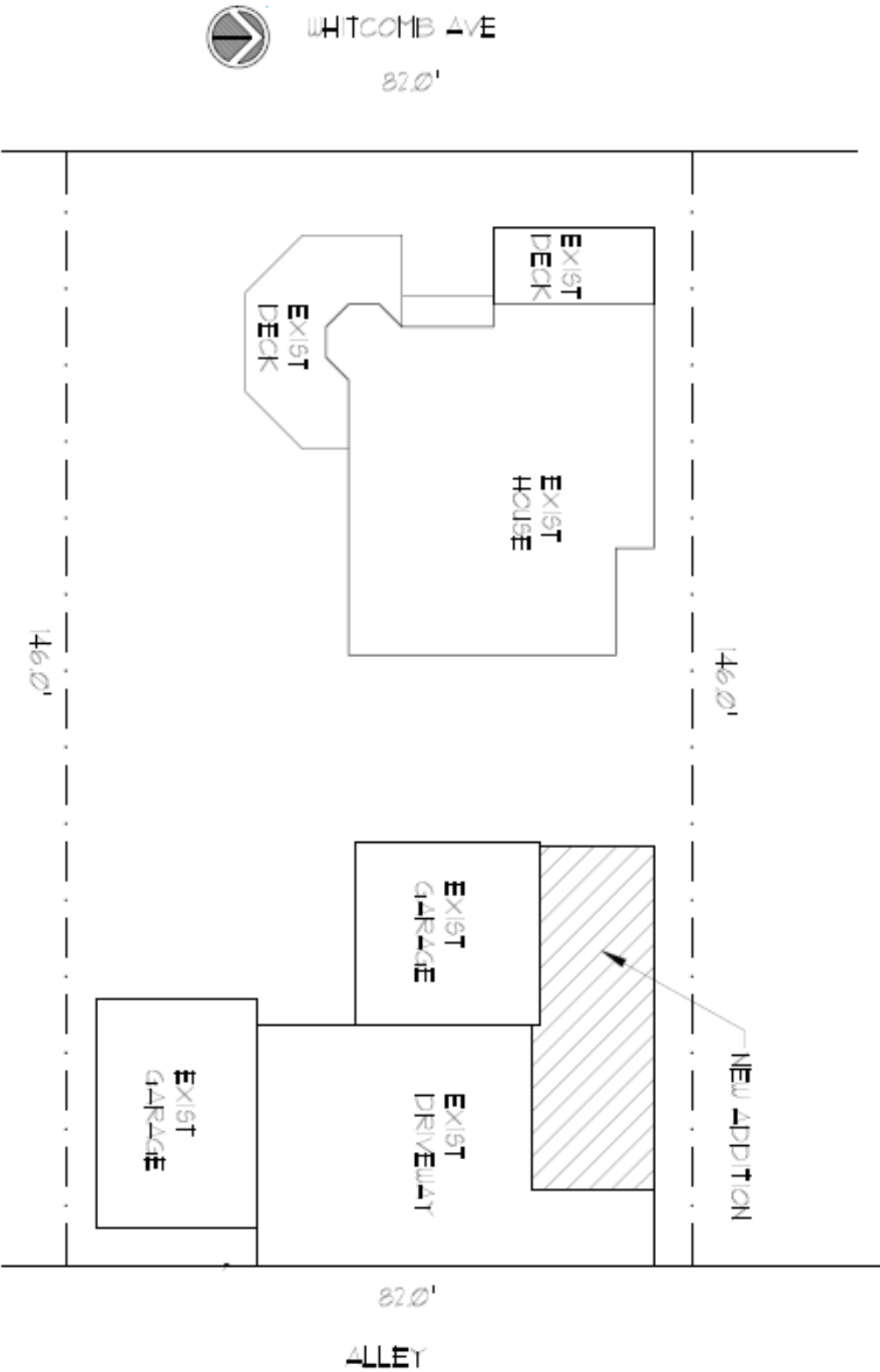
**2006-UV2-026; 702 North Lynhurst Avenue (east of site)**, requested a variance of use of the Dwelling Districts Zoning Ordinance to provide for the sale of small tools within the primary dwelling structure, with storage of parts and repair of tools within an existing 816-square foot detached garage, **granted**.

**2005-UV3-017; 701 Manhattan Avenue (east of site)**, requested variance of use and development standards of the Dwelling Districts Zoning Ordinance to legally establish two detached one-story, single-family dwellings on the same lot, the westernmost dwelling having a main floor area of 679.2 square feet, and with two off-street parking spaces, **granted**.

**98-V2-74; 602 Ingomar Street (east of site)**, requested a variance of development standards to provide for a 22 by 14-foot detached garage with 50.6% open space, with the total area of accessory uses being 210% of the primary structure, and a zero-foot front yard setback, **granted**.

**2023-DV1-013; Location Map**





**2023-DV1-013; Pictures**



Subject site, looking east.



Subject site side yard, looking east.





Subject site garage expansion with proposed four-foot north side yard setback, looking west.



Subject site garage expansion, looking west.



Adjacent dwelling to the north, looking east



Adjacent dwelling to the south, looking east.