

**BOARD OF ZONING APPEALS DIVISION II**

April 8<sup>th</sup>, 2025

**Case Number:** 2025-DV2-007

**Property Address:** 5734 North New Jersey Street (Approximate Address)

**Location:** Washington Township, Council District #7

**Petitioner:** Jason & Jill Cleveland, by Todd Williams

**Current Zoning:** D-4/D-2

**Request:** Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of an attached garage with a zero-foot setback from the southern zoning boundary (minimum four feet required) and a 5.25-foot rear yard setback (20 feet required).

**Current Land Use:** Residential

**Staff Recommendations:** Staff is recommending **approval** of this variance petition.

**Staff Reviewer:** Kiya Mullins, Associate Planner

**PETITION HISTORY**

This is the first public hearing of this variance petition.

**STAFF RECOMMENDATION**

Staff is recommending **approval** of this variance petition.

**PETITION OVERVIEW**

- The petitioner is requesting two variances: 1) a proposed attached garage with a zero (0) foot setback from the southern zoning boundary and 2) a 5.25-foot rear yard setback (to the west of the property).
- This 0.16-acre property is within the D-4 and a D-2 zoning districts and within the compact context area.
- Currently, there is a detached garage on the property that was constructed in 1936 (the same as the home) and sits two feet and four inches (2' 4") from the rear property line and three feet and eight inches (3' 8") from the southern side property line.
- If approved, the petitioner will construct the proposed attached garage five feet and three inches (5' 3") from the rear property line and four feet and three inches (4' 3") from the southern side property line, which would be an increase of both setbacks.
- The primary dwelling is three stories (two floors and one basement) with an attached garage. The second floor and basement will also be expanded.

- The zoning boundary that changes the area's zoning from D-4 to D-2 requires a four (4) foot setback. In this location, the zoning change occurs on the south side of this parcel, which is four (4) feet to the north of the south side property line, which indicates a site-specific practical difficulty.
- The D-4 zoning required a twenty (20) foot rear yard setback. However, with the detached accessory structure, there is an exception that allows the accessory to be only five (5) feet from the rear property line. When the accessory structure is attached, the same exception does not apply, which, in this case, causes the need for the variance.
- North New Jersey Street is a dead-end street, with the subject site being one of the final homes at the end of the road. Residents and visitors park on both sides of the right-of-way. Without the garage, more cars will need to park on the local street, which will shrink in size and cause potential hazards.
- Staff recommends **approval** of this variance petition. This is an old parcel that is smaller than the modern D-4 requirements, which also has a zoning change on top of it. The subject site does not have the space to meet the required setback without a variance.

## GENERAL INFORMATION

<b>Existing Zoning</b>	D-4 / D-2	
<b>Existing Land Use</b>	Residential	
<b>Comprehensive Plan</b>	Traditional Neighborhood	
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Surrounding Context</b>
	North: D-4	North: Traditional Neighborhood
	South: D-2	South: Traditional Neighborhood
	East: D-3	East: Traditional Neighborhood
	West: D-2	West: Traditional Neighborhood
<b>Thoroughfare Plan</b>		
North New Jersey Street	Local Street	50 feet of right-of-way existing and 48 feet proposed.
<b>Context Area</b>	Compact	
<b>Floodway / Floodway Fringe</b>	No	
<b>Overlay</b>	No	
<b>Wellfield Protection Area</b>	No	
<b>Site Plan</b>	2/26/2025	
<b>Site Plan (Amended)</b>	2/26/2025	
<b>Elevations</b>	N/A	
<b>Elevations (Amended)</b>	N/A	
<b>Landscape Plan</b>	N/A	
<b>Findings of Fact</b>	2/26/2025	
<b>Findings of Fact (Amended)</b>	N/A	

## COMPREHENSIVE PLAN ANALYSIS

### Comprehensive Plan

- Marion County Land Use Plan Pattern Book

### Pattern Book / Land Use Plan

- The Traditional Neighborhood typology includes a full spectrum of housing types, ranging from single family homes to large-scale multifamily housing. The development pattern of this typology should be compact and well-connected, with access to individual parcels by an alley when practical. Building form should promote the social connectivity of the neighborhood, with clearly defined public, semi-public, and private spaces. Infill development should continue the existing visual pattern, rhythm, or orientation of surrounding buildings when possible. A wide range of neighborhood serving businesses, institutions, and amenities should be present. Ideally, most daily needs are within walking distance. This typology usually has a residential density of 5 to 15 dwelling units per acre, but a higher density is recommended if the development is within a quarter mile of a frequent transit line, greenway, or park (pg. 17-18).

### 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

### ZONING HISTORY – SITE

- N/A

### ZONING HISTORY – SURROUNDING AREA

- 2005-DV3-054: 5701 N Pennsylvania Street
  - Legally establish a single-family dwelling with a two-foot north side yard setback, (minimum five-foot side yard setback required; 4.17-foot side yard setback permitted by variance petition 2004-DV3-053), with an existing one-foot east side yard setback permitted by variance petition 2004-DV3-053 (minimum thirteen-foot aggregate side yard setback required) in D-4.
    - AP
- 2006-ZON-016: 440 E 57<sup>th</sup> Street
  - Rezoning of 0.823 acre from the D-2 district to the SU-2 classification to provide for the expansion of a school. Recorded instrument number 2006-0082666. Special use not envisioned by neighborhood plan.
    - AP
- 2012-DV1-025: 5735 Washington Boulevard
  - Variance of Development Standards of the Dwelling Districts Zoning Ordinance to provide for a 1,025-square foot detached garage (attached by a covered walkway), with a 4.2-foot south side setback, creating a 9.2-foot aggregate side setback (minimum seven-foot setback and 19-foot aggregate required) and to legally establish a six-foot rear setback for a 2,400-square foot basketball court (25-foot rear setback required).
    - Approved
- 2012-HOV-022: 5774 Washington Boulevard
  - Variance of Development Standards of the Dwelling Districts Zoning Ordinance to provide for a 480-square foot detached garage, creating an aggregate side building setback of 8.8 feet and an accessory use structure aggregate side setback of six feet and to legally establish a deck, with a one-foot north side setback and a single-family dwelling with a 3.8-foot aggregate side setback (five-foot minimum side setback and 13-foot aggregate side setback required) and to legally establish a shed with a 2.1-foot west rear setback (five-foot minimum rear setback required).
    - Approved
- 2014-DV3-045: 512 E 57<sup>th</sup> Street
  - Variance of Development Standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a single-family dwelling and a detached garage on Lot 56, with three-foot south side setbacks and an eight-foot aggregate side setback and a single-family dwelling and a detached garage on Lot 57, with a three-foot north side setback and eight-foot aggregate side setback (minimum six-foot side setback and 16-foot aggregate side setback required).
    - Approved

- 2015-DV1-025: 5744 Washington Boulevard
  - Variance of Development Standards of the Dwelling Districts Zoning Ordinance to provide for a two-story addition to an existing single-family dwelling, with an eight-foot rear setback and a four-foot north side setback and to provide for a 24-foot tall detached garage, with a three-foot south side setback and a three-foot rear setback (minimum five-foot side yard and 13-foot aggregate side yard, 20-foot rear yard (maximum 20-foot tall height)).
    - Approved
- 2015-DV2-032: 5736 Central Avenue
  - Variance of Development Standards of the Dwelling Districts Zoning Ordinance to legally establish a two-story dwelling with a 2.25-foot north side setback, to provide a two-story building addition and a one-story 557.34-square foot garage addition with a 3.33-foot north side setback (minimum seven-foot setback required) and to provide for a 120-square foot screened porch addition with an 8.83-foot south side setback creating an 11.08-foot aggregate side yard setback (minimum nineteen-foot aggregate side yard setback required).
    - Approved
- 2015-DV3-059: 513 E 57<sup>th</sup> Street
  - Variance of Development Standards of the Dwelling Districts Zoning Ordinance to provide for the reconfiguration of three lots, with one lot having access via an access easement from the north-south alley to the east (direct access to a public street required), with two lots having 8,400 square feet of lot area (10,000 square feet required), with two lots having an minimum open space of 45 percent (70 percent required), with two lots having aggregate side yards of 12 feet (16-foot aggregate required), and with three lots having minimum front setbacks of twenty feet (25 feet required).
    - Approved
- 2015-UV3-024: 5732 Broadway Street
  - Variance of Use and Development Standards of the Dwelling Districts Zoning Ordinance to provide a second dwelling unit (not permitted) in a 23-foot tall detached garage (maximum 20-foot permitted).
    - Approved
- 2016-HOV-034: 5715 Washington Boulevard
  - Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a detached garage on the existing foundation, creating an open space of 71% (75% required).
    - Denied
- 2017-DV2-021: 5715 Washington Boulevard
  - Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a detached garage, with a 2.5-foot rear setback and zero-foot south side setback (five-foot rear setback and seven-foot side setback required), and creating an open space of 71% (75% required).
    - Approved
- 2018-DV2-005A: 5784 Central Avenue

- Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a garage and dwelling addition, with a zero-foot front setback from 58th Street (20-foot front setback required).
  - Approved
- 2018-DV2-005B: 5784 Central Avenue
  - Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to legally establish an accessory building in the established front yard of New Jersey Street, with a zero-foot south side setback (not permitted, four-foot side setback required).
    - Approved
- 2021-DV1-066: 5760 N Delaware Street
  - Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 256 square-foot porch addition resulting in a lot open space of 62% (minimum 65% open space required).
    - Approved
- 2024-DV2-007: 529 E 57<sup>th</sup> Street
  - Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a single-family dwelling with an open space of 66.9 percent (70 percent open space required).
    - Approved

**EXHIBITS**

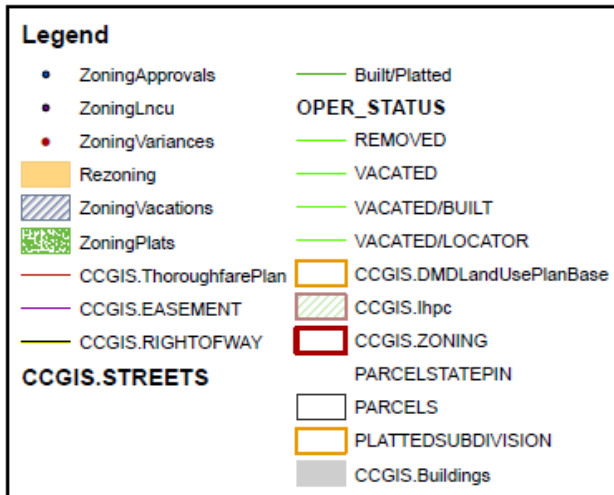
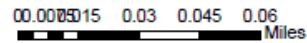
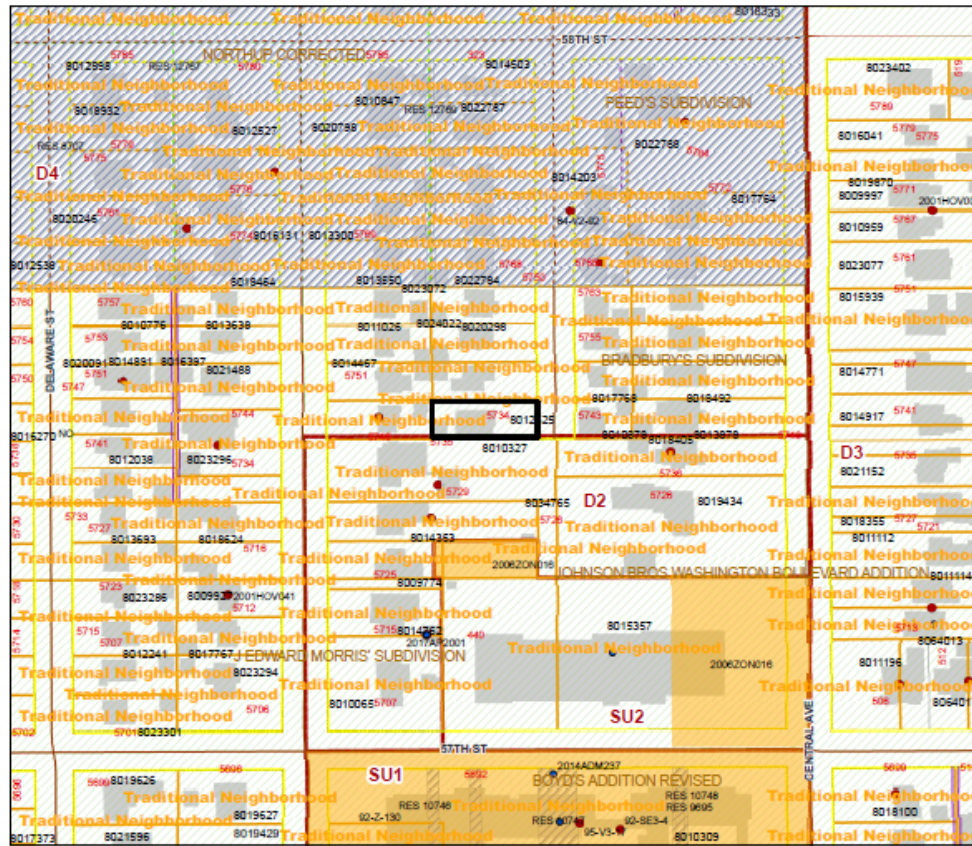


Exhibit 1: ArcGIS map of the subject site and the surrounding area.

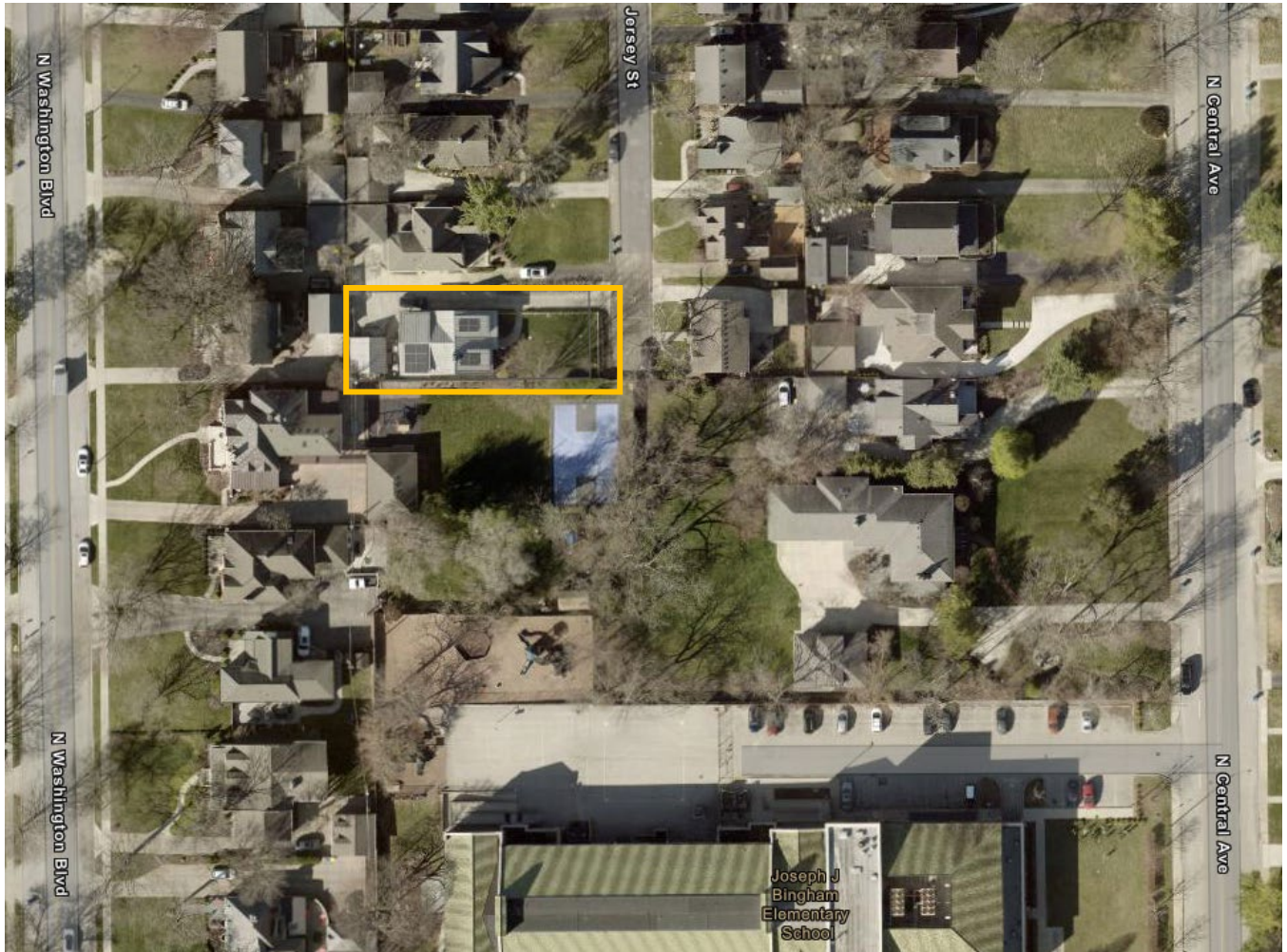


Exhibit 2: Aerial of the subject site.





**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 existing detached garage that we are proposing to demo was constructed in 1936 and is original to the home.

To the petitioners knowledge there has never been an objection to this original detached garage location.

The proposed attached garage would be constructed on the lot in the same general area as the original garage is located but increasing the rear setback from 2'-4" to 5'-3 5/8".

The proposed attached garage will be an enhancement to the value of the home and neighborhood and more functional to needs in the 21st century.

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:

It will be a dimensional improvement to the existing conditions affording more pervious soils around the proposed structure.

The proposed attached garage will not exceed the height of the existing structure and therefore will not block the views of any neighbors.

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 20' rear set back requirements would not allow enough space to construct the proposed attached garage with bedroom and bath above. This additional space is needed for the petitioner's growing family.

Due to the driveway being shared with a neighbor and the way the house is positioned on the lot, there is no other place to create the needed bedroom and bath addition.

The size of the existing garage is not adequate for todays larger vehicles

Exhibit 3: The submitted Findings of Fact.

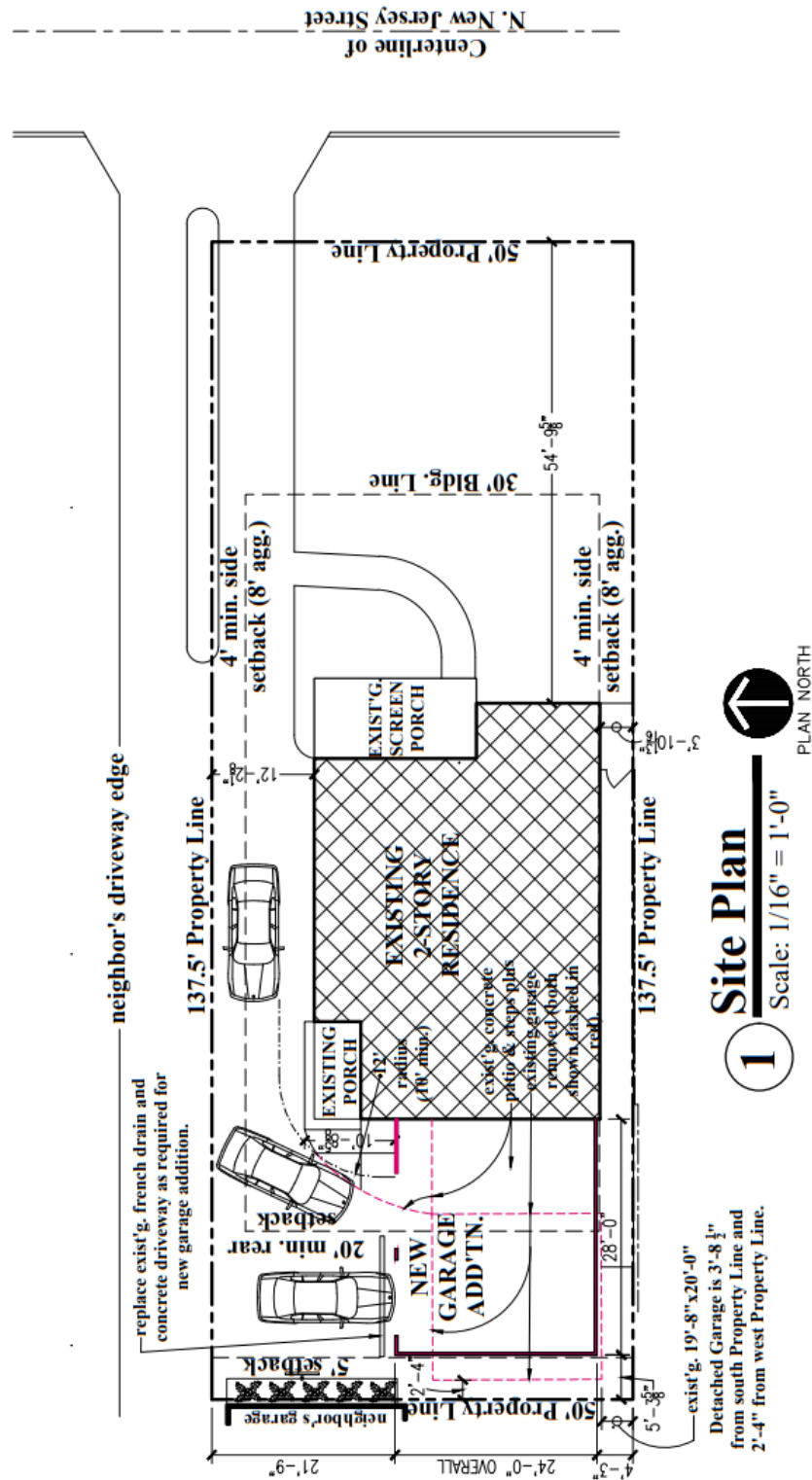


Exhibit 4: Site Plan (Red is the existing garage)

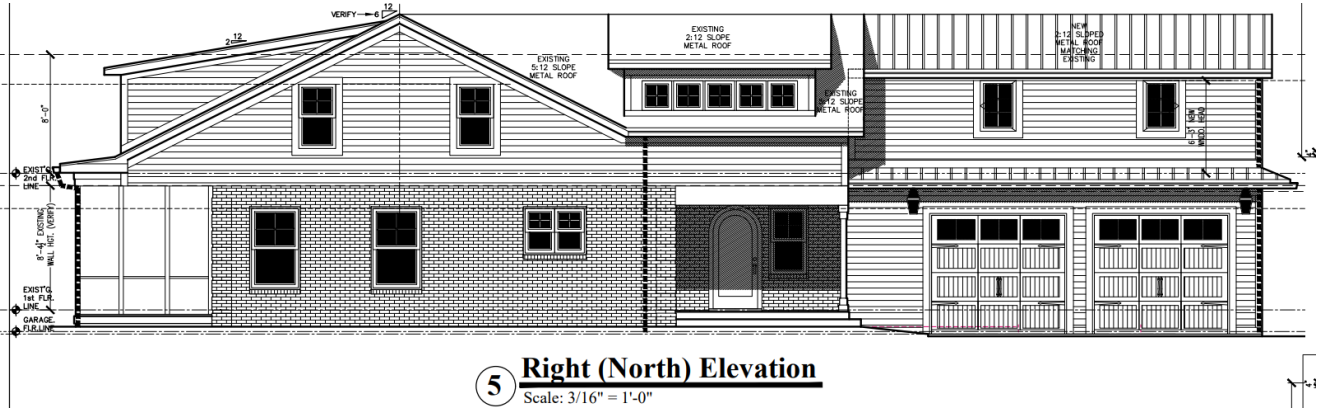


Exhibit 5: North Elevation.

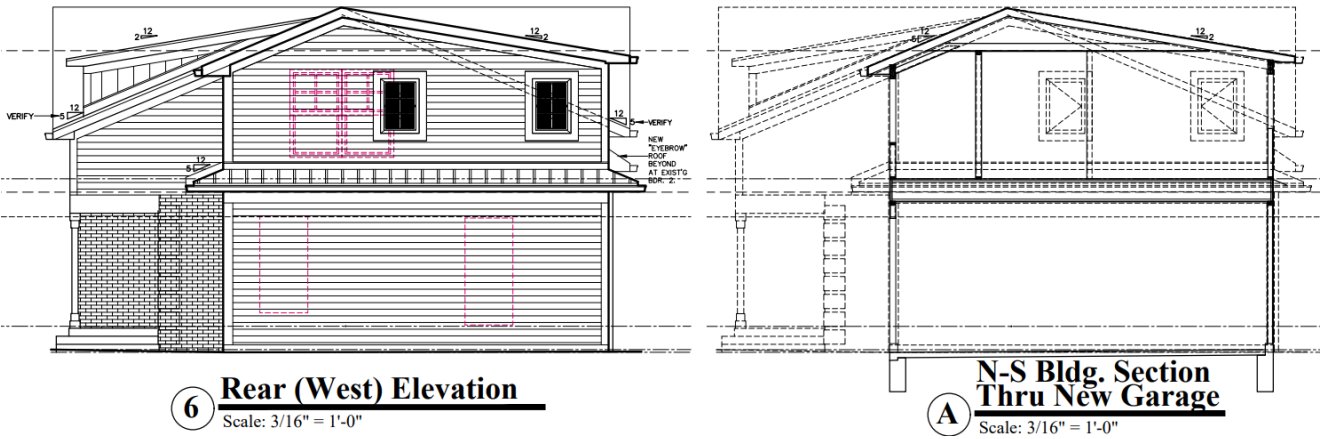


Exhibit 6: Rear Elevation.

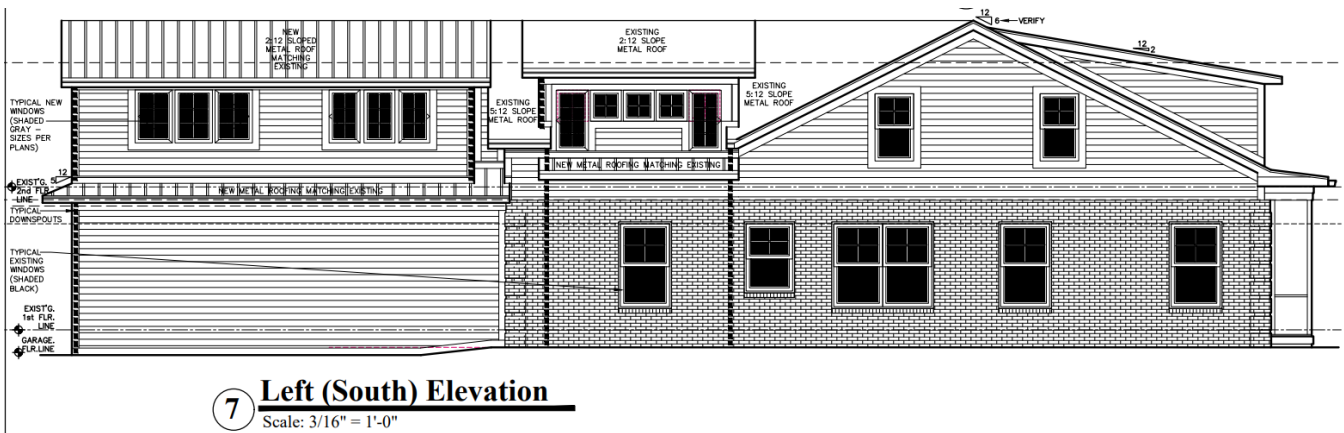


Exhibit 7: South Elevation.





Exhibit 10: Front of the primary dwelling at the subject site.



Exhibit 11: Looking southwest at the primary dwelling.



Exhibit 12: Looking southeast at the primary dwelling.



Exhibit 13: Existing Garage on the property.



Exhibit 14: Existing Garage on the property.



Exhibit 15: Space between the primary structure and existing garage that will be filled in by the proposed attached garage.



Exhibit 16: Looking south down New Jersey Street towards the dead end.





Exhibit 17: Looking north up New Jersey Street.



Exhibit 18: Driveways of the subject site and neighboring home, looking at homes across the street with garages.