

## STAFF REPORT

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

**Case Number:** 2023-DV1-017  
**Address:** 4002 North Park Avenue (approximate address)  
**Location:** Washington Township, Council District #7  
**Zoning:** D-5 (TOD)  
**Petitioner:** Elite Custom Homes, by Cassandra Nielsen  
**Request:** Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a deck with a two-foot rear yard setback (20-foot rear yard setback required).

### RECOMMENDATIONS

Staff **recommends denial** of the request as proposed, consisting of an elevated two-story deck.

Staff **would recommend approval** of an amended petition to provide for the construction of a ground floor deck only, with a two-foot rear yard setback.

### SUMMARY OF ISSUES

#### LAND USE

##### EXISTING ZONING AND LAND USE

Compact	D-5	Residential (Two-family dwelling)
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##### SURROUNDING ZONING AND LAND USE

North	D-5	Residential (Single-family dwelling)
South	D-5	Residential (Single-family dwelling)
East	D-5	Residential (Single-family dwelling)
West	D-5	Residential (Single-family dwelling)

COMPREHENSIVE PLAN	The Comprehensive Plan recommends traditional neighborhood development for the site.
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- ◇ The traditional neighborhood land use plan recommendation is to provide for a full spectrum of housing types in compact and well-connected areas. Building form should promote social connectivity of neighborhood. Infill development should continue the existing visual pattern, rhythm, or orientation of surrounding buildings when possible. This typology recommends a density range of 5 to 15 units per acre.

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## **STAFF REPORT 2023-DV1-017 (Continued)**

### **VARIANCE OF DEVELOPMENT STANDARDS**

- ◇ The grant of the request would be injurious to the safety and general welfare of the community by imposing the elevated deck structure within two feet of the rear parcel line and overlooking the adjunct property to the west.
- ◇ The strict application of the terms of the zoning ordinance would not result in practical difficulties in the use of the property because the structure existed previously without the need for the elevated deck as constructed. The addition of the deck is not a requirement of the Ordinance, and the structure would be ordinance compliant without the need for a variance, with the removal of the deck as proposed.
- ◇ Staff does not support variance requests to retroactively correct zoning violations created due to the lack of due diligence. Furthermore, the property owner did not file for a wrecking permit or a structural permit prior to illegally constructing the two-story deck with the deficient two-foot rear setback.
- ◇ However, if the second-floor portion of the deck were removed, including the stairs, then staff would support an amended petition to provide for the construction of a ground floor deck only, with a two-foot rear yard setback. The petitioner has discussed this with Staff but has not officially agreed to this option.
- ◇ If amended, the proposed ground floor deck setback, due to the small encroachment and limited height of the structure, in Staff's opinion, would be a minor deviation from the Ordinance.

### **GENERAL INFORMATION**

THOROUGHFARE PLAN	This portion of Park 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.
THOROUGHFARE PLAN	This portion of 40 <sup>th</sup> Street 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 22, 2023.
FINDINGS OF FACT	File-dated March 22, 2023.

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## **STAFF REPORT 2023-DV1-017 (Continued)**

### **EXISTING VIOLATIONS**

1. **VIO22-005936, 9/9/2022**, Indianapolis Building Standards and Procedures 2016: Section(s) 536-201; 536-609; 536-705; 536-709 Stop Work Order. This Stop Work Order has been issued due to the failure to obtain a wrecking permit prior to the Interior / Exterior strip including windows, doors and siding on a two-story two-family dwelling.
2. **VIO23-000013, 1/3/2023**, Indianapolis Building Standards and Procedures 2016: Section(s) 536-201; 536-705; 536-709. This Stop Work-Order has been issued for failure to obtain a structural permit prior to the construction of a two tier/story wood deck backside (on the property line) of a two story 2 family residence.
3. **VIO23-001863, 3/22/2023**, Indianapolis Building Standards and Procedures 2016: Section(s) 536-201; 536-705; 536-709. This Stop Work-Order has been issued for failure to obtain a structural permit prior to the construction of a two tier/story wood deck on the backside (very close to property line) of a two story 2 family residence.

### **ZONING HISTORY**

**2022-DV1-057A; 4001 Park Avenue (east of site)**, requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to legally establish an existing detached garage with a 0.60-foot north side setback and four-foot east rear setback, **granted**.

**2022-DV1-057B; 4001 Park Avenue (east of site)**, requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for street access to an existing detached garage, **denied**.

**2015-DV1-032; 4001 Central Avenue (west of site)**, requested a variance of development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of an 858-square foot detached garage, with a 1.5-foot north side setback and a 6.5-foot aggregate side setback, **granted**.

**2012-ZON-822; 3959 Central Avenue (west of site)**, requested the rezoning of 0.38 acre from SU-38 to C-S to provide for residential and commercial uses, **approved**.

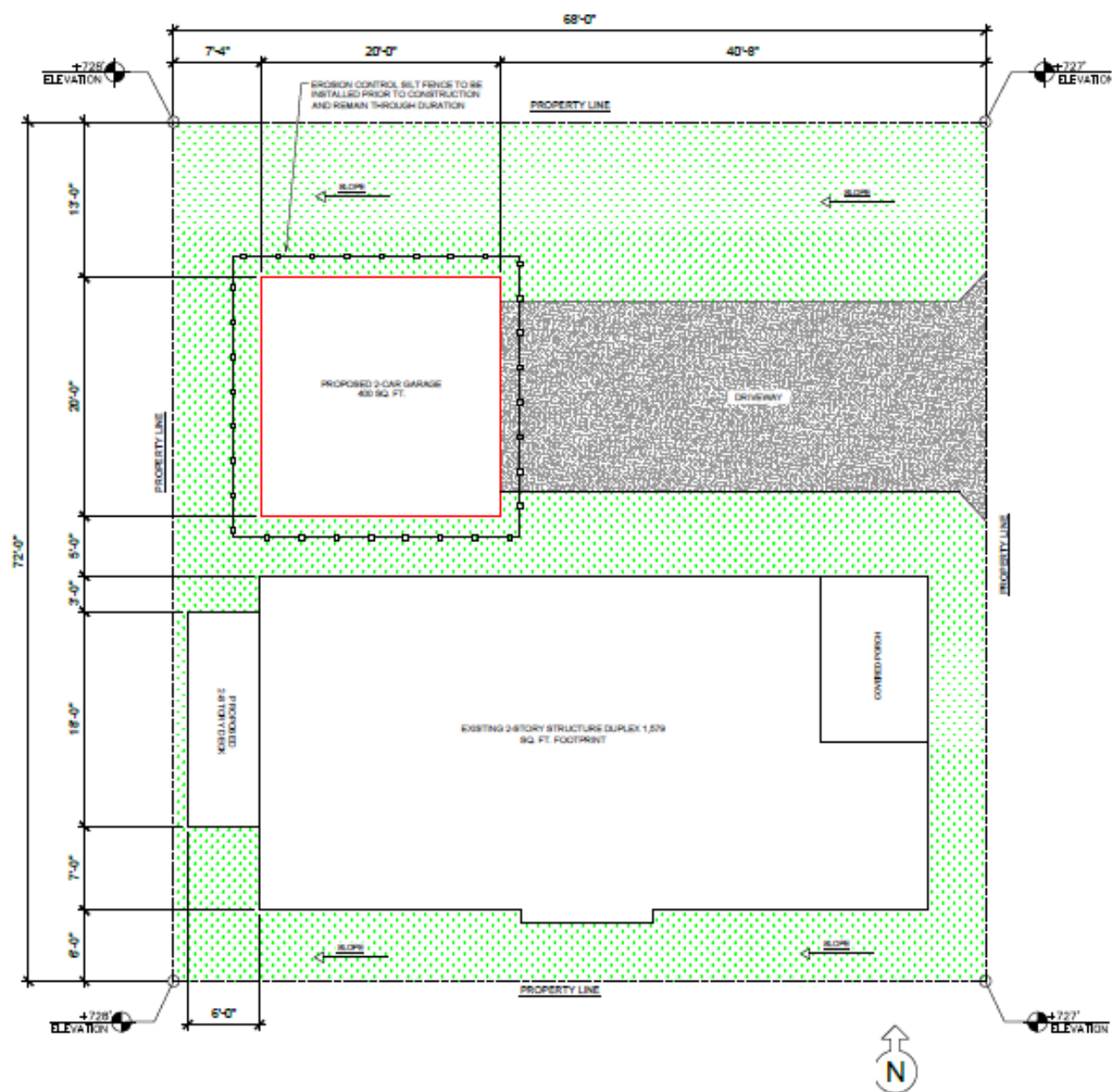
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**2023-DV1-017; Location Map**



2023-DV1-017; Proposed Site Plan





**2023-DV1-017; Photographs**



Subject site, looking west



Subject site with two-story deck, with proposed two-foot rear (west) setback, looking north.



Adjacent single-story single family dwelling to the west, looking north.



Adjacent single-story single family dwelling to the north, looking west.