

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-DV1-057
Address: 4001 North Park Avenue (approximate address)
Location: Washington Township, Council District #7
Zoning: D-5 (TOD)
Petitioner: Brandi Waddy
Request: Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for street access to an existing detached garage (access from an improved alley required) and legally establish the existing 0.60-foot north side setback and 4-foot east rear setback (five-foot side and rear setbacks required).

ADDENDUM FOR FEBRUARY 7, 2023

This petition was continued from the January 3, 2023 hearing to the February 7, 2023 hearing at the request of the petitioner.

ADDENDUM FOR JANUARY 3, 2023

This petition was continued from the December 6, 2022 hearing to the January 3, 2023 hearing at the request of the petitioner.

RECOMMENDATIONS

Staff **recommends approval** to legally establish the existing 0.60-foot north side setback and the four-foot east rear setback.

Staff **recommends denial** for street access to an existing detached garage.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

EXISTING ZONING AND LAND USE

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

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

(Continued)

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LAND USE PLAN

The relevant plan (year) recommends traditional neighborhood development.

- ◇ The 0.15-acre site is improved with a single-family dwelling and detached garage. It is surrounded by similarly developed single-family dwellings and associated accessory structures.
- ◇ 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.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The grant of the request would allow for street access from 40th street where it is not permitted. Additionally, it would legally establish the existing setbacks of the detached garage.
- ◇ Property Card records of the Assessor's Office indicate that the garage was constructed in 1928. Subsequently, Staff has determined that it is appropriate to legally establish these long-standing setbacks for the existing structure. However, Staff would recommend denial of the remainder of the request.
- ◇ Section 744-301. A. of the Ordinance note 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 744-404. D.3.c. of the Ordinance "...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 grant of the request would be injurious to the safety and general welfare of the community by increasing the number of new curb cuts across sidewalks, which would disrupt the pedestrian experience along the sidewalk and increase the probability of accidents. Instead, the curb and sidewalk could be repaired to meet the right-of-way standards and the driveway could be relocated along the eastern property boundary for alley access.
- ◇ The strict application of the terms of the zoning ordinance would not result in practical difficulties in the use of the property because any existing concrete/cement block wall along the fence or eastern property boundary could be removed and paved to allow for a more accommodating parking area/drive from the alley without the need for a variance.
- ◇ 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 driveway permit prior to illegally constructing within the right-of-way.
- ◇ The denial of this variance would not prevent the current use or location of the existing garage, which could remain as is without the need for a variance.

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OTHER ISSUES

- ◇ The Ordinance, specifically 744-503.H, states “no obstructions shall be erected, placed, planted or allowed to grow in such a manner as to materially impede visibility between the heights of 2.5 feet and 8 feet above grade level of the adjoining right-of-way within a Clear Sight Triangular Area.” The clear sight triangular area is formed by the right-of-way centerline and the centerline of the driveway and the line connecting the two end points. The clear-sight triangle requirement is to provide for sight visibility for motorists at an intersection. Reduction in visibility at intersections would increase the possibility of motorists or pedestrian accidents.
- ◇ Staff’s Exhibit 1 notes the clear sight triangle at the street and alley. The petitioner confirmed that they would ensure that the clear sight triangle would be visible by removing the portion of the fence located in this area. However, a revised site plan has not been provided to confirm that it will be removed.
- ◇ Additionally, there is some discrepancy whether the six-foot fence is within the right-of-way of 40th Street. A revised site plan noting the exact location of the fence was requested, but it has not been provided to staff.
- ◇ Therefore, these items would not be included with this variance unless the petitioner intends to provide an updated site plan and requests to continue this petition for an amendment.

GENERAL INFORMATION

THOROUGHFARE PLAN	Park Avenue 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.
THOROUGHFARE PLAN	40 th 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.
SITE PLAN	File-dated October 27, 2022.
FINDINGS OF FACT	File-dated October 27, 2022.

ZONING HISTORY – SITE

EXISTING VIOLATIONS

1. VIO22-006055; Failure to obtain a driveway permit.

PREVIOUS CASES

None.

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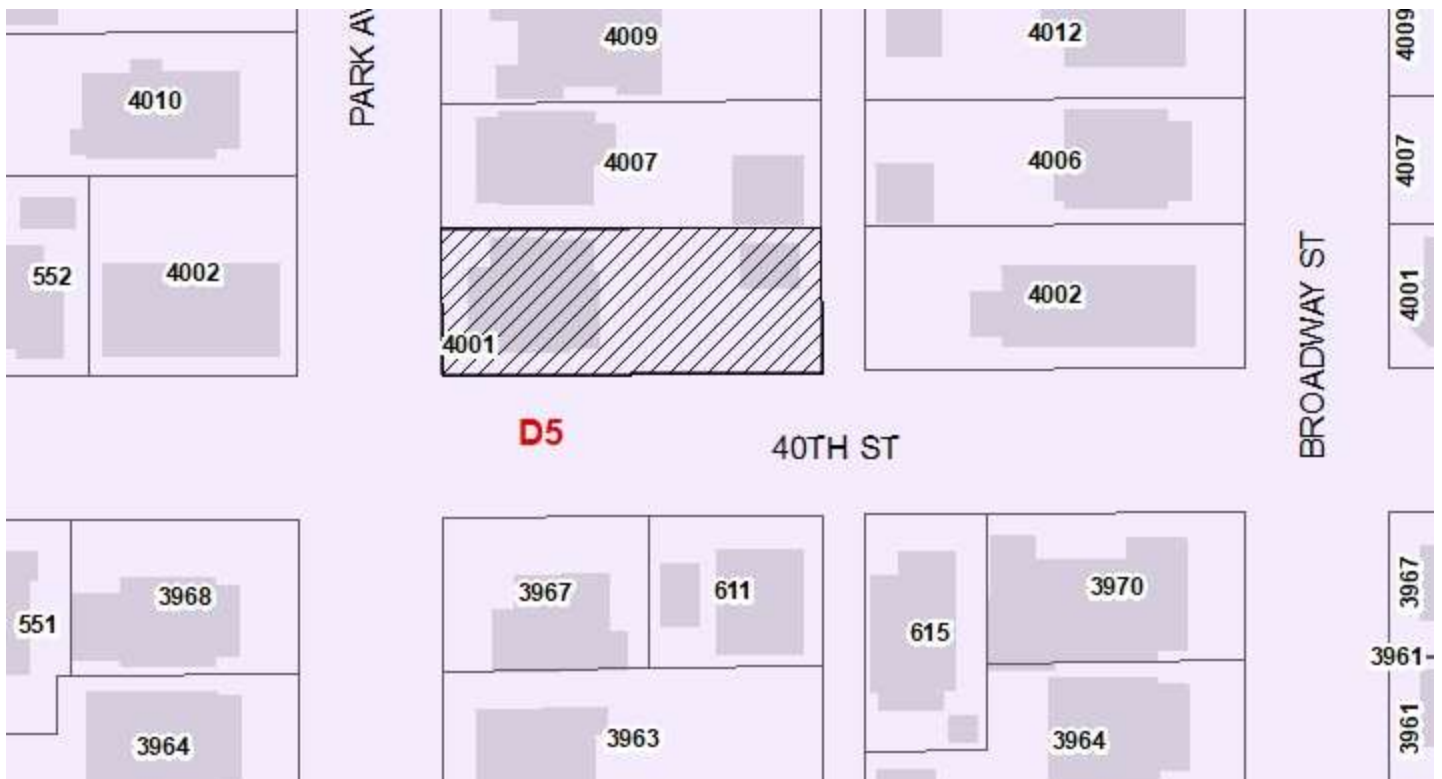
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ZONING HISTORY – VICINITY

95-HOV-1; 7521, 7539, and 7551 North Lasalle Street (southwest of site), Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for the construction of three single-family residences, with a private street to access each (minimum 40 feet of frontage on a public street required), **granted**.

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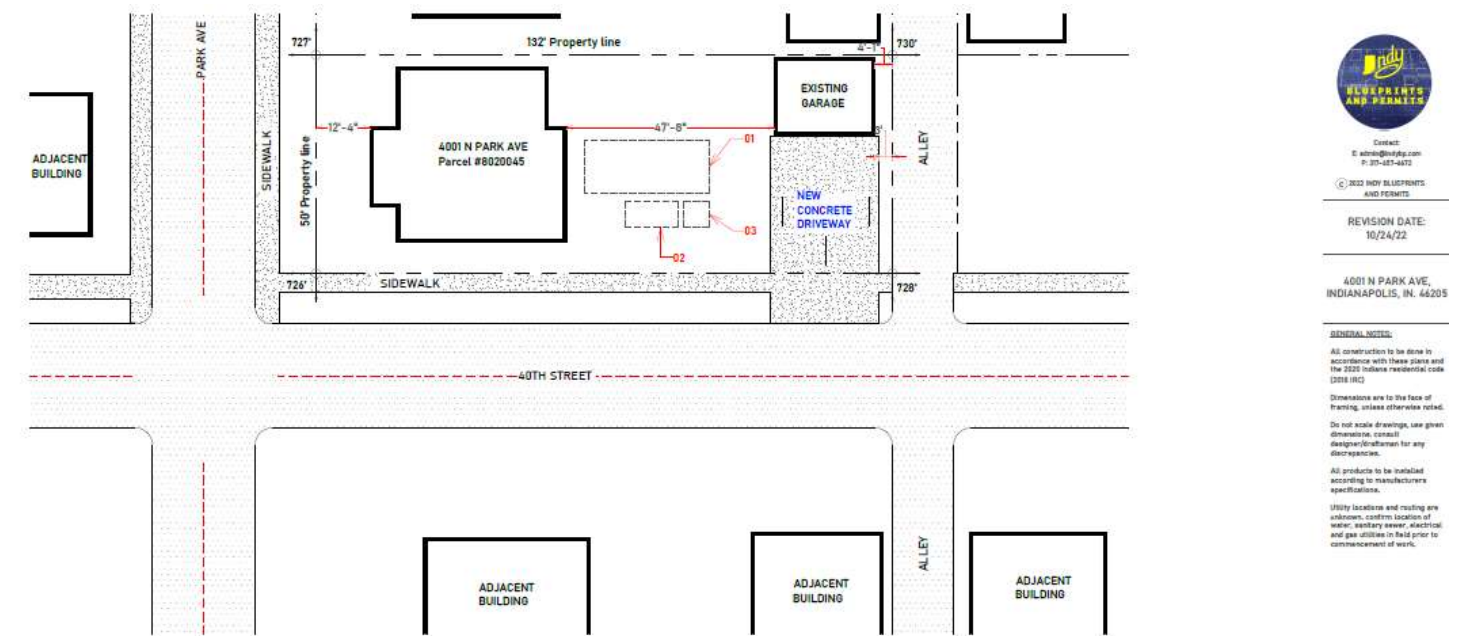
2022-DV1-057; Location Map



2022-DV1-057; Aerial Map

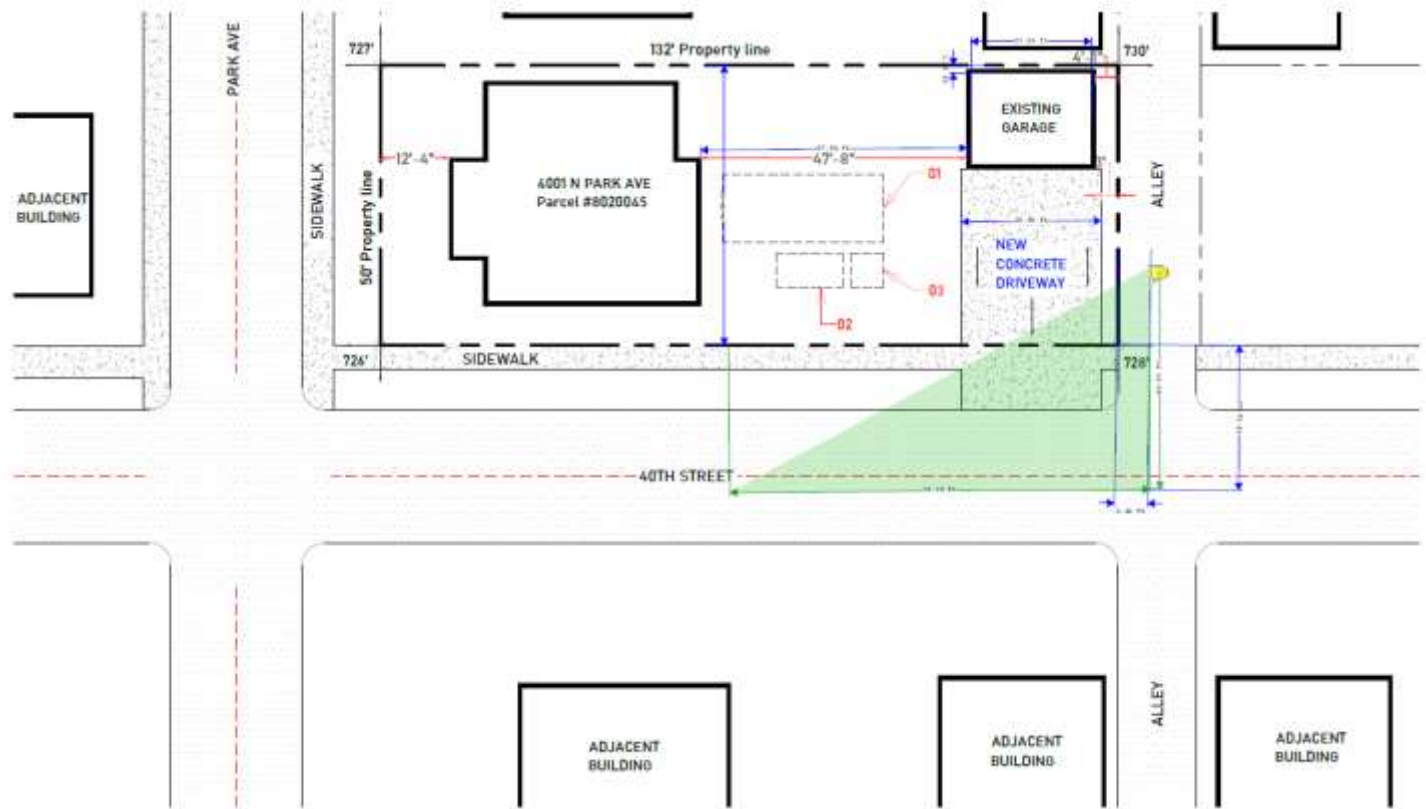


2022-DV1-057; Proposed Site Plan



C102

2022-DV1-057; Staff Exhibit 1- Clear Sight Triangle



2022-DV1-057; Photographs



Photo of the Subject Property: 4001 North Park Avenue



Photo of the Subject Property: 4001 North Park Avenue



2011 Google Photo of the Subject Property.



2019 Google Photo of the Subject Property.



2022 Photo of the Subject Property.



2011 Photo of the Subject Property.



2022 Photo of the existing garage and alley.



Photo of the fence within the clear sight triangle.



Photo of the alley and other accessory structure that gain access from it.