

**CITY OF WEST DES MOINES  
BOARD OF ADJUSTMENT COMMUNICATION**

**Meeting Date:** July 11, 2018

**Item:** Carr Variance, 4921 Park Drive, NE corner of S 50<sup>th</sup> St. and Park Drive – Vary the front yard setback from 125 feet to 75 feet to allow the construction of a garage –Scott and Leigh Carr (VAR-003942-2018)

**Requested Action:** Adopt Findings Regarding Setback Variance

**Case Advisor:** Mackenzie Locey

**Applicant's Request:** The applicants, Scott and Leigh Carr, are requesting a variance of the front yard setback for property located at the NE corner of S. 50<sup>th</sup> Street and Park Drive (4921 Park Drive). The variance would eliminate the additional front yard setback created by the following provision: *“In any existing platted property where the average front yard setback is greater than that required by code, no front yard depth shall be less than the smallest front yard depth of any existing dwelling immediately adjacent thereto and within 200 feet fronting on the same side of the street.”* The applicant is requesting to build a new garage 55 feet closer to the front property line than their existing garage in order to move their driveway from S. 50<sup>th</sup> St to Park Drive.

**History:** The subject property was platted in the Westernwoods Plat 2 plat in 1977. The lot was platted with a 50 foot front yard setback from Park Drive and the house is currently situated approximately 115’ from the front property line. In 2012, a side yard setback variance was approved by the Board of Adjustment to allow the replacement of a six foot privacy fence along the property’s S. 50<sup>th</sup> St. frontage.

**Staff Review and Comment:** Staff notes the following:

**S. 50<sup>th</sup> Street:** S. 50<sup>th</sup> Street is currently classified as a Minor Arterial street. Minor Arterial streets have high levels of traffic movement, with access usually restricted per the Comprehensive Plan. This is because having driveways onto busier streets leads to more safety concerns with people backing out of their driveways onto streets with heavy traffic and high speed limits. In 1978, when this house was built, S. 50<sup>th</sup> Street was not as busy as it is today, so having the driveway enter onto S. 50<sup>th</sup> Street did not present the safety concerns it does today. The applicant has expressed these concerns as their primary reason for pursuing this variance request.

**Commercial Development across S. 50<sup>th</sup> Street:** At the May 29, 2018 City Council Meeting a site plan for JM Commercial Storage was approved at 935 S. 50<sup>th</sup> Street (future SW corner of Fieldstone Dr. and S. 50<sup>th</sup> St.). This site plan includes an access off of S. 50<sup>th</sup> Street slightly north of the driveway for 4921 Park Drive, as can be seen in Attachment B, Exhibit A. This commercial access drive being almost directly across S. 50<sup>th</sup> St. is an added reason for safety concerns with this property having its driveway access onto S. 50<sup>th</sup> St.

**Front Yard Depths along Park Drive:** The provision of code that the applicant is requesting a variance from states: *“In any existing platted property where the average front yard setback is greater than that required by code, no front yard depth shall be less than the smallest front yard depth of any existing dwelling immediately adjacent thereto and within 200 feet fronting on the same side of the street.”* For the subject property, the only dwelling within 200 feet fronting on the same side of the street is the dwelling immediately adjacent to the east, 4901 Park Drive, which is set approximately 10 feet farther back from Park Drive than the subject property. Attachment B, Exhibit B shows the front yard depths for all of the homes fronting onto Park Drive. The garage addition that the applicant is proposing will be approximately 75 feet back from the property line. Given a varying front setback along the north side of Park Drive and the relatively consistent front setback of approximately 75 feet along the south side of Park Drive, the garage addition could be considered in keeping with the context of the neighborhood.

4701 Park Drive: 4701 Park Drive is built so that it is only 54 feet back from the property line along Park Drive, much closer than the dwellings on either side within 200 feet with frontages onto Park Drive. According to the same provision in code disallowing 4921 from building their garage addition, 4701 should be situated no closer than 95' from the property line. From looking into property records, there was a building addition to the north and south in 2004 that lessened the south front yard setback. Staff was unable to find a variance application related to this building addition. With the entrance from the cul-de-sac for this lot, the south yard may have not been considered the "fronting" yard, thus not triggering the requirement for the variance at the time of building permit issuance. The garage addition that the applicant is seeking will still be approximately 20 feet farther set back than the building at 4701 Park Drive.

Findings: The applicant has provided a summary of the conditions and findings (see Attachment D). Staff would note that the applicant's findings and Staff's findings are similar.

**Noticing Information:** On July 2, 2018, a notice of the July 11, 2018, Board of Adjustment public hearing was published in the *Des Moines Register*. Notice of this public hearing was mailed to all surrounding property owners within 370 feet of the subject property on June 27, 2018.

**Property Owner/Applicant:**

Scott and Leigh Carr  
4921 Park Drive  
West Des Moines IA 50265

**Attachments:**

- Attachment A - Board of Adjustment Resolution
- Exhibit A - Conditions of Approval
- Exhibit B - Findings
- Attachment B - Vicinity Map
- Exhibit A - Commercial Development across S. 50<sup>th</sup> Street
- Exhibit B - Setbacks of other Park Drive houses
- Attachment C - Site Plan
- Attachment D - Summary and Findings from the Applicant
- Attachment E - Findings from Staff

Prepared by: M. Locey, West Des Moines Development Services PO Box 65320 West Des Moines IA 50265-0320 515-222-3620  
When Recorded, Return to: City Clerk, City of West Des Moines PO Box 65320 West Des Moines IA 50265-0320

**RESOLUTION BOA-2018-10**

**A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE CITY OF WEST DES MOINES, (APPROVING OR DENYING) \_\_\_\_\_ THE VARIANCE REQUEST (VAR-003942-2018) OF A 50 FOOT VARIANCE OF THE REQUIRED 125 FOOT FRONT YARD SETBACK FOR PROPERTY LOCATED AT 4921 PARK DRIVE TO ALLOW ADDITION OF A GARAGE**

**WHEREAS**, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, the applicant, Scott and Leigh Carr, has requested approval of a variance from Title 9, *Zoning*, Chapter 7, *Setback and Bulk Density Regulations*, Subsection 4, *Setback and Bulk Density Regulations*, Table 7.2 *Minimum Setbacks for Single-Family Detached Dwellings*, Footnote 2, for a variance from the provision of having a front yard depth no less than the smallest front yard of any existing dwelling immediately adjacent to allow addition of a garage at 4921 Park Drive and legally described as:

LOT 1, WESTERNWOODS PLAT 2

**WHEREAS**, studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference;

**WHEREAS**, on July 11, 2018, the Board of Adjustment held a duly-noticed public hearing to consider the application for a variance (VAR-003942-2018);

**WHEREAS**, based upon a review of the submitted variance request, the Board of Adjustment finds **(In Favor of Applicant’s Findings, In Favor of Staff Findings, or in Favor of the Board’s Findings)** \_\_\_\_\_ as attached at Exhibit B;

**NOW, THEREFORE**, THE BOARD OF ADJUSTMENT OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:

SECTION 1. A Variance Request (VAR-003942-2018), for a variance from the provision of having a front yard depth no less than the smallest front yard of any existing dwelling immediately adjacent for property locally known at 4921 Park Drive and legally described above to allow addition of a garage is \_\_\_\_\_  
\_\_ (approved or denied).

**PASSED AND ADOPTED** on July 11, 2018

\_\_\_\_\_  
Tom Cunningham, Chair

ATTEST:

\_\_\_\_\_  
Recording Secretary

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Board of Adjustment for the City of West Des Moines, Iowa, at a regular meeting held on July 11, 2018, by the following vote:

AYES:

NAYS:

ABSTAIN:

ABSENT:

ATTEST:

\_\_\_\_\_  
Recording Secretary

Exhibit A  
Conditions of Approval

1. The Board of Adjustment authorizing that the variance necessary for construction of the building addition remain valid until such time that construction is initiated. The variance shall only apply to construction as indicated on the attached Site Plan. Any alteration from that illustrated in the site plan will require specific Board of Adjustment approval prior to release of the associated building permit for construction.

Exhibit B  
Findings

# 4921 Park Drive

## Vicinity Map

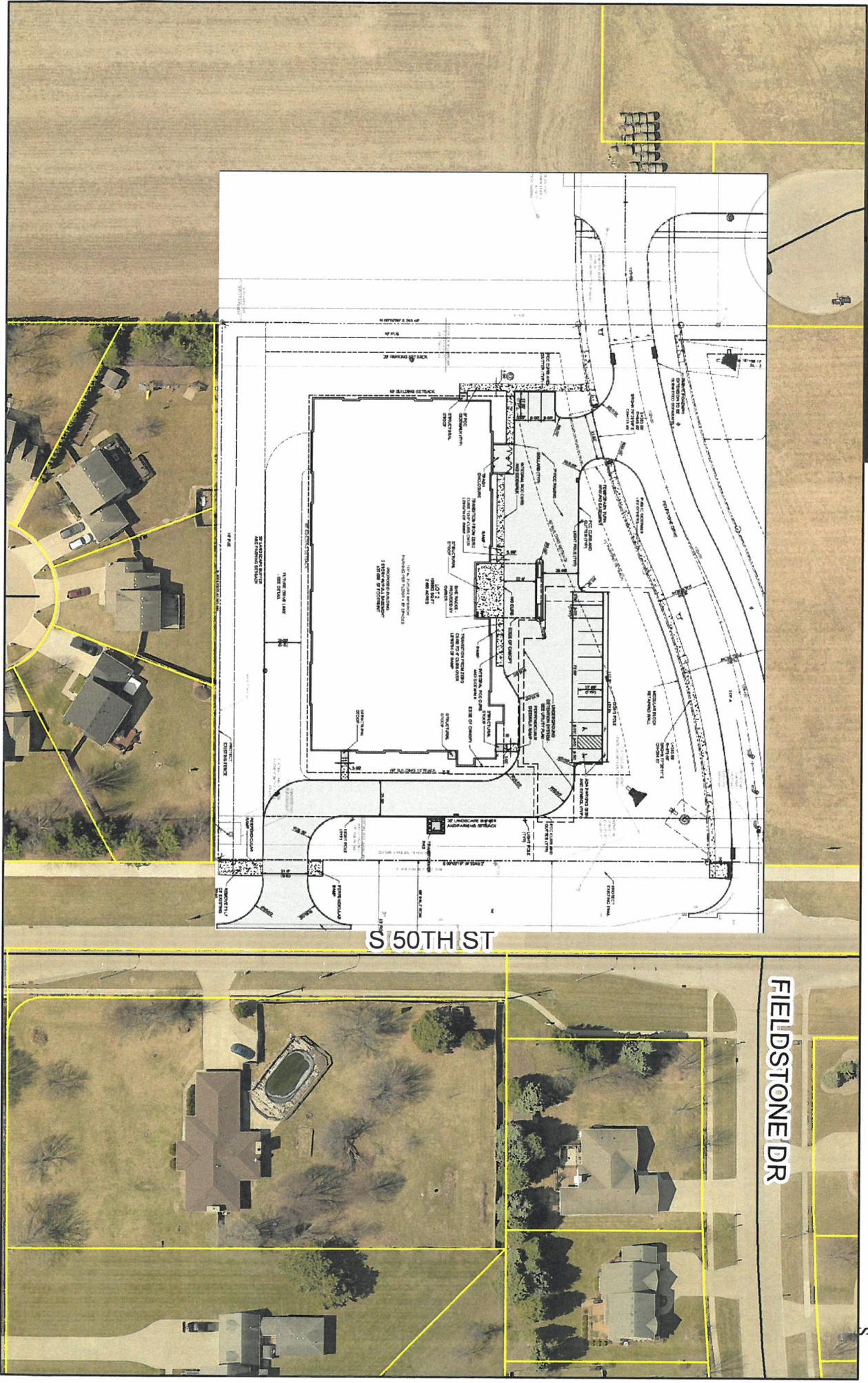
390 195 0 390 Feet



# 4921 Park Drive Setback Variance

EXHIBIT A

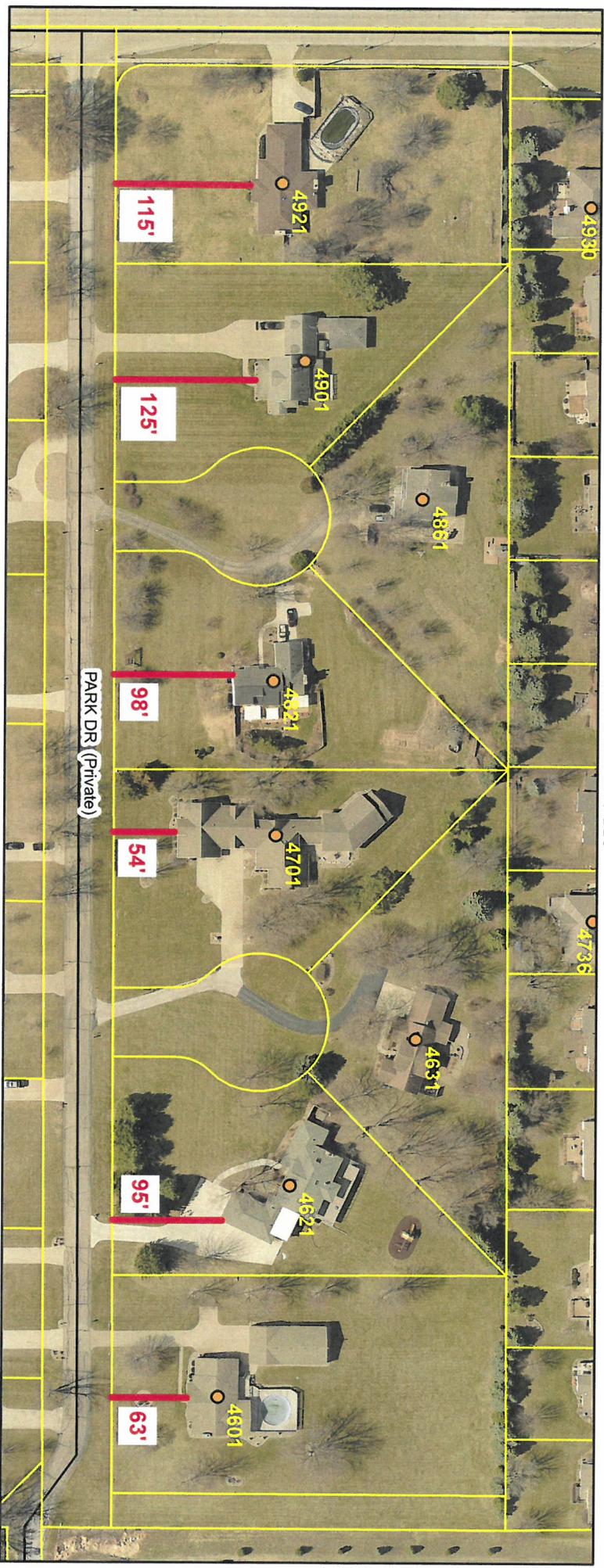
## Commercial Development across S. 50th Street



# 4921 Park Drive

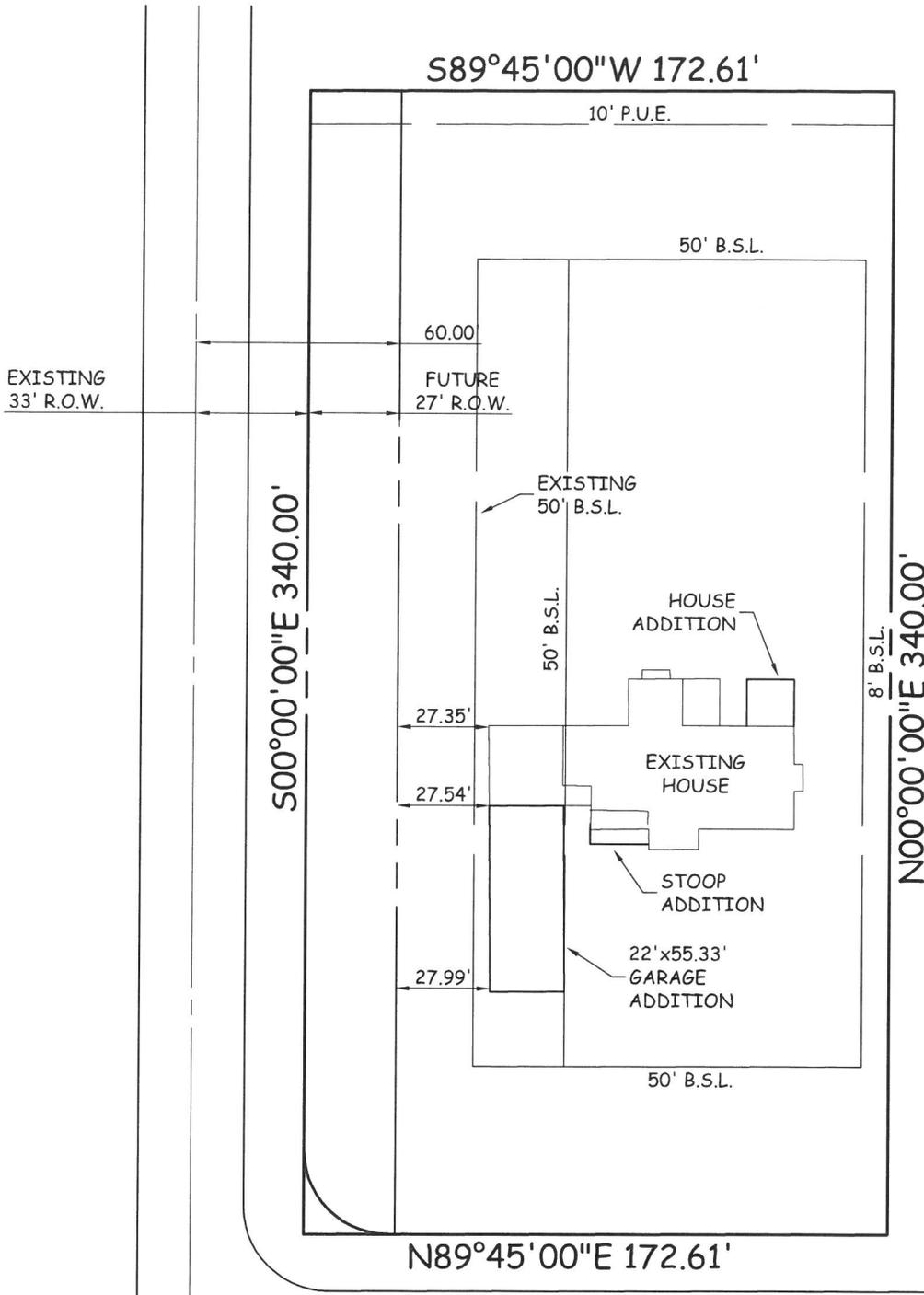
Setbacks of other houses with frontages onto Park Drive

- 4601 Park Dr: 63'
- 4621 Park Dr: 95'
- 4701 Park Dr: 54'
- 4821 Park Dr: 98'
- 4901 Park Dr: 125'
- 4921 Park Dr: 115'



**K&V HOMES**  
**LOT 1 WESTERNWOODS PLAT 2**  
**4921 PARK DRIVE, WEST DES MOINES**

**ATTACHMENT C**



**SETBACKS**  
 FRONT - 50'  
 REAR - 50'  
 SIDE - 8' MIN. (20' TOTAL)

**DISCLAIMER:**  
 ANY F.F.E., G.F.E., OR B.F.E. SHOWN ON THIS PLAN IS FOR REFERENCE ONLY. CONTRACTOR IS RESPONSIBLE FOR VERIFYING ELEVATIONS WITH THE BUILDING PLANS AND SEWER DEPTH.



<b>COOPER CRAWFORD</b> & ASSOCIATES, L.L.C. CIVIL ENGINEERS 475 S. 50th Street, Suite 800, West Des Moines, IA 50265 Phone: (515) 224-1344 Fax: (515) 224-1345		 SCALE: 1"=50' DATE: 4-24-2018 JOB NUMBER CH 6389
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June 5, 2018

To: City of West Des Moines

Re: 4921 Park Drive – Variance Request

City of West Des Moines Board of Adjustment,

We are requesting to move our driveway from 50th street to Park Drive and add a garage on our lot. Our lot provides a unique scenario as currently we have to exit our driveway onto S 50<sup>th</sup> and it is a dangerous situation because of how busy that street is. We are concerned with the safety of not only us, but the oncoming traffic that includes vehicles and bikes.

To date we have been very cautious in exiting. It has been an issue trying to maneuver our vehicles in order to avoid backing out. And now with five drivers, we cannot avoid backing onto 50th. It also limits us from backing out and going south on 50th as we have to back across two lanes. Which is even more dangerous.

With our personal scenario and because of how busy it has become, our concern for all is a priority. We ask you to please approve this variance appeal for the safety and peace of mind of our family as well everyone that uses s50th.

We feel that the reasons stated lend to the following findings required to your granting a variance.

1. The proposed development and use is consistent with the West Des Moines comprehensive plan and any applicable sub-area plan.

The area is designated as Single Family Residential on the comprehensive plan and that the use (our single-family home) is consistent with the plan. We are not proposing to change the use.

2. There are special circumstances and exceptional characteristics applicable to the subject property with regard to size, shape, topography or location, which do not apply generally to comparable properties in the same vicinity and zones.

Our house was built in 1978 before this area was as populated as it is now and S 50<sup>th</sup> was not a busy street - so it was not a problem to have the driveway on S 50<sup>th</sup>. With the development that has happened in the area, S 50<sup>th</sup> has gotten busier and we no longer find it safe to have our driveway on that street.

Also we are concerned with kids safety with the sidewalk and the Fieldstone Drive connection to the west just north of our property that is planned in the near future and don't want to have our driveway near that road intersection or the proposed storage facility driveway.

Our driveway is constantly used as a turn-around spot for many vehicles, which not only creates a hazard for our family use but also an extra hazard for

oncoming traffic as they pull into our driveway and then back out onto S 50th to change the direction they were headed.

During windy days (and we have a lot) our garbage and recycling bins have blown over when we are at work. This creates chaos on 50th street due to the volume of cars going both ways to avoid the bins/garbage/recycling. By adding a garage/driveway off Park Drive, this will allow us to move pickup of garbage and recycling to a considerably less busy street.

3. The strict application of the zoning regulations as they apply to the subject property will result in practical difficulties or unnecessary hardships inconsistent with the general purpose of such regulations provided that such hardships shall not be self-imposed by the applicant or his or her successor in interest.

The building setback in our zoning district (RS-40) is 50 feet however when our property was platted, they added a provision in code to be no closer to the front property line than the average of the setbacks of buildings within 200 feet. This is what we are asking for a variance from, because the average does not provide enough space to build the new garage to get access off of S 50<sup>th</sup> and onto Park.

The average building setback for the homes within 200 feet of our house is 128 feet (average of 4901 Park Drive and 4821 Park Drive setback) from Park Drive, which is set only about 5 feet away from the existing front of our home. The garage addition we are proposing extends past this 128 foot average building setback line by 38.66 feet.

We are trying to get our driveway access off of S 50<sup>th</sup> while still making the best use of our property, which we feel is adding a garage in front of our home to get our access onto Park Drive. Based on straight zoning regulations we would be able to do this addition because we are still well within the 50 foot building setback line, but the provision that we must match the average setback of neighboring homes is making our desire not allowed.

Our lot is unique because when it was platted the area was much less busy than it is now and S 50<sup>th</sup> St had nowhere near the traffic it does now. Having a driveway on S 50<sup>th</sup> was not the same situation in 1978 as it is now and will be in the future. S 50<sup>th</sup> St is expected to be widened to 4 lanes in the near future which will make this even more dangerous. It is dangerous to anyone who drives on S 50<sup>th</sup> because there will be cars backing out onto it and dangerous to us and whoever lives in our home after us. We are simply trying to create a safer driveway access on Park Dr but the application of the zoning regulations on our unique property is making this difficult.

4. There have been no changes in the character of the site or its surrounding which detrimentally affect the environment.

The work being done is minor – only addition of a garage and driveway that will tie in to the existing home and care for the environment will be taken during construction.

5. Granting of such variance does not, under the circumstances and conditions applied in the particular case, adversely affect the health or safety of persons, is not materially detrimental to the public welfare, nor injurious to nearby property or improvements.

We believe that this will actually create a safer situation for both our family and whoever would live here after us and for drivers/pedestrians on S 50<sup>th</sup> because there won't be as many cars backing onto what is becoming a busier street.

Thank you,  
Scott and Leigh Carr



CITY OF WEST DES MOINES  
STAFF VARIANCE APPLICATION FINDINGS

1. That the proposed development or use is consistent with the West Des Moines comprehensive plan and any applicable sub-area plan.

*The proposed use of the property is not changing with this request. The current use is a single-family detached home with is consistent with the uses permitted in the Single Family Land Use district.*

2. That there are special circumstances or exceptional characteristics applicable to the subject property with regard to size, shape, topography or location, which do not apply generally to comparable properties in the same vicinity and zones.

*The property was platted in 1977 and the dwelling on the property was built in 1978, well before the development of much of the surrounding areas. When the house was built, having a garage on S. 50<sup>th</sup> St. did not cause the same concerns that it does now. This property is unique in that it is one of the few double frontage lots along S. 50<sup>th</sup> where the driveway enters onto S. 50<sup>th</sup> and not the intersecting street. In order to move the driveway from S. 50<sup>th</sup> St. onto Park Drive and still have a useable driveway and to orient the garage to avoid overwhelming the front façade of the home, this proposed garage addition appears to be an appropriate path for the applicant to follow.*

3. That the strict application of the zoning regulations as they apply to the subject property will result in practical difficulties or unnecessary hardships inconsistent with the general purpose of such regulations provided that such hardships shall not be self-imposed by the applicant or his or her successor in interest.

*If the provision that no front yard shall be less than that of any immediately adjacent dwelling or any dwelling within 200 feet were strictly applied to this property, the applicant would not be able to build any further towards Park Drive than the existing house. This makes a difficult situation for the applicant to move their driveway from S. 50<sup>th</sup> onto Park Drive and still have a functional driveway and garage.*

4. That there have been no changes in the character of the site or its surroundings which detrimentally affect the environment.

*There have been no changes in the character of this site or its surroundings that will detrimentally affect the environment.*

5. That the granting of such variance does not, under the circumstances and conditions applied in the particular case, adversely affect the health or safety of persons, is not materially detrimental to the public welfare, nor injurious to nearby property or improvements.

*The granting of this setback variance will not adversely affect the health, safety or welfare of the public. The granting of this variance could actually create a safer situation for the public because it would eliminate a private driveway on a Minor Arterial street.*