

**Board of Zoning Adjustment  
Staff Report**  
August 18, 2014



<b>Case No:</b>	14Variance1064
<b>Project Name:</b>	None (single-family residential)
<b>Location:</b>	1214 Lillian Ave.
<b>Owner(s):</b>	Dennis Mattingly
<b>Applicant:</b>	Santos Pastor Pineda
<b>Representative(s):</b>	Same
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	6 – David James
<b>Case Manager:</b>	Latondra Yates, Planner II

**REQUEST**

- Variance of Sec. 5.4.1.D.3 of the Land Development Code (LDC) to allow a reduction in the required 20% private yard. The required yard is 932 sf. The requested private yard is 540 sf., a reduction of 392 sf.
- Waiver of Sec. 5.4.1.E.1. of the LDC to allow the length of the accessory structure to exceed 50 feet in depth.
- Waiver of Sec.5.4.1.C.2. and 5.4.1.E.4.of the LDC to allow the accessory structure to exceed the footprint of the principal structure. The footprint of the house is 1,072 sf. The footprint of the garage is 1,080 sf.

**Variance**

Location	Requirement	Request	Variance
Private Yard	20% (932 sf.)	11.6% (540 sf.)	8.4% (392 sf.)

**CASE SUMMARY/BACKGROUND/SITE CONTEXT**

The variance and waivers are for a garage addition. The applicant has been cited for constructing the addition without a permit.

Staff has also received a complaint that the garage is being used as a furniture/appliance business.

## LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

The site is zoned R-5 in the Traditional Neighborhood Form District (TNFD). It is surrounded by residential property zoned R-5 in the TNFD.

	Land Use	Zoning	Form District
<b><i>Subject Property</i></b>			
<b>Existing</b>	Residential	R-5	TNFD
<b>Proposed</b>	Residential	R-5	TNFD
<b><i>Surrounding Properties</i></b>			
<b>North</b>	Single-family residential	R-5	TNFD
<b>South</b>	Single-family residential	R-5	TNFD
<b>East</b>	Single-family residential	R-5	TNFD
<b>West</b>	Single-family residential	R-5	TNFD

## PREVIOUS CASES ON SITE

**14PR1513**, Notice of Violation for construction of the garage addition without a permit  
**Case Nos. 307989, 015008, 251454, 0118176**, property maintenance violations (closed)

## INTERESTED PARTY COMMENTS

None received

## APPLICABLE PLANS AND POLICIES

Cornerstone 2020 – See checklist attached  
Land Development Code

## STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES

- **Variance of Sec. 5.4.1.D.3 of the Land Development Code (LDC) to allow a reduction in the required 20% private yard. The required yard is 932 sf. The requested private yard is 540 sf., a reduction of 392 sf.**

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The variance will not adversely affect the public health, safety or welfare because at least half of the private yard will be provided.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The variance may alter the essential character of the general vicinity because the private yards of the other lots in the area appear to be larger with smaller accessory structures.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The variance will not cause a hazard or nuisance to the public because at least half of the private yard will be provided.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The variance will allow an unreasonable circumvention of the zoning regulations because the private yards of the other lots in the area appear to be larger with smaller accessory structures. However, the structure is existing.

### ADDITIONAL CONSIDERATIONS:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The variance arises from the existing structure.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict provision of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because the structure is existing.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are the result of the request for a garage addition that has already been built.

## STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS

- Waiver of Sec. 5.4.1.E.1. of the LDC to allow the length of the accessory structure to exceed 50 feet in depth.
- Waiver of Sec.5.4.1.C.2. and 5.4.1.E.4.of the LDC to allow the accessory structure to exceed the footprint of the principal structure. The footprint of the house is 1,072 sf. The footprint of the garage is 1,080 sf.

(a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waivers will not adversely affect adjacent property owners because the structure appears to be situated in a manner that will not impede sight distance or negatively affect the view of neighboring properties.

(b) The waiver will not violate specific guidelines of Cornerstone 2020.

STAFF: The waivers violates guidelines of Cornerstone 2020.

(c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant because the garage addition has already been built.

(d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship because the garage addition has already been constructed.

## TECHNICAL REVIEW

No outstanding technical review items.

## STAFF CONCLUSIONS

Staff's analysis of the standards of review supports the granting of the variance.

The waivers meet 3 of the applicable guidelines of the Comprehensive Plan. The building materials and height of the garage addition appear to be compatible with other structures in the area.

The waivers violate 2 compatibility guidelines because other lots in the area appear to have larger private yard areas with smaller accessory structures.

Three of the guidelines can be addressed during construction review.

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards for granting a variance and waivers as established in the Land Development Code.

## NOTIFICATION

Date	Purpose of Notice	Recipients
8/1/2014	BOZA Hearing	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners
8/7/2014	Sign Posting	On property

## ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Cornerstone 2020 Staff Checklist
5. Notice of Violation
6. Applicant's Justification Statement

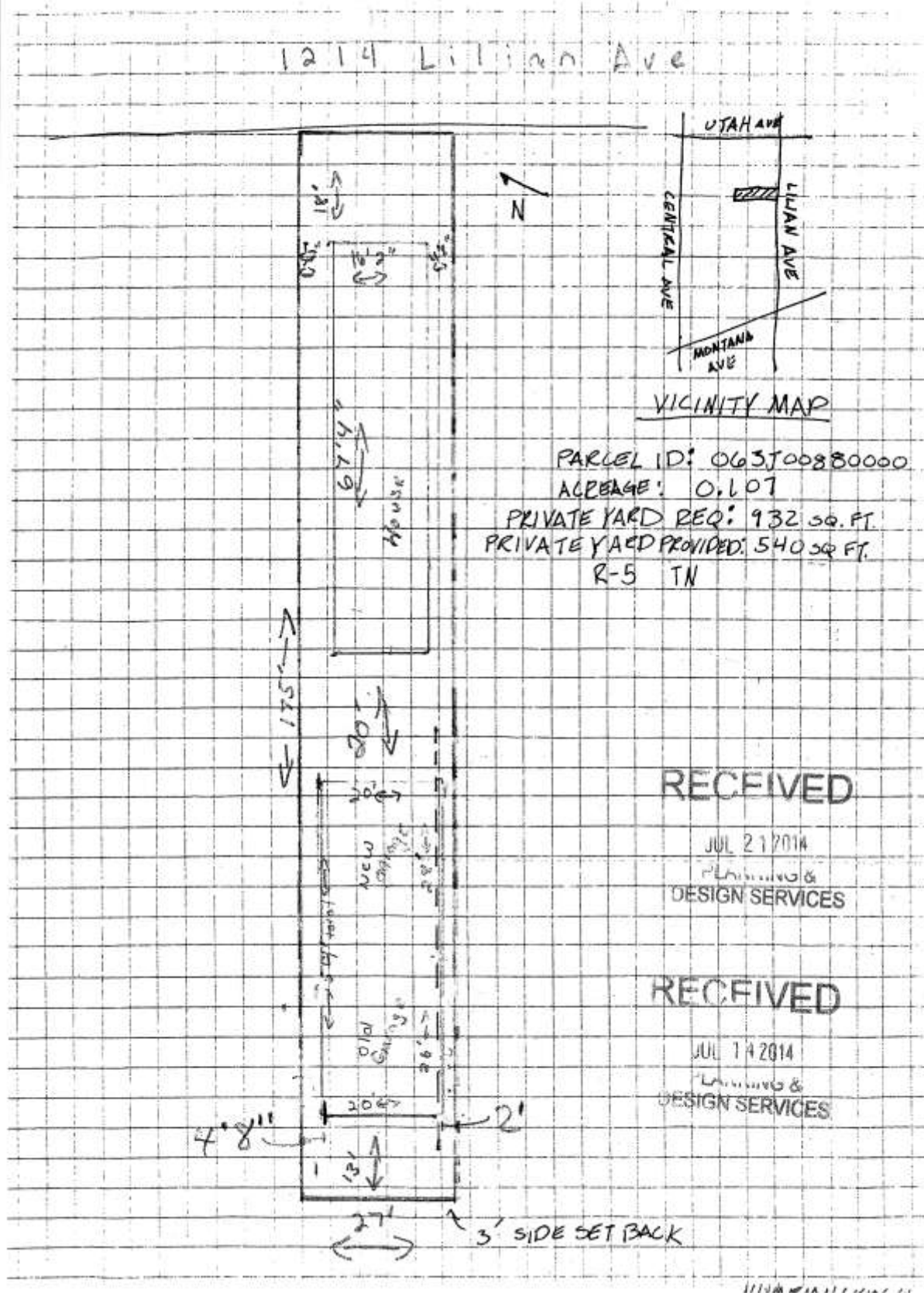
1. **Zoning Map**



2. Aerial Photo



3. Site Plan





4. **Cornerstone 2020 Comprehensive Plan Checklist**

18	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.2, 3.5-3.7, C4.1.-4.7	Community Form/Land Use Guideline 3: Compatibility	A.1: The proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development.	-	The private yards of other lots in the area appear to be larger with smaller accessory structures.
19	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.2, 3.5-3.7, C4.1.-4.7	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility. (Only for a new development in a residential infill context, or if consideration of building materials used in the proposal is specifically required by the Land Development Code.)	√	The building materials appear to be compatible with that of other residential structures in the area.
20	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.2, 3.5-3.7, C4.1.-4.7	Community Form/Land Use Guideline 3: Compatibility	A.3: The proposal is compatible with adjacent residential areas, and if it introduces a new type of density, the proposal is designed to be compatible with surrounding land uses through the use of techniques to mitigate nuisances and provide appropriate transitions between land uses. Examples of appropriate mitigation include vegetative buffers, open spaces, landscaping and/or a transition of densities, site design, building heights, building design, materials and orientation that is compatible with those of nearby residences.	-	The private yards of other lots in the area appear to be larger with smaller accessory structures.
29	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.2, 3.5-3.7, C4.1.-4.7	Community Form/Land Use Guideline 3: Compatibility	A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.	√	Building height appears to be compatible with that of the surrounding neighborhood.
45	Quality of Life Goal J1, Objectives J1.1-1.2	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	√	Site served by existing utilities.

5. Notice of Violation



Louisville-Jefferson County Metro Government

**Develop Louisville**

**Division of Construction Review**

444 S. 5th Street, Suite 100 - Louisville, KY 40202

Phone: 502.574.3321 Web Site: [louisvilleky.gov/pl/Construction+Review/](http://louisvilleky.gov/pl/Construction+Review/)

Case No.: 14PR1513-1098967

**VIOLATION NOTICE**

8/12/2014

DENNIS L. MATTINGLY  
3733 CANOE LN  
LOUISVILLE, KY 40207-1404

**Location:** 1214 LILLIAN AVE

Take notice that an inspection on June 16, 2014 by KEVIN MANRING of the Department of Codes & Regulations Division of Construction Review revealed the existence of violations for which you are responsible and constitute violations of the Kentucky Building Code, Kentucky Residential Code or the Louisville Metro Code of Ordinances as indicated below:

**Code Violation(s)**

**BUILDING VIOLATION**

**Comments:** Approx 24 x 20 Garage Addition Being Built Attached To A Existing Framed Garage Without A Approved Plan Or Permit. Stop Work and Obtain A Building Permit. Penalty Assessed Per Louisville Metro Ordinance.

**YOU ARE HEREBY ORDERED TO CORRECT THE VIOLATIONS IMMEDIATELY.** Your failure to comply with this notice shall subject you to prosecution and fines as provided in the Kentucky Building Code, as well as other applicable State Statutes and Local Ordinances.

Once you have corrected the noted violations, including obtaining required permits and approvals, contact KEVIN MANRING at (502)773-2083x to request a follow up inspection.

**THIS IS YOUR FINAL NOTICE.**

KEVIN MANRING  
Inspector  
(502)773-2083x  
[kevin.manring@LouisvilleKy.gov](mailto:kevin.manring@LouisvilleKy.gov)

6. **Applicant's Justification Statements**

**Variance Justification:**

In order to justify approval of any variance, the Board of Zoning Adjustment considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

1. Explain how the variance will not adversely affect the public health, safety or welfare.

No Hazardous Material Being Stored AND  
Structure will Not Effect Existing Area

2. Explain how the variance will not alter the essential character of the general vicinity.

Property Not Being Used Currently For Any Use

3. Explain how the variance will not cause a hazard or a nuisance to the public.

Property will Not Effect Neighbors In Any Way  
(Public)

4. Explain how the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.

Less than 10 Feet Additional Space Requested  
Requested

*Additional consideration:*

1. Explain how the variance arises from special circumstances, which do not generally apply to land in the general vicinity (please specify/identify).

No Special Circumstance. Neighboring structures  
were Built with Home. This structure will Be AN  
Improvement & Extension of Existing structure.

2. Explain how the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship.

Structure Already Built. Loss of Time & Cost In Building.  
IN Addition to the loss of SPACE For Storage

3. Are the circumstances the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought?

RECEIVED

JUL 14 2014

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Yes, structure Already Built

**General Waiver Justification:**

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers four criteria. Please answer all of the following questions. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

1. Will the waiver adversely affect adjacent property owners?

No, adjacent property owners will not be affected in any way.

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DESIGN SERVICES

2. Will the waiver violate the Comprehensive Plan?

No, the Waiver will not effect the Comprehensive Plan

3. Is extent of waiver of the regulation the minimum necessary to afford relief to the applicant?

Yes, it is the minimum necessary to afford relief to the applicant.

4. Has either (a) the applicant incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect) or would (b) the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant?

The extension to the existing structure that is being requested is already complete. Provisions of the regulation would create an unnecessary hardship on the applicant. The additional space is needed for storage.