

**Board of Zoning Adjustment
Staff Report**
August 3, 2015



Case No:	15Variance1043
Project Name:	New Garage
Location:	1408 Highland Avenue
Owner(s):	Phillip & Elizabeth Brown
Applicant:	Owner
Representative:	Stephen Gravatte, Gravatte Design Services
Project Area/Size:	0.2027 acres
Jurisdiction:	Louisville Metro
Council District:	8 – Tom Owen
Case Manager:	Sherie' Long, Landscape Architect

REQUEST

Variance from the Land Development Code, Chapter 5, Section 5.4.1.E.6, to allow a proposed garage to encroach into the required side yard.

Variance

Location	Requirement	Request	Variance
Side Yard (west)	2 feet	0 feet	2 feet

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing to construct a new two story garage to replace an existing one story garage which has been removed from the rear of the property at 1408 Highland Avenue. The second story will be used as >>>>>>>>>. The new garage will be setback from the east (side) property line 3 feet, and the south (rear) property line and rear alley by 2 feet 8 3/8 inches. Both of these setbacks meet the requirements of the Land Development Code. However, the new western foundation and footer for the proposed garage will be located at the property edge with no setback provided. The spread footer of the new foundation will be encroaching into the adjacent alley up to 11 inches. This existing alley, which is public right-of-way, is located along the west perimeter of the subject parcel for approximately 100 feet before turning west toward Edward Street. The applicant's representative has consulted with MSD, Louisville Gas & Electric, and Louisville Water Company to ensure no utility access is within the existing 4 foot alley. The applicant's representative has also consulted with Metro Public Works Department staff for permission to encroach into the existing 4 foot public alley. Metro Public Works staff has given the applicant's representative approval to encroach into the alley without requiring a license agreement. However as a condition of the approval, the owner of the property will be required prior to construction to obtain an encroachment permit to complete work in a public right-of-way. All the abutting property owners have given their consent and do not object to the planned construction.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

The site is zoned R-5B in the Traditional Neighborhood Form District (TN), surrounded by single family and multi-family residential property zoned R-5B in the Traditional Neighborhood Form District (TN).

	Land Use	Zoning	Form District
Subject Property			
Existing/ Proposed	Single family residential	R-5B	TN
Surrounding Properties			
North	Single family residential	R-5B	TN
East	Multi-family residential	R-5B	TN
South	Single & Multi-family residential	R-5B	TN
West	Single family residential	R-5B	TN

PREVIOUS CASES ON SITE

No previous cases were found.

INTERESTED PARTY COMMENTS

No inquiries were received.

APPLICABLE PLANS AND POLICIES

Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

- (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 the applicant has consulted with MSD, Louisville Gas and Electric, and the Louisville Water companies to ensure no utilities are located in the 4 foot public alley. The applicant has obtained permission from the Public Works staff to allow the encroachment of the spread footer up to 18 inches. Plus an encroachment permit will be obtained from Metro Public Works prior to construction.

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

STAFF: The requested variance will not alter the general character of the general vicinity because the new two story garage is located in the general location of the existing garage, which has been removed. Plus the location of the new garage is similar to other garages in the vicinity; and the construction materials are also similar to other garages in the vicinity.

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

STAFF: The requested variance will not cause a hazard or nuisance to the public because the abutting property owners have given consent and do not have objection to the planned garage or location of the garage. The adjacent property owner the Phillips, closest to the west perimeter, also have no objection to the location of the proposed garage or the encroachment of the footer into the

shared 4 foot alley. In addition, the Metro Public Works staff has approved the encroachment into the 4 foot alley.

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

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations since the new garage will be located similar to the location of the existing garage, which was removed. There are other garages in the vicinity which are located close to the side property line with little or no setback being provided.

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 requested variance arises from special circumstances because the existing garage was located on the perimeter with no setback. Plus other garages in this vicinity also are located very close to the property line with little or no setback provided.

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 application of the provisions of the regulation would not cause an unnecessary hardship on the applicant because the proposed addition could be constructed at the required 2 foot setback.

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 actions of the applicant subsequent to the adoption of the zoning regulation; because the applicant is constructing a new garage and not providing the required 2 foot setback from the side property line. However, there are other garages in the vicinity which have little to no setback provided from the side property lines.

TECHNICAL REVIEW

There are no technical review issues.

STAFF CONCLUSIONS

Board of Zoning Adjustment must determine if the proposal meets the standard for a variance established in the Land Development Code based on the testimony and evidence provided.

NOTIFICATION

Date	Purpose of Notice	Recipients
07/16/2015	BOZA Hearing	Neighborhood notification recipients
07/21/2015	BOZA Hearing	1 st tier adjoining property owners
07/17/2015	Sign Posting	Subject property

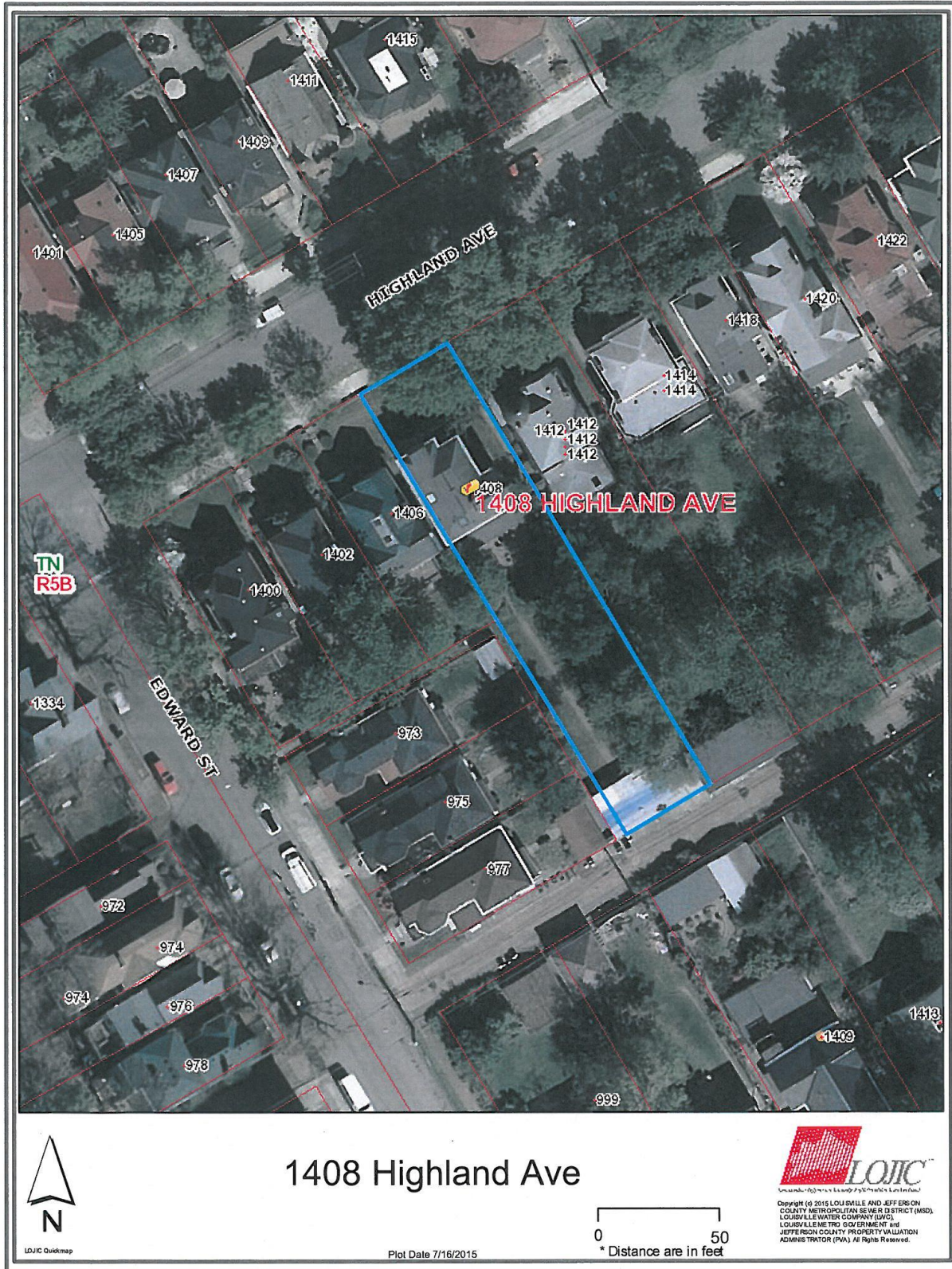
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Photographs provided by the applicant
4. Site Plan and Survey
5. Elevations
6. Footer Detail
7. Adjacent Property Owners Approval of Encroachment
8. Applicant's Variance Justification Statement
9. Site Photographs

Attachment 1: Zoning Map



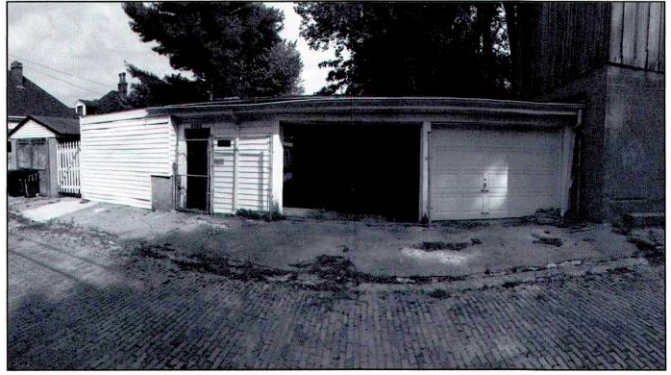
Attachment 2: Aerial Photograph



Attachment 3: Site Photographs provided by the applicant

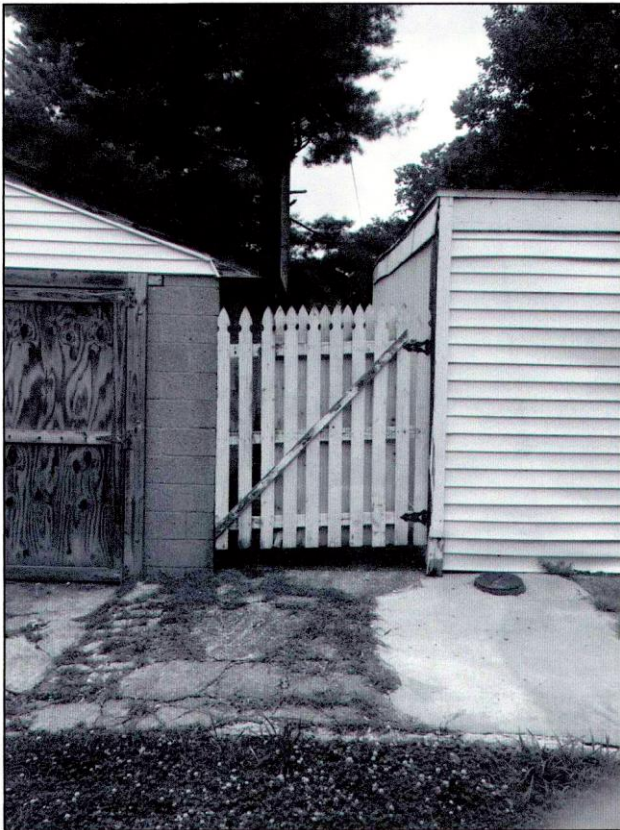


**1408 HIGHLAND AVENUE:
EXISTING GARAGE
(TO BE REMOVED)**

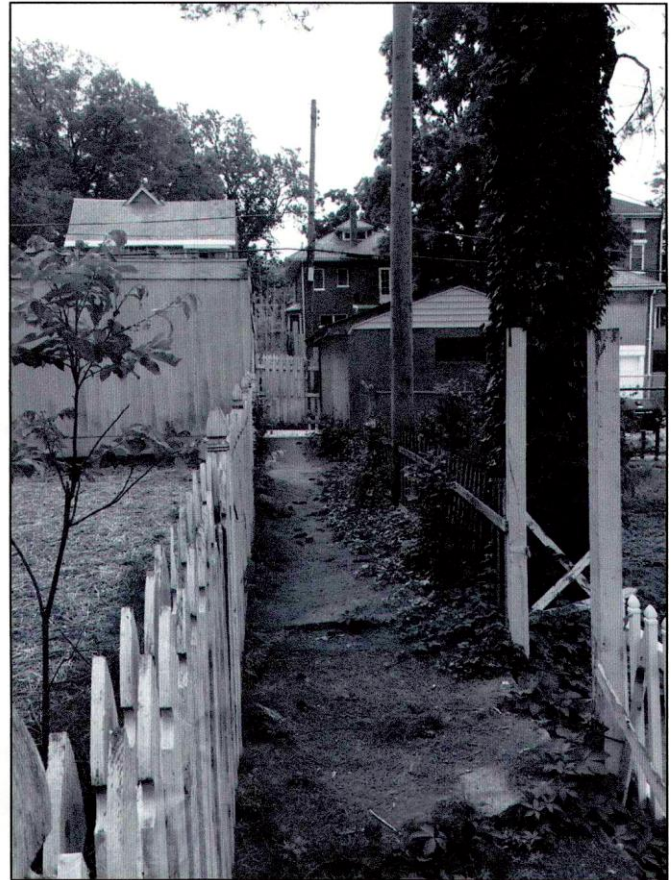


**1408 HIGHLAND AVENUE:
EXISTING GARAGE
(TO BE REMOVED)**

1 SUBJECT PROPERTY
SP-1.2 N.T.S. EXISTING

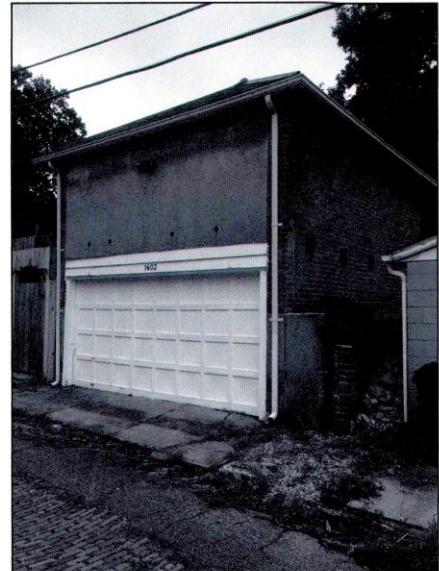


**4'-0" PRIVATE ALLEY
(ALLEY VIEW)**



**4'-0" PRIVATE ALLEY
(YARD VIEW)**

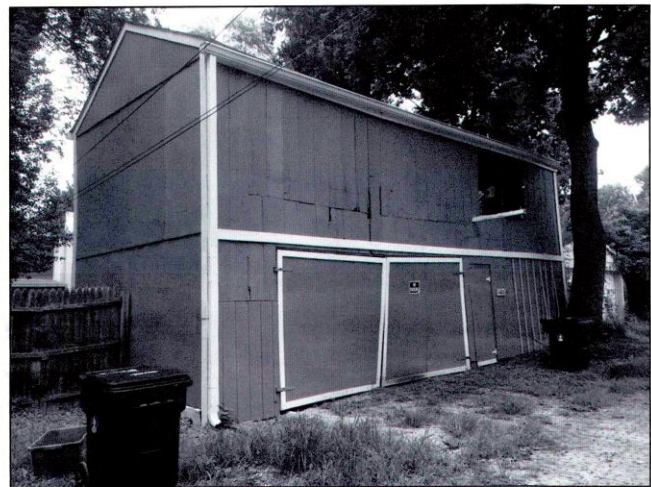
2 SUBJECT PROPERTY
SP-1.2 N.T.S. 4'-0" PRIVATE ALLEY



1403 Hepburn Avenue

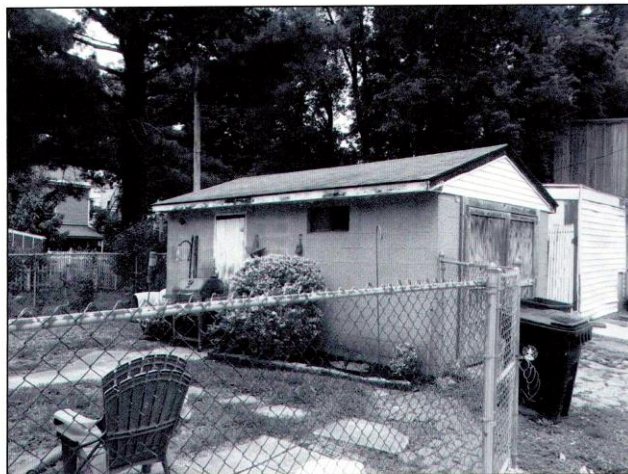


1420 Highland Avenue

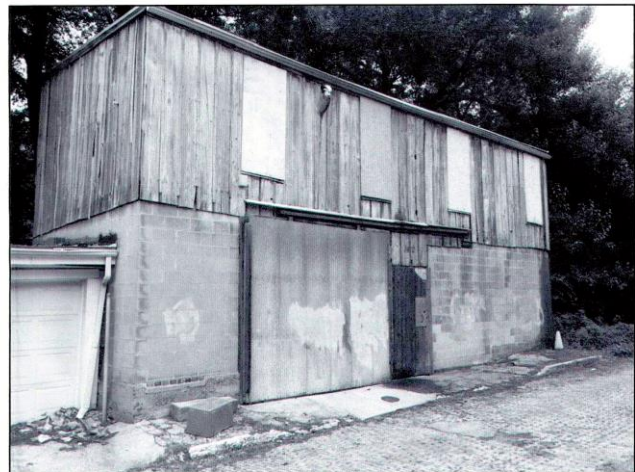


1420 Highland Avenue

3 Vicinity Properties
SP-1.2 N.T.S. Property Line Structures



**977 EDWARD STREET:
ADJACENT GARAGE**



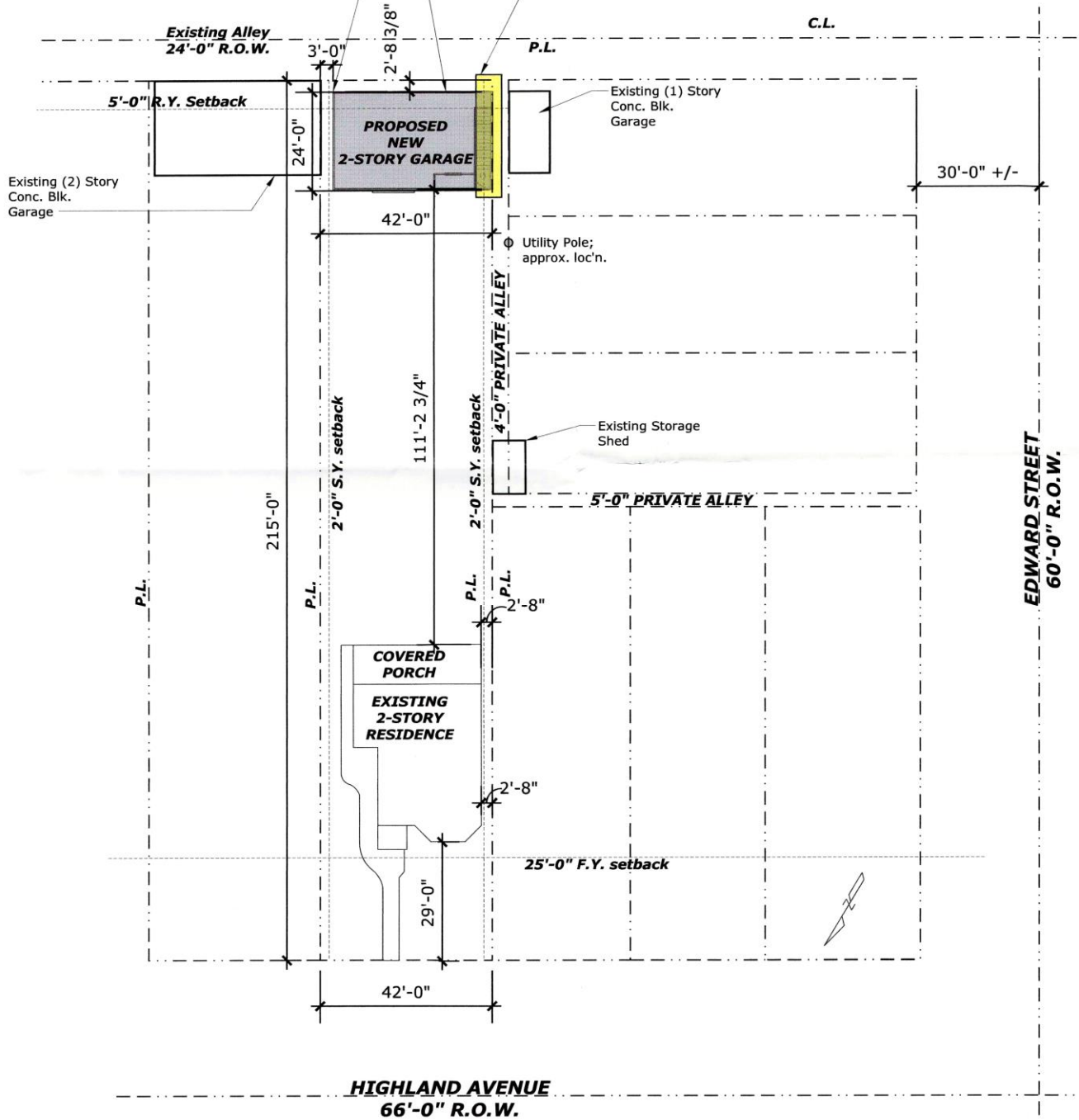
**1412 HIGHLAND AVENUE:
ADJACENT GARAGE**

Attachment 4: Site Plan and Survey

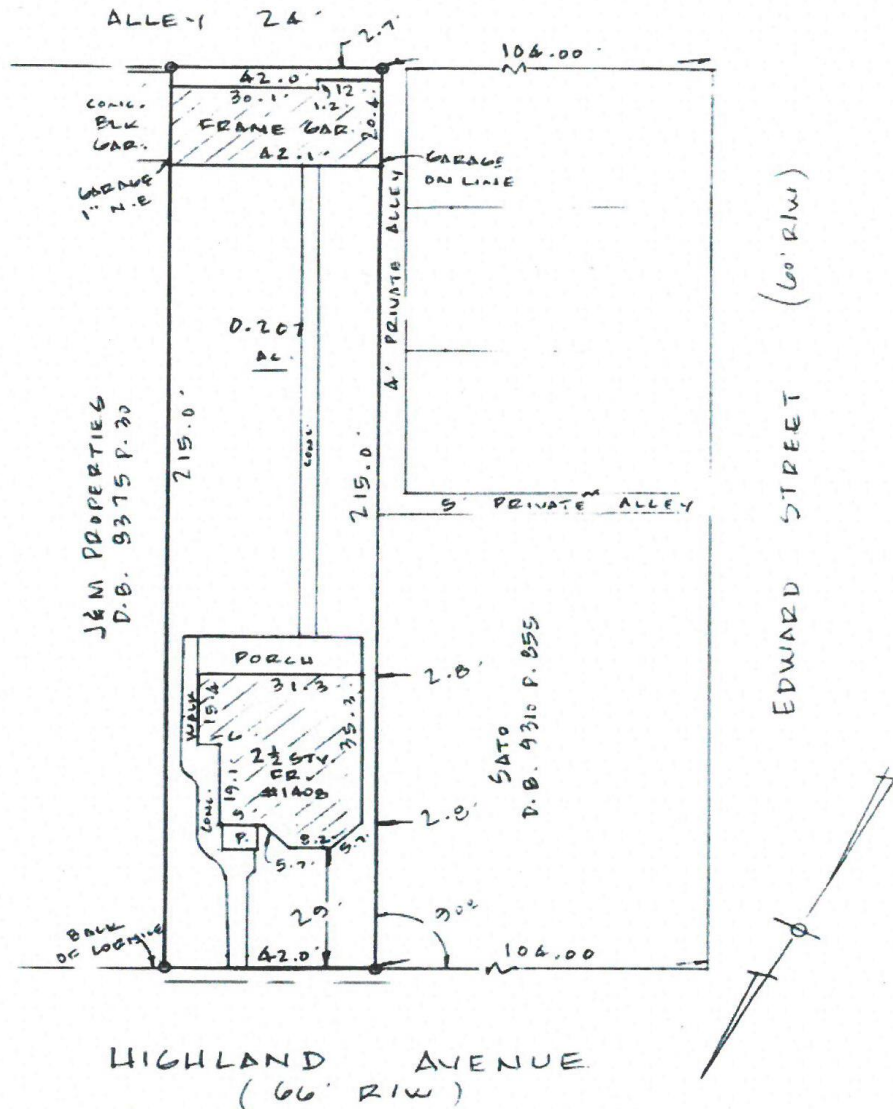
Rear Yard Setback for new garage allowed to be reduced per LDC 5.4 E-2; Alley is greater than 18'-0" and both Adjacent structures are set closer than 5'-0" in rear yard

This side of garage setback from property line 3'-0" to allow installation exterior finish (2'-0" required)

VARIANCE REQUEST AREA:
This side of new garage proposed to be built back onto west property line in lieu of required 2'-0" Side Yard Setback



2 SITE PLAN-Proposed
SP-1 1"=20'-0" NEW GARAGE



ON DENOTES "4" ON CONC.
 The reference meridian used on this plat to determine the direction of survey bearings has been adjusted to the deed bearings.

I hereby certify that this plat and survey were made under my supervision and that the angular and linear measurements as witnessed by monuments shown hereon are correct to the best of my knowledge and belief. This survey meets and exceeds the minimum standards of governing authorities. This is a ~~class~~ "A" survey. (per KAR 18.15)

I certify that the improvements as shown on this plat ARE NOT in a flood prone area as shown by the FEMA map. Map# 2101200042E dated 12/15/06.
 I hereby certify that the improvements shown above were verified in the field under my direct supervision on 1-6-2015

This survey subject to all roadways, easements, and rights-of-way, if any, whether shown hereon or not.

[Signature]
 Gary J. Dukes
 Licensed Land Surveyor PLS# 3061

The unadjusted error exceeds 1 part of 10,000 plus 0.10 feet
 The reference meridian used to determine the direction of survey bearings has been adjusted to the deed bearing of

N/A ~ PER DEED.

GARY DUKES PLS
 LAND SURVEYOR
 3602 Briarglen Lane
 Louisville, Kentucky 40220
 502-553-4912

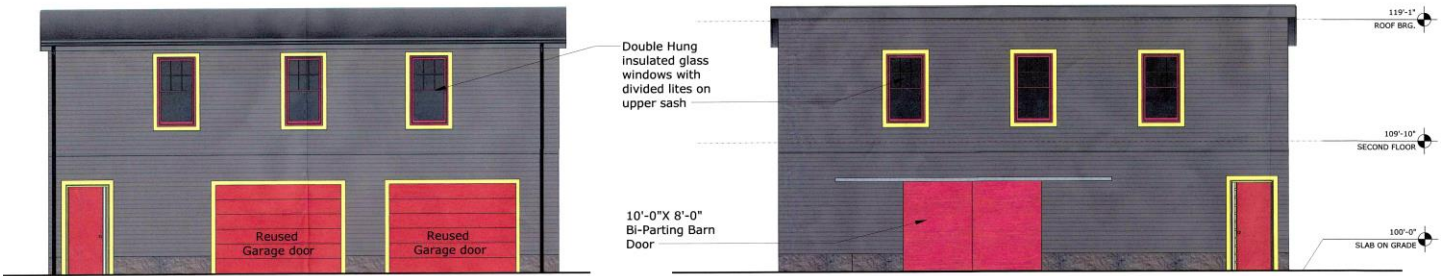
Location: 1408 HIGHLAND AVENUE
 Description: D.B. 8899 P. 928
BLOCK 27B - PARCEL 133
 For: PHILLIP AND ELIZABETH BROWN

Scale: 1" = 30' Date: 1-7-2015 By: G.J.D.



SCALE

Attachment 5: Elevations



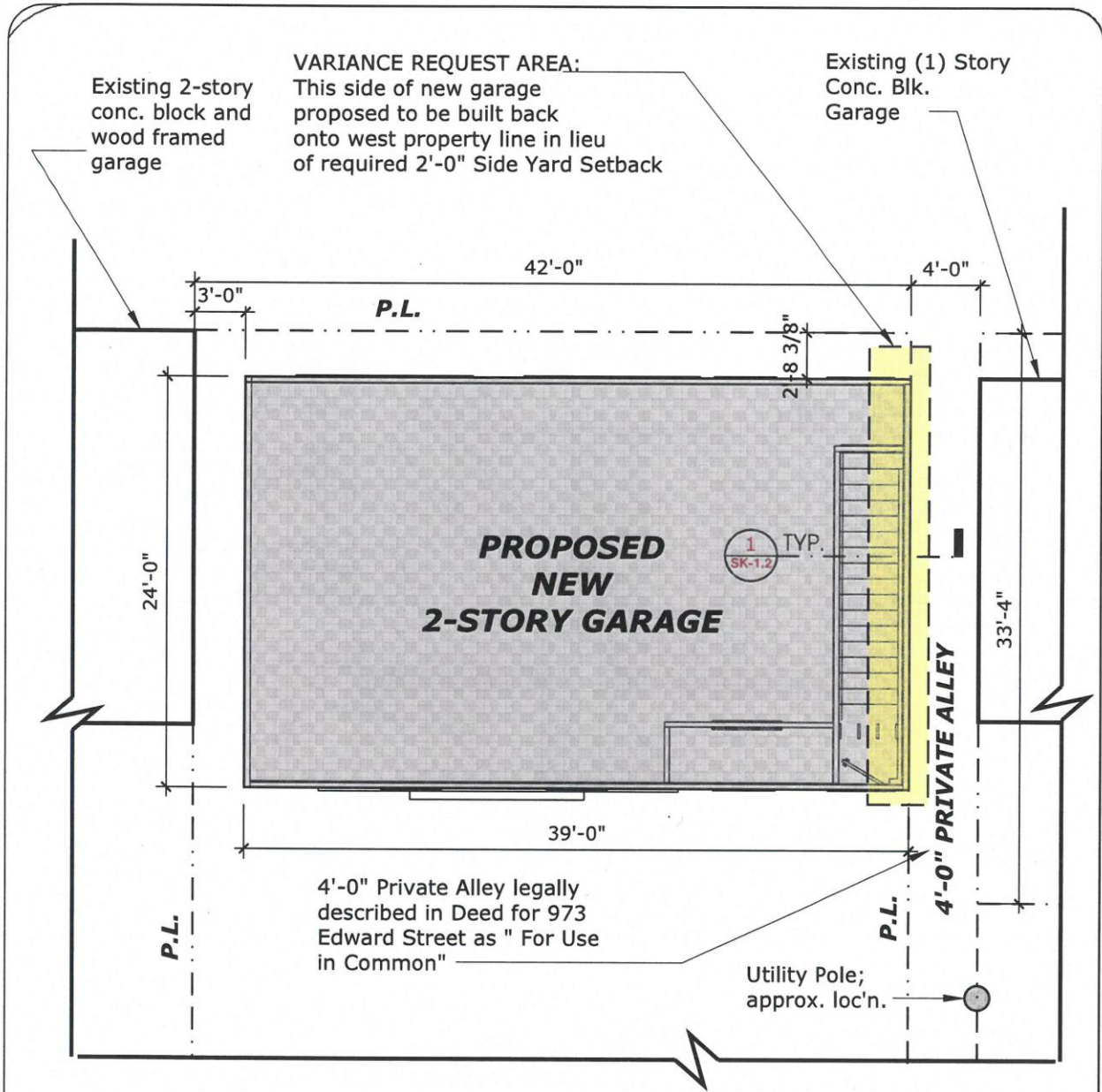
2 ELEVATION
A2.1 1/4"=1'-0"
ALLEY

1 ELEVATION
A2.1 1/4"=1'-0"
YARD



3 ELEVATION
A2.1 1/4"=1'-0"
RIGHT (LEFT SIMILAR)

Attachment 6: Footer detail



1 PLAN
Sk-1.1 1/8"=1'-0"



Ground Floor

<p>NEW GARAGE FOR: 1408 HIGHLAND AVENUE LOUISVILLE, KY.</p>	<p>SCALE: AS NOTED</p>	<p>SK-1.1</p>
	<p>DATE: 7.22.15</p>	
<p><small>ALL INFORMATION WITHIN THIS SET OF DOCUMENTS REPRESENTS UNPUBLISHED ORIGINAL WORK OF GRAVATTE DESIGN SERVICES, INC. & CONSULTANTS AND MAY NOT BE DUPLICATED OR USED FOR ANY OTHER PURPOSE THAN OUTLINED UNDER CONTRACT OR AS CONSENTED THROUGH WRITTEN PERMISSION. USE OF THESE DRAWINGS IN PART OR WHOLE FOR ANY PURPOSE OTHER THAN THE PROJECT AND BUILDING NAMED IN THIS TITLE BLOCK IS PROHIBITED. ANY ALTERATIONS PERFORMED WITHOUT WRITTEN CONSENT RELEASES GRAVATTE DESIGN SERVICES, INC. & CONSULTANTS FROM ALL LIABILITY.</small></p>	<p>Addendum Plan</p>	<p>SHEET</p>
	<p>Re: SP-1 (7.17.15)</p>	

Attachment 7: Adjacent Property Owner's Approval of Encroachment

GRAVATTE DESIGN SERVICES, Inc.

Wednesday, July 22, 2015

Linda Phillips
977 Edward Street
Louisville, Ky. 40204

Re: New Garage Project for 1408 Highland Avenue; Request for acceptance of Property Line Encroachment

Dear Mrs. Phillips

I understand that Phillip Brown has recently spoken with you about his intentions to construct a new garage at the rear of his property, adjacent to you. The intent is to build the new garage west wall on the Brown's West property line where the original garage stood adjacent to the 4'-0" Private Common use alley. In order to accomplish building back to the west property line, a portion of the foundation system below ground will need to extend beyond the property line into the 4'-0" Private Yard Common use area which is also part of your deeded property. Currently, the anticipated overhang onto your property is between 8"-11" of the foundation footing below ground under the existing concrete walk.

As Phillip Brown has conveyed to you, the purpose of building the New Garage back to the Property Line is to maintain security and fencing that previously existed between your Concrete Block garage and his original garage. The construction process should have no affect on your garage or its structural integrity.

Metro Planning and Design has requested that we provide a signed letter from you approving this *minor encroachment* as a matter of record that there is no contest against the Brown's variance application to continue with the intended construction.

If you approve of the minor encroachment of the Foundation Footing, Please sign and date below. A copy of this signed letter will be provided for your records.

Best Regards,
Stephen Gravatte, AIA

I, LINDA PHILLIPS, as the current owner of 977 Edward Street property, approve of the intended construction plans for Phillip and Elizabeth Brown's new garage with the understanding of the Minor Encroachment that will occur adjacent to my property.

Signature: Linda Phillips Date: 7/27/2015

Witnessed By: Daryl K. Jones
Signature: Daryl K. Jones Date: 7/27/2015

Signature: _____ Date: _____

4030 Leland Road • Louisville, KY. 40207 • 502-558-7224 • gravattedesign.com

Attachment 8: Applicant's Justification Statement

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.

Constructing the proposed garage back on the West property line as the previous structure is not affecting any public use area. Aligning the new structure to the property line contiguous with an existing fenceline maintains security.

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

Several properties aligning the Alley south of Highland Avenue on each side exhibit accessory structures built full width of their rear property use areas. See attached drawing SP-2 for photos

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

The East/West siting of the proposed project offsets the new garage from being attached to the East adjacent property Accessory structure (1412 Highland Avenue) which reduces the hazard of fire spread.

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

The subject property is bordered by a 4'-0" x 100'-0" Private Alley "For use common with others" along the West property edge. The maintained private alley allows rear yard access to the main alley for 973-977 Edward Street. The new garage shall maintain security from Main Alley.

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).

Adjacent Edward Street properties have deeded a 4'-0" Private Alley for common use to the Main Alley, no other future structures should be expected in the future to be built in this designated land strip, therefore maintaining a 4'-0" "setback" from 1408 Highland Avenue (Subject property).

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.

Strict application would subject the 1408 Highland property Owner and the adjacent Edward Street property owners to extraneous costs for demolition and re-building of new fencing and gating due to the 2'-0" setback at the throat of the 4'-0" Private Alley.

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

No, the project is proposed after the current regulation has been established.

RECEIVED
JUL 10 2015
PLANNING &
DESIGN SERVICES

15VARIANCE1043

Attachment 9: Site Photographs



Front of house



View from rear of house toward rear of parcel and alley/ Location of new garage



Looking west from east side of property/ Location of new garage



Looking east from west side of garage/ Location of new garage



Looking north from alley/ Location of new garage



Looking north from alley/ Location of new garage



Looking north up the 4' Alley adjacent to the property/ Location of variance



Looking north from the alley/ Location of the new garage