

Board of Zoning Adjustment Staff Report

June 2, 2014



Case No:	14Variance1033
Project Name:	(none) Residential
Location:	2306 Burrell Drive
Owner(s):	Adrian Batts
Applicant:	Adrian Batts
Representative:	Joe Willis, Blue Grass Garage Bldgs
Project Area/Size:	0.207Ac. (lot)
Jurisdiction:	City of Shively
Council District:	3 – Mary Woolridge
Case Manager:	Sherie' Long, Landscape Architect
(Continued from May 19, 2014)	

REQUEST

- Variance from the Land Development Code, Section 5.4.2.D, to allow a proposed structure (detached garage) to encroach into the side yard (east) and the rear yard (south).

Variance

Location	Requirement	Request	Variance
Side Yard (East)	2 feet	0 feet	2 feet
Rear Yard (South)	5 feet	2 feet	3 feet

CASE SUMMARY/BACKGROUND/SITE CONTEXT

This case was continued from the May 19, 2014 hearing because the applicant was not present to answer question from the BOZA Committee.

The owner is proposing to build a detached garage at the eastern rear corner of lot 70 of Heatherfields Subdivision, Section 9, Plat Book 17 page 08, located in the City of Shively. The detached garage structure will be located along the common boundary with the rear property line of St. Paul Baptist Church which fronts Crums Lane and along the common boundary with the neighbor to the east, Robert and Era Blunk. Mrs. Blunk has signed the consent form having no objection to the location of the proposed detach garage . Also, an existing easement located along the rear property line has been released by Louisville Gas and Electric.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

The site is zoned R-5 in the Neighborhood Form District (NFD). It is surrounded by residential property zoned R-5 to the North, East and West. A church, St Paul Baptist Church, is located to the south along with a public school, Schaffner Traditional Elementary also zoned R-5 in the NFD.

	Land Use	Zoning	Form District
Subject Property			
Existing	Single-family residential	R-5	NFD
Proposed	Single-family residential	R-5	NFD
Surrounding Properties			
North	Single-family residential across Burrell Drive	R-5	NFD
South	Church	R-5	NFD
East	Single-family residential	R-5	NFD
West	Single-family residential	R-5	NFD

PREVIOUS CASES ON SITE

Plat Book 17 Page 08 Heatherfields Subdivision Recorded 1959

INTERESTED PARTY COMMENTS

None

APPLICABLE PLANS AND POLICIES

Cornerstone 2020 – See checklist attached
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES

- (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 proposed structure will be located in the rear of the parcel; the adjacent neighbor to the east has no objection; and it will be adjacent to the church's open space to the south.

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

STAFF: The requested variance will not alter the essential character of the general vicinity because the structure will be located in the rear and compatible with the architecture throughout the neighborhood. Plus there was a similar request granted on property located nearby at 2320 Burrell Drive; and several lots in this vicinity also currently have rear detached garages.

- (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 detached garage will be located at the rear of the property; the adjacent property owner to the east has no objection to the location; and the property to the south is open space for the church. The walls of the garage will be located 12" from the property line with only the overhang and guttering extending to the property line.

- (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 because the structure only encroaches into a small portion of the required rear and side yard, plus a similar request has been granted for a garage nearby at 2320 Burrell Drive.

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: No special circumstances.

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 create an unnecessary hardship on the applicant because the applicant's has existing pavement which may need to be removed to allow the construction of the detached garage when the required yards are applied.

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 applicant is responsible for the placement of the new structure.

TECHNICAL REVIEW

No outstanding technical review items.

STAFF CONCLUSIONS

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 standard for a variance established in the Land Development Code.

NOTIFICATION

Date	Purpose of Notice	Recipients
5/19/2014	BOZA Hearing	1 st tier adjoining property owners Neighborhood notification recipients
5/8/2014	Sign Posting	Subject property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Elevations
5. Cornerstone 2020 Staff Checklist
6. Applicant's Justification Statement
7. Easement Release

Zoning Map



R-R RURAL RES.	R-5 RES. S.FAM.	R-8A RES. M-FAM.	C-R COMM./RES.	M-1 IND.	DRO DEV. REVIEW OV.
R-E RES. EST.	RRD RES. REDEV	OR-1 OFF./RES.	C-1 COMM.	M-2 IND.	W-1 WATERFRONT
R-1 RES. S.FAM.	R-5A RES. M-FAM.	OR-2 OFF./RES.	C-2 COMM.	M-3 IND.	W-2 WATERFRONT
R-2 RES. S.FAM.	R-5B TWO-FAM.	OR-3 OFF./RES.	C-3 CBD	CRO CRO. REVIEW OV	W-3 WATERFRONT
R-3 RES. S.FAM.	R-6 RES. M-FAM.	OTF OFF./TOUR	C-M COMM. MAN.	PRO PLAN. RESEARCH	WRO WATER. REVIEW OV.
R-4 RES. S.FAM.	R-7 RES. M-FAM.	C-N NEIGH. COMM.	EZ-1 ENTERPRISE	PEC PLAN. EMP. CEN.	



Zoning District Map
 Louisville/Jefferson Metro Government
 Planning and Design
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VARIANCE
 Scale: 1:710 Date: 04/22/2014



2. **Aerial Photo**



R-R RURAL RES.	R-5 RES. S.FAM.	R-8A RES. M-FAM.	C-R COMM./RES.	M-1 IND.	DRO DEV. REVIEW OV.
R-E RES. EST.	RRD RES. REDEV	OR-1 OFF./RES.	C-1 COMM.	M-2 IND.	W-1 WATERFRONT
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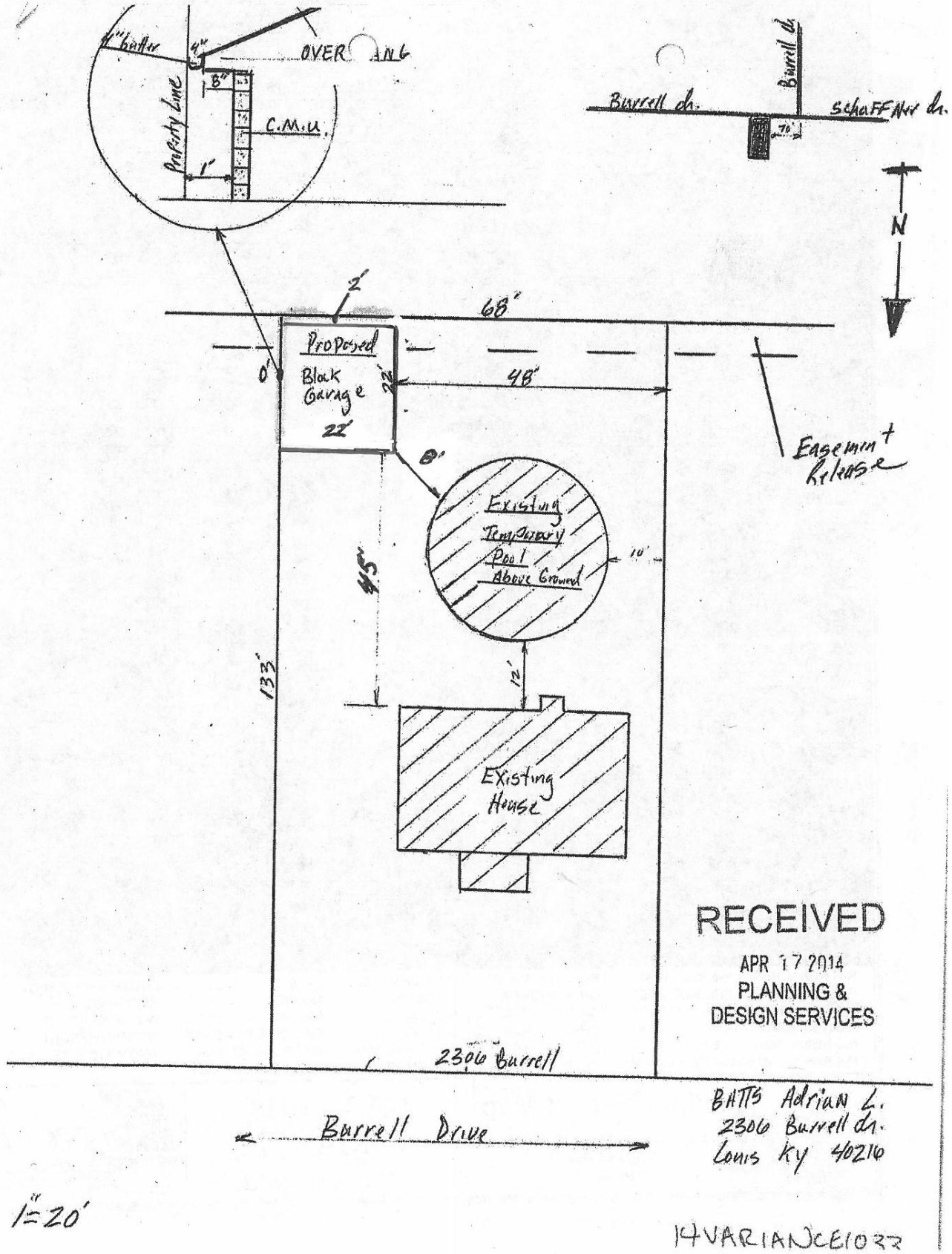
Zoning District Map
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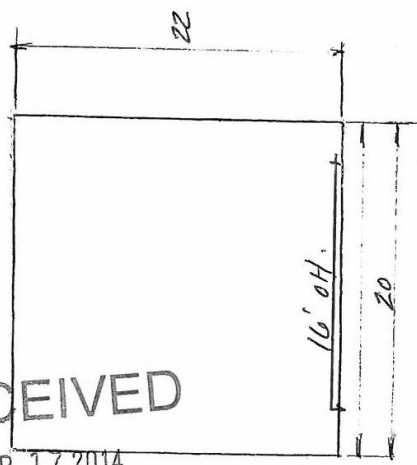
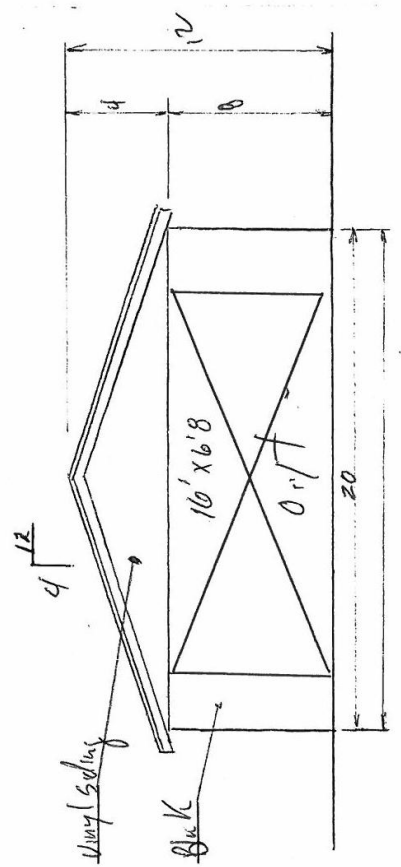
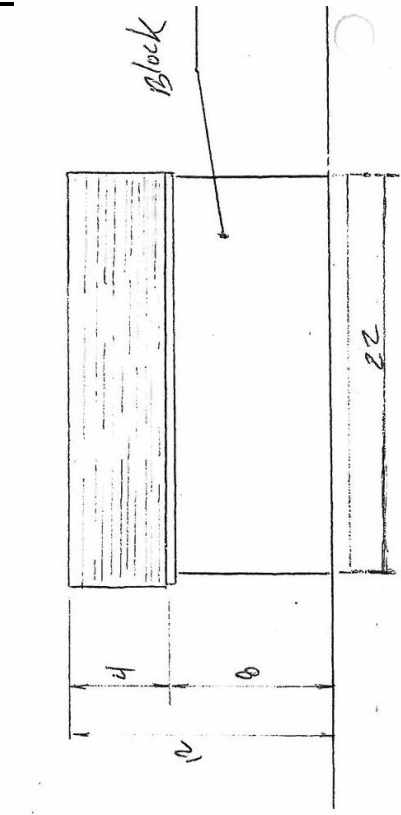
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3. Updated Site Plan (5/23/14)



4. Elevations



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FLOOR PLAN

5. Cornerstone 2020 Comprehensive Plan Checklist

Cornerstone 2020 Guidelines & Policies	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Final Finding	Final Comments
Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1, 3.4-3.7, 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.	√	This proposal is in a current Neighborhood which has similar setbacks and lot dimensions. There are structures of this type in the general area which have been granted variances to encroach into the required yards.

6. 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.

it will help organize yard

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

Home owner wish to connect Fence to garage to make yard look uniform he has permission to put Fence on Property line

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

It will be in Back yard + we have sign permission from the Neighbor with the o'line variance -

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

it will not affect anyone except Neighbor who has signed the variance

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 Homeowner is trying to tie his yard into the Neighborhood

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.

Home owners yard is in sight of Fields use to play in home owner want to use Garage + Fence to Block View For more Privacy + Security

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

No; Property Remains the Same

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7. Easement Release

BB 10226PG0223

RELEASE OF EASEMENT

This instrument made and entered into this 25th day of March, 2014 by and between **ADRIAN L. BATTIS and ETOY L. BATTIS, his wife**, whose address is 2306 Burrell Drive, Louisville, Kentucky 40216, their successors and assigns, Party of the First Part (herein called "Owners"), and **LOUISVILLE GAS AND ELECTRIC COMPANY**, a Kentucky corporation, at 820 West Broadway, P.O. Box 32020, Louisville, Kentucky 40232, their successors and assigns, Party of the Second Part (herein called "Company")

WITNESSETH:

THAT WHEREAS, the Owner's Predecessors in Title did grant unto the Company an easement located at 2306 Burrell Drive and being Lot 70; and,

WHEREAS, said easement is recorded on Heatherfields Subdivision plat, Section 9 in Plat Book 17, Page 8 in the Office of the Clerk of the County Court of Jefferson County, Kentucky; and,

WHEREAS, the easement is no longer needed and the Owners are desirous of having the easement released and the Company is agreeable.

NOW, THEREFORE, for valuable consideration, receipt of which is hereby acknowledged, (said consideration for this instrument is not measurable in money, the Company does hereby release, relinquish, and quit-claim unto the Owners all their rights, title, and interest, if any, in and to the easement.

Title to the property affected hereby was acquired by the Owners by Deed dated the 9th day of September, 2013 and recorded in Deed Book 10135, Page 162 in the aforesaid Clerk's Office.

WITNESS the signature of the Company hereto the day and year first above written.

LOUISVILLE GAS AND ELECTRIC COMPANY

BY: *JJK* DCA FOR JAMES J. HELDERMAN

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STATE OF KENTUCKY)
)
COUNTY OF JEFFERSON)

Jeffrey Kinniger, DOA for

I, Terese M. Reid, a Notary Public in and for the State and County aforesaid hereby certify that James J. Holderman, personally known to me to be the Manager of the Real Estate and Right of Way Department of **LOUISVILLE GAS AND ELECTRIC COMPANY**, appeared before me this day in person in the State and County aforesaid, and acknowledged the execution and delivery of the foregoing instrument to be the free act and deed of **LOUISVILLE GAS AND ELECTRIC COMPANY** and his free act and deed as such Manager thereof.

My Commission expires: July 11, 2015.

WITNESS my hand this 25th day of March, 2014.

Terese M. Reid
NOTARY PUBLIC
STATE-AT-LARGE

THIS INSTRUMENT PREPARED BY

J. Dimas
JAMES DIMAS
LOUISVILLE GAS AND ELECTRIC COMPANY
CORPORATE LAW DEPARTMENT
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END OF DOCUMENT

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