

Board of Zoning Adjustment Staff Report

July 10, 2017



Case No:	17VARIANCE1026
Request:	Variances from the required 50' street side yard setback and from the required 65' front yard setback
Project Name:	2005 Lakeland Road Garage and Additions
Location:	2005 Lakeland Road
Area:	.33 Acres
Owner:	Off Ice Flips
Applicant:	Ludmila Dimitrov
Representative:	Ludmila Dimitrov
Jurisdiction:	Louisville Metro
Council District:	17 – Glen Stuckel
Case Manager:	Dante St. Germain, Planner I

REQUESTS

- Variance from Land Development Code section 5.1.12.B.2.e.i.1 to allow a structure to encroach into the required infill street side yard setback
- Variance from Land Development Code section 5.1.12.B.2.e.i.1 to allow a structure to encroach into the required infill front yard setback

Location	Requirement	Request	Variance
Street Side Yard Setback (Garr)	50 ft.	21.5 ft.	28.5 ft.
Front Yard Setback (Lakeland)	65 ft.	36 ft.	29 ft.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

This case is continued from the June 19, 2017 meeting of the Board of Zoning Adjustment. The subject property is a corner lot, located at the intersection of Lakeland Road and Garr Avenue, and currently contains a one-story single-family residence which is under renovation and expansion. The applicant proposes a one-story attached garage as part of the renovation. The renovations and garage have been partially constructed, with the garage located 21.5 feet from the Garr Avenue right-of-way line and 36 feet from the Lakeland Road right-of-way line. The lot's street side yard is along Garr Avenue, and the front yard is along Lakeland Road.

A frontage road runs for a short distance beside Lakeland Road, accessed from Garr Avenue, providing access to this lot and two others along Lakeland Road. The garage is reached from the frontage road, and faces Lakeland Road. The house faces Garr Avenue. On both block faces, 50% or more of the lots within 500 feet of the subject site and on the same side of the street are occupied by principal structures, making the construction subject to the infill standards of the Land Development Code. Land Development Code section 5.1.12.B.2.e.i.1 (Infill Development Regulations) requires the front yard and street side yard setbacks to fall within the range of the setbacks of the two nearest lots containing principal structures on the same block face.

On the Garr Avenue frontage, the two nearest principal structures are 50 feet from the Garr Avenue right-of-way. The applicant requests a variance from Land Development Code section 5.1.12.B.2.e.i.1 to encroach into the infill street side yard setback by 28.5 feet.

On the Lakeland Road frontage, the two nearest principal structures are 65 feet from the Lakeland Road right-of-way. The applicant requests a second variance from Land Development Code section 5.1.12.B.2.e.i.1 to encroach into the infill front yard setback by 29 feet.

Prior to beginning construction, the applicant requested a building permit from Louisville Metro. A permit was issued on 04-27-2016 under permit number BL984032, for the addition of several rooms onto the single-family residence. No garage was proposed at that time, and the building permit drawing does not include a garage. A stop-work order was issued on 05-11-2017 for the garage when an inspection discovered that the construction had not been built to the approved plan. The applicant was then referred to Planning and Design Services to request the required variances. The garage is the point of greatest encroachment in both yards. However, the other building additions also encroach into the front and street side yards required by infill standards.

Interested party comments from neighbors have expressed concern that the building will be used as a real-estate office. The property is zoned R-4, Single Family Residential, and would only be allowed a registered home occupation in compliance with Land Development Code restrictions. No change to the zoning district is proposed at this time.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<i>Subject Property</i>			
Existing	Single Family Residential	R-4	Village
Proposed	Single Family Residential	R-4	Village
<i>Surrounding Properties</i>			
North	Single Family Residential	R-4	Village
South	Single Family Residential	R-4	Village
East	Single Family Residential	R-4	Village
West	E. P. "Tom" Sawyer State Park	R-4	Campus

PREVIOUS CASES ON SITE

BL984032

Building permit for renovation and expansion issued 04-27-2016.

INTERESTED PARTY COMMENTS

Three interested party comments were received by staff, in opposition to rezoning the property to allow commercial uses. No rezoning has been requested at this time.

APPLICABLE PLANS AND POLICIES

Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.1.12.B.e.i.1 FOR STREET SIDE YARD SETBACK

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

STAFF: The requested variance will not adversely affect the public health, safety or welfare as the proposed garage does not obstruct the sight triangle at the corner.

- (b) The requested variance will alter the essential character of the general vicinity.

STAFF: The requested variance will alter the essential character of the general vicinity as the encroachment does not follow the pattern of existing development in the neighborhood.

- (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 as the garage does not obstruct the sight triangle at the corner.

- (d) The requested variance will allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will allow an unreasonable circumvention of the zoning regulations as the applicant began construction on the garage prior to requesting the needed variance and without a building permit.

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 which do not generally apply to land in the general vicinity as the property has an old septic system and a new septic system constraining the possible location of any garage, and the significant setbacks restrict the land where additions could be placed to a small section of the lot.

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 garage and additions are under construction and would need to be revised or demolished.

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 taken subsequent to the adoption of the zoning regulation from which relief is sought as the construction is new and was initiated after the adoption of the zoning regulation.

**STANDARD OF REVIEW AND STAFF ANALYSIS
FOR VARIANCE FROM SECTION 5.1.12.B.2.e.i.1
FOR FRONT YARD SETBACK**

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

STAFF: The requested variance will not adversely affect the public health, safety or welfare as the proposed garage does not obstruct the sight triangle at the corner.

- (b) The requested variance will alter the essential character of the general vicinity.

STAFF: The requested variance will alter the essential character of the general vicinity as the encroachment does not follow the pattern of existing development in the neighborhood.

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TECHNICAL REVIEW

- No technical review undertaken.

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 standards for granting a variance established in the Land Development Code from section 5.1.12.B.2.e.i.1 allowing a structure to encroach into the required 50' infill side yard setback, and a variance from section 5.1.12.B.2.e.i.1 to allow a structure to encroach into the required 65' infill front yard setback.

NOTIFICATION

Date	Purpose of Notice	Recipients
05-31-2017	Public Hearing before BOZA	1 st tier adjoining property owners Subscribers of Council District 17 Notification of Development Proposals
06-02-2017		Sign posted on property

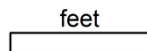
ATTACHMENTS

1. Zoning Map
2. Aerial
3. Site Plan
4. Site Photos

1. Zoning Map



2005 Lakeland Road

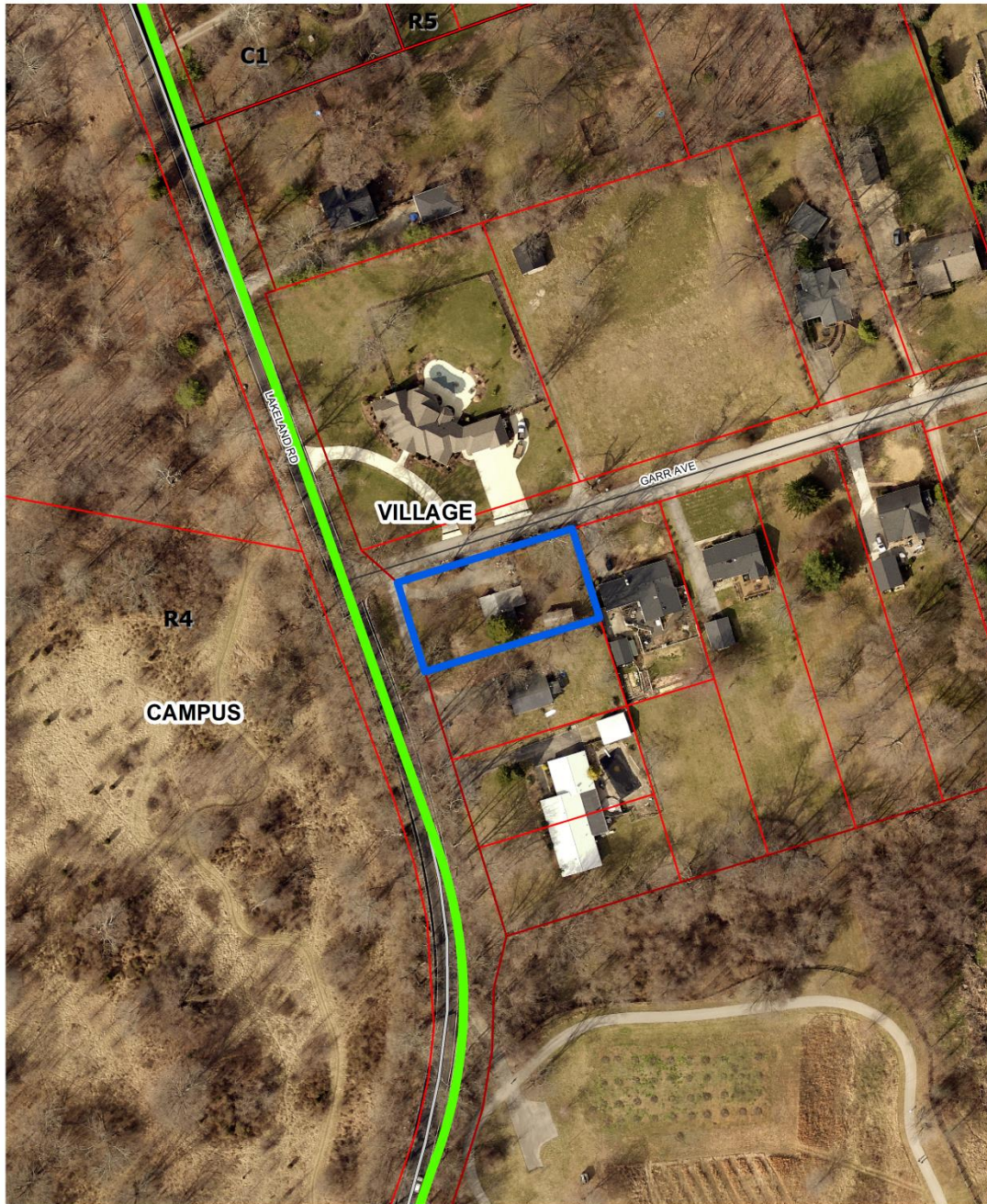


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Map Created: 6/7/2017



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2. Aerial



2005 Lakeland Road

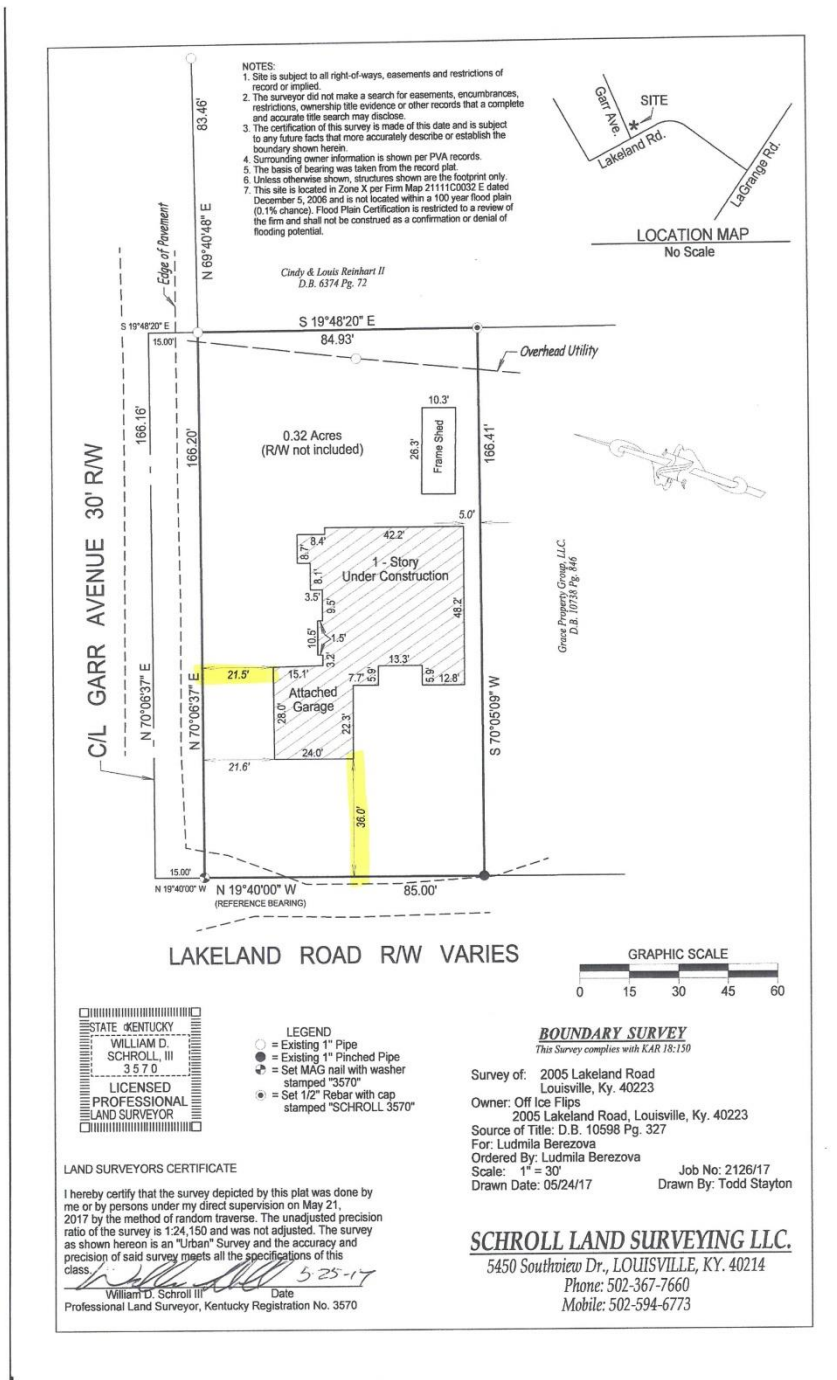
feet
110

Map Created: 6/7/2017



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3. Site Plan



4. Site Photos



The front of the house and the side of the garage. The garage faces Lakeland Road while the house faces Garr Avenue.



The front of the garage behind the frontage road next to Lakeland Road. This is the point of greatest encroachment into the front yard setback.



This is the point of greatest encroachment into the street side yard.



The approximate location of the street side property line.



The edge of pavement of the frontage road is the approximate location of the front property line.



Looking at the corner of the garage. The larger setback of the next house along Lakeland Road is visible.



A comparison of the setbacks of the garage and the next house along Lakeland Road.



The street side yard along Garr Avenue. The next house along Garr Avenue is mostly concealed due to the greater setback of that house.