

# Board of Zoning Adjustment

## Staff Report

January 12, 2015



|                           |                                     |
|---------------------------|-------------------------------------|
| <b>Case No:</b>           | 14Variance1107                      |
| <b>Project Name:</b>      | None (proposed addition and garage) |
| <b>Location:</b>          | 521 Belgravia Ct.                   |
| <b>Owner(s):</b>          | David & Peggy Heimerdinger          |
| <b>Applicant:</b>         | Anne Del Prince, Architect          |
| <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.E.2. of the Land Development Code (LDC) to allow a proposed garage to encroach into the required 5-ft. rear yard. The requested setback is 3 feet, a variance of 2 feet.

#### Variance

| Location                        | Requirement | Request | Variance |
|---------------------------------|-------------|---------|----------|
| rear yard (north property line) | 5 ft.       | 3 ft.   | 2 ft.    |

### CASE SUMMARY/BACKGROUND/SITE CONTEXT

Removal of the existing addition and deck and construction of a 210 sf. addition, 250 sf. screened porch and 1.5-story detached garage are proposed. Access to the garage will be through an access easement created by minor plat.

### LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

The site is zoned TNZD in the Traditional Neighborhood Form District (TNFD). It is surrounded by single and multi-family residential.

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

### PREVIOUS CASES ON SITE

- Case No. 14COA1183-OL** The site is in the Old Louisville Historic Preservation and National Register districts and has received a Certificate of Appropriateness from the Landmarks Commission on September 23, 2014.
- 17522** Installation of new porch railing, 2012
- S-96-48-OL** Staff approval of exterior repainting and replacement of non-historic wrought-iron porch supports with columns and pilasters, 1996.

### INTERESTED PARTY COMMENTS

None received

### APPLICABLE PLANS AND POLICIES

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 may adversely affect the public health, safety or welfare because of the close proximity of the proposed setback from adjacent property to the rear. Applicant should explain how the rear setback will not adversely affect this property.

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

STAFF: The variance will alter the essential character of the general vicinity because the proposed garage and the existing lot appear to be the only one in the area configured in this manner. There appear to be other accessory structures in the surrounding area that observe similar setbacks, but are located on alleys.

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

STAFF: The variance may cause a hazard or nuisance to the public because the proposed garage and existing lot appear to be the only one in the block configured in this manner. The applicant should explain how access will function as well as potential impact on adjacent properties.

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

STAFF: The requested variance may allow an unreasonable circumvention of the zoning regulations because the proposed garage and existing lot appear to be the only one in the area configured in this manner. There appear to be other accessory structures in the surrounding area that observe similar setbacks, but are located on alleys.

### 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 request to construct the addition and garage.

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 not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because the site could be designed in a manner that may reduce the size of proposed additions and garage.

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 to construct the addition and garage.

## TECHNICAL REVIEW

No outstanding technical review items.

## STAFF CONCLUSIONS

The proposed garage and existing lot appear to be the only one in the block configured in this manner. There appear to be other accessory structures in the surrounding area that observe similar setbacks, but are located on alleys. The proposed setback will have close proximity to the property to the rear, across the access easement.

The applicant should explain how access will function as well as potential impact on adjacent properties.

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 as established in the Land Development Code.

## NOTIFICATION

| Date      | Purpose of Notice | Recipients   |
|-----------|-------------------|--|
| 5/15/2014 | BOZA Hearing      | 1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners |
| 5/20/2014 | Sign Posting      | On property  |

## ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Minor plat showing lot and access easement creation
5. Applicant's Justification Statement

1. **Zoning Map**



**Zoning District Map**  
 Louisville/Jefferson Metro Government  
 Planning and Design  
 Services

**14VAR1107**  
**VARIANCE**  
 Scale: 1:848 Date: 12/02/2014



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        |
| 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. |                       |

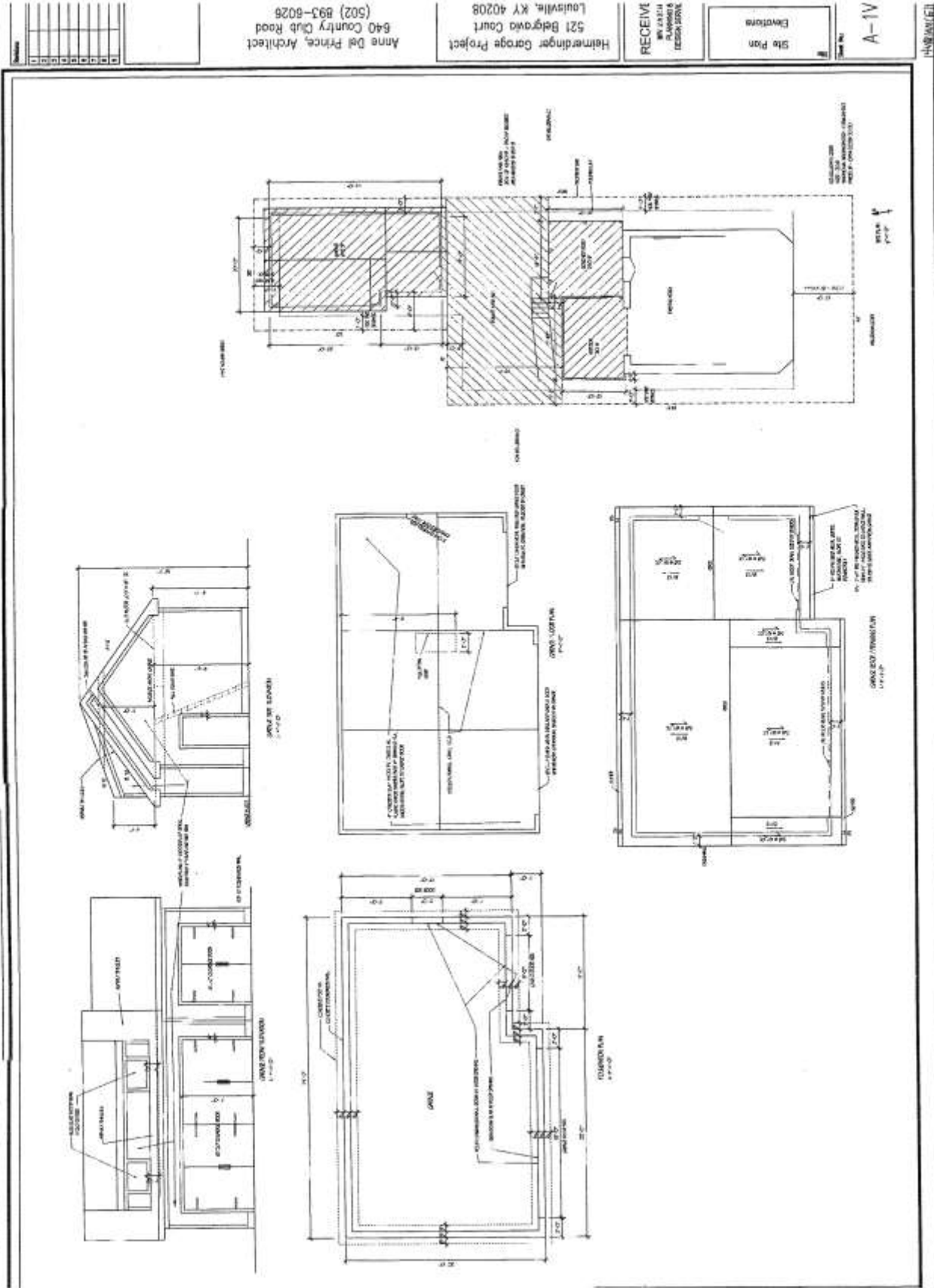


**Zoning District Map**  
 Louisville/Jefferson Metro Government  
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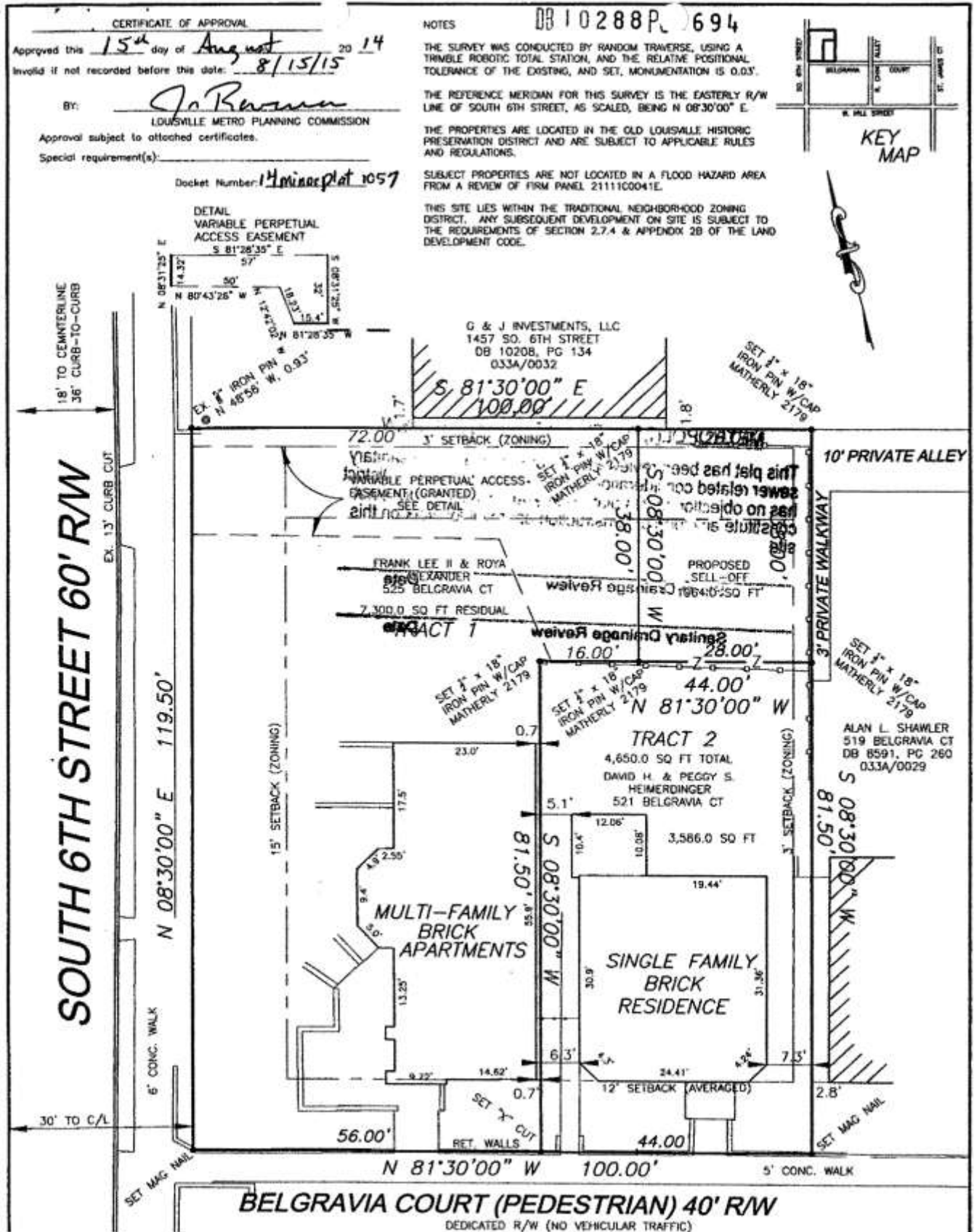
**14VAR1107**  
**VARIANCE**  
 Scale: 1:293 Date: 12/02/2014



**Site Plan**



4. Minor plat showing lot and access easement creation





5. Applicant's Justification Statement

RECEIVED

NOV 25 7 11A

PLANNING & DESIGN SERVICES

**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.

THIS IS A PRIVATE RESIDENCE. THE PUBLIC HEALTH SAFETY & WELFARE ARE NOT ADVERSELY AFFECTED, THEY DO NOT BELONG ON PROPERTY, UNLESS INVITED BY OWNER.

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

CHARACTER OF OLD LOUISVILLE WILL REMAIN IN TACT BECAUSE PROPERTIES ARE CLOSE TO EACH OTHER AS A RULE & THIS <sup>20'</sup> VARIANCE WILL BE CONSISTANT W/ NEIGHBORHOOD DENSITY.

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

NO HAZARD OR NUISANCE TO PUBLIC BECAUSE IT IS PRIVATE PROPERTY.

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

CIRCUMVENTION OF ZODING REQUIREMENTS IS REASONABLE. PROPERTY WAS RECENTLY PURCHASED BY OWNER - WITH OLD OWNER, SETBACK IN QUESTION WAS A SIDE YARD SETBACK, W/ NEW OWNER, SET BACK IS A REAR SETBACK, AND SO THE NEED FOR 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).

LAND SIZE IS NOT LARGE ENOUGH TO FILL NEEDS OF GOVERNMENT (CITY) REQUIREMENTS AND ADDITION OF GARAGE PROJECT TO BE USED BY NEW OWNER.

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.

HARD SHIP IS CREATED WHEN GARAGE IS NOT PLACED PROPERLY ON SITE FOR OWNERS USE; AND FOR NEIGHBOR'S USE

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

THE OWNER DID NOT MAKE THE PROPERTY LINES THAT EXIST - WHICH DETERMINE BEST USE OF GARAGE PLACEMENT - DUE TO THE LIMITED SPACE