

Board of Zoning Adjustment

Staff Report

January 6, 2020



Case No:	19-VARIANCE-0062
Project Name:	Cherokee Parkway Variance
Location:	2507 Cherokee Parkway
Owner:	Richard Pape
Applicant:	Gary Shearer – GDS Builder & Remodeler
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Zach Schwager, Planner I

REQUEST

- **Variance** from Land Development Code section 5.4.1.D.2 to allow a private yard area to be less than the required 30% of the area of a lot.

Location	Requirement	Request	Variance
Private Yard Area	3,386 sq. ft.	2,340 sq. ft.	1,046 sq. ft.

CASE SUMMARY/BACKGROUND

The subject property is zoned R-3 Residential Single Family in the Traditional Neighborhood Form District. It is located in the Cherokee Triangle neighborhood and preservation district and contains a 2-½ story single-family residence. The applicant is proposing to replace a garage at the rear of the property with another garage with a different footprint. This structure will reduce the private yard area to be less than the required 30% of the area of the lot. This case also noticed a rear yard setback variance. The applicant is also proposing to construct the garage six inches from the rear property line, which would typically require a variance; however, section 5.4.1.E.2 permits infill for accessory structures based upon the two closest constructed accessory structures. This requirement permits the proposed garage to be six inches from the property line.

This case was continued from the December 16, 2019 public hearing of the Board of Zoning Adjustment to allow the Cherokee Triangle Architectural Review Committee (ARC) to make a determination.

The Cherokee Triangle Architectural Review Committee approved the garage on condition under case number 19-COA-0128 on December 18, 2019. Planning & Design Staff does not have any recommended conditions.

STAFF FINDING

Staff finds that the requested variance is adequately justified and meets the standard of review.

Based upon the information in the staff report, and 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 5.4.1.D.2 to allow a reduction in the private yard area.

TECHNICAL REVIEW

Transportation Planning has approved the plan.

INTERESTED PARTY COMMENTS

No interested party comments were received.

RELATED CASES

No related cases.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.4.1.D.2

- (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 structure will need to be constructed to comply with all building codes, including fire codes.

- (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 as the garage was approved by Historic Landmarks and Preservation Commission staff.

- (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 will need to be constructed to comply with all building codes, including fire codes.

- (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 as there will still be a significant amount of private yard area and the front yard takes up a large portion of the lot due to its topography.

ADDITIONAL CONSIDERATIONS:

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

STAFF: The requested variance does arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the subject property has a front yard that takes up a large portion 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 by not allowing them to construct a garage that will keep a similar amount of private yard area.

3. The circumstances are not 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 not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is requesting the variance and has not begun construction.

VARIANCE PLAN REQUIREMENT

In accordance with LDC Section 11.5B.1.C (Requirement to Follow Approved Plan), a variance shall be approved only on the basis of the plan approved by the Board and shall be valid only for the location and area shown on the approved plan. All construction and operations must be conducted in accordance with the approved plan and conditions attached to the variance.

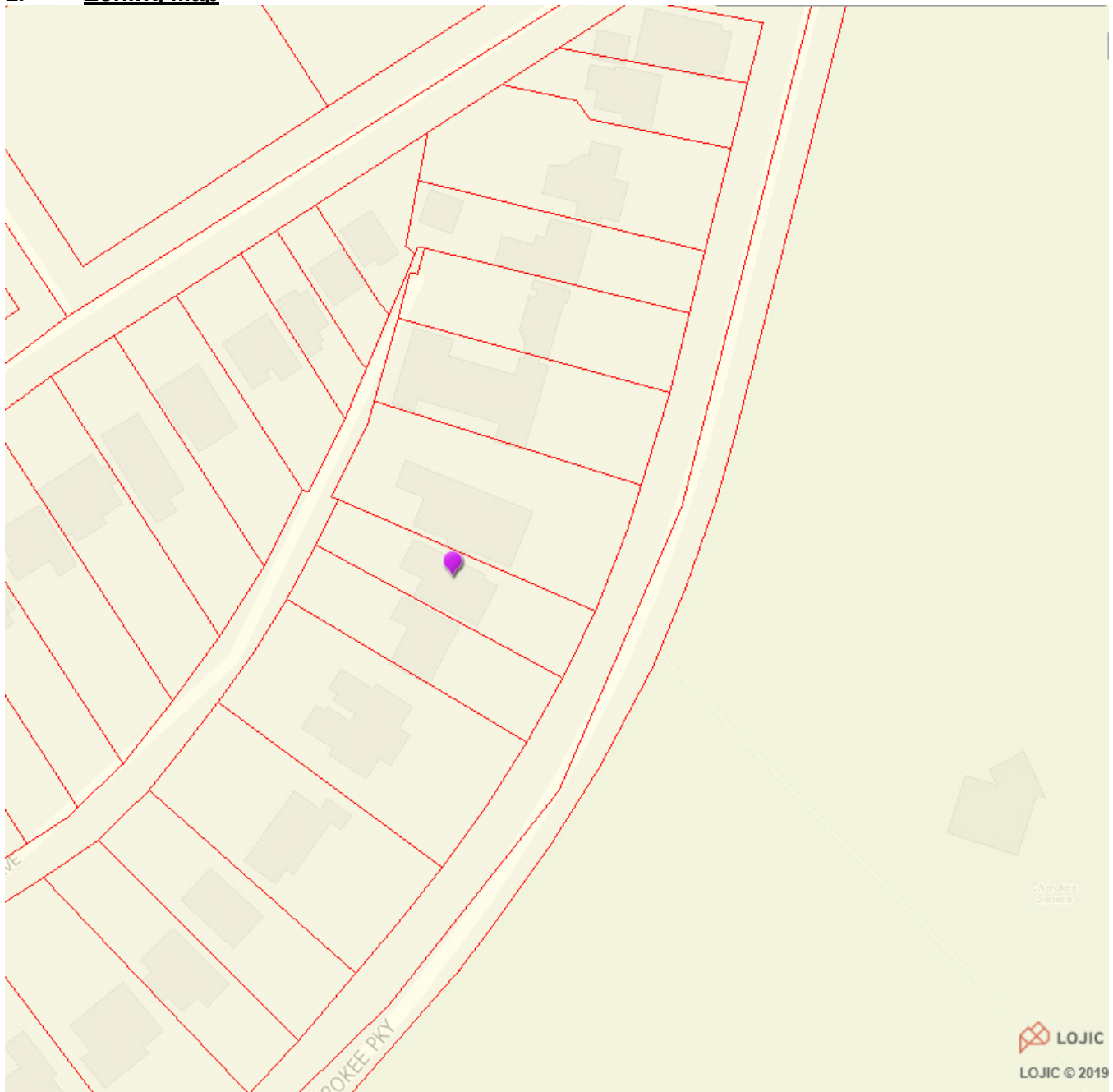
NOTIFICATION

Date	Purpose of Notice	Recipients
11/22/2019	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 8
12/5/2019	Hearing before BOZA	Notice posted on property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Elevations
5. Site Photos

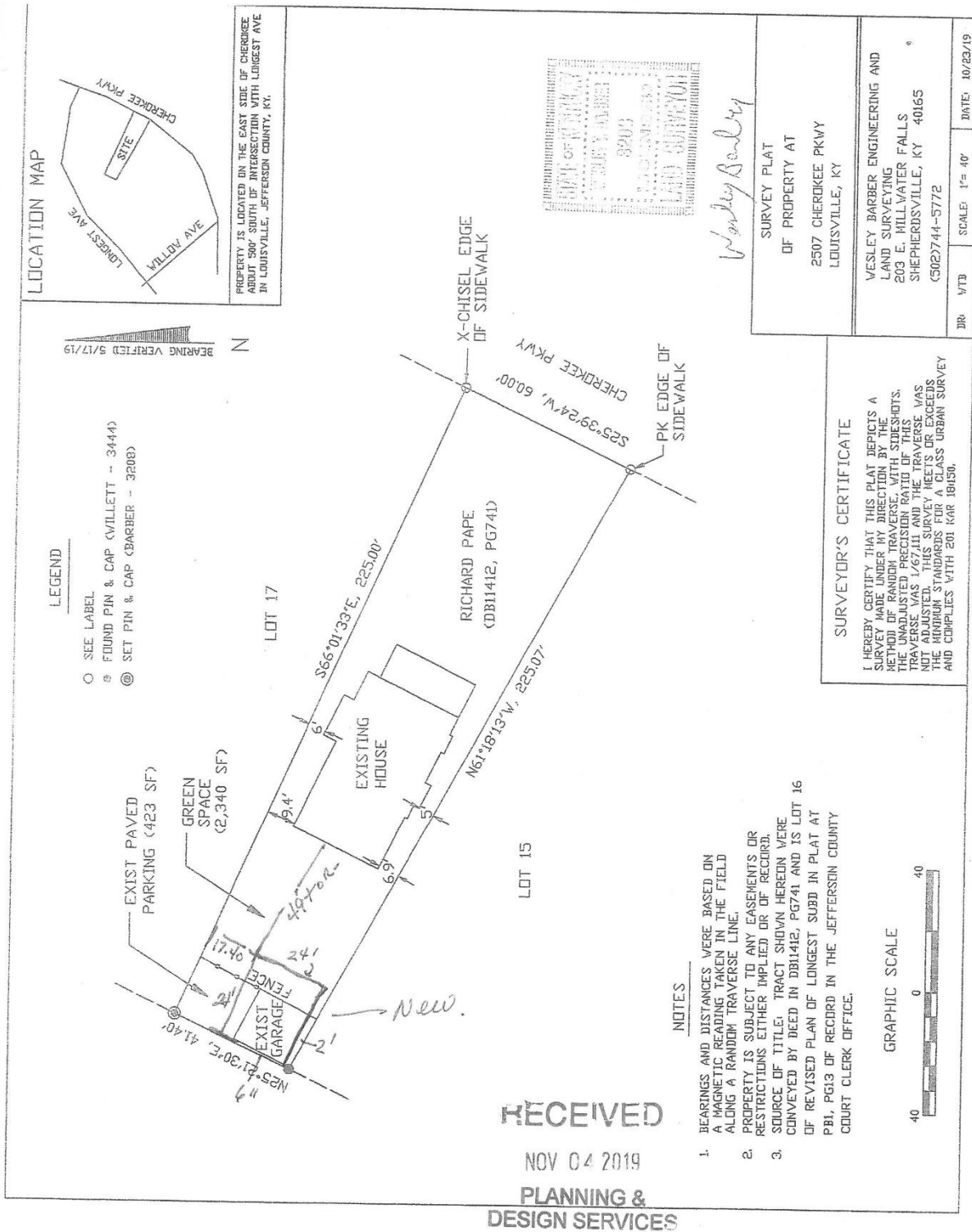
1. **Zoning Map**



2. Aerial Photograph

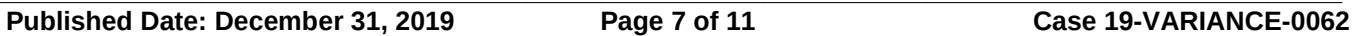


3. Site Plan



19 - VARIANCE - 00062

296



5. Site Photos



Front of the subject property.



Property to the right.



Property to the left.



Private yard area.