

Board of Zoning Adjustment

Staff Report

October 19, 2015



Case No:	15Variance1068
Project Name:	New Attached Garage
Location:	5510 Johnstontown Road
Owner(s):	Paul and Julie Pauken
Applicant:	Charles Penn, Distinctive Design Remodeling
Representative:	Owner
Project Area/Size:	0.222 acres
Jurisdiction:	Louisville Metro
Council District:	14 – Cindi Fowler
Case Manager:	Sherie' Long, Landscape Architect

REQUEST

Variance from the Land Development Code, Chapter 5, Section 5.3.1.C.1.a.i and 5.4.2.C.1, to allow a proposed garage addition to encroach into the required infill side yard.

Variance

Location	Requirement	Request	Variance
Side Yard (west)	15 feet	3.9 feet	11.1 feet

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing to construct an attached garage on the west side of the existing house.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

This rectangular flat lot is zoned R-4 in the Neighborhood Form District (N), surrounded to the east, west, and south by single family residential property and to the north, across Johnstontown Road, by a church, public school, and single family residential all zoned R-4 in the Neighborhood Form District (N).

	Land Use	Zoning	Form District
Subject Property			
Existing/ Proposed	Single family residential	R-4	N
Surrounding Properties			
North	Public/Private School, Church & Single family residential (across the street)	R-4	N
East	Single family residential	R-4	N
South	Single family residential	R-4	N
West	Single family residential	R-4	N

PREVIOUS CASES ON SITE

BL950537 – Building permit for construction of the attached garage. Pending.

Subdivision Plat Book 12 Page 11 – Valley Gardens Section 3 recorded June 1954

INTERESTED PARTY COMMENTS

An inquiry was received from Kevin Sample, Beth Haven Christian School Board Representative. His inquiry was to confirm the use of the property as residential and not commercial.

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 new attached garage will be located beyond the front setback and more than 3 feet from the common property line and existing privacy fence. Also the proposed footer, overhang and gutter will be contained within the subject property.

- (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 attached garage will be constructed with similar materials already being used in the vicinity. The proposed location of the attached garage is similar to other houses in the vicinity; however the majority of the existing garages are detached.

- (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 new attached garage is located beyond the front yard setback and there is sufficient room for the footer, overhang and gutter to be contained within the subject property.

- 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, however the majority of the garages in the vicinity are detached and their locations look to honor the required setbacks for accessory structures.

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 does not arise from special circumstances because a detached garage could be provided and meet the setback requirements for accessory structures.

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 cause an unnecessary hardship on the applicant because the proposed attached garage could not be built as shown.

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 not the result of actions of the applicant since the applicant is requesting a variance prior to beginning any construction.

TECHNICAL REVIEW

There are no technical review issues.

STAFF CONCLUSIONS

The attached garage is proposed to be located 3.9 feet from the property line which is an encroachment of over 11 feet into the required side yard. However if a detached garage, located toward the rear of the property, were to be constructed as an accessory structure it would be allowed to be located 2 feet from the property line. The majority of the existing garages in the vicinity are detached and located toward the rear of the lots. Therefore the Board of Zoning Adjustment must determine if the proposal meets the standard for a variance established in the Land Development Code based on the staff report, testimony and evidence provided.

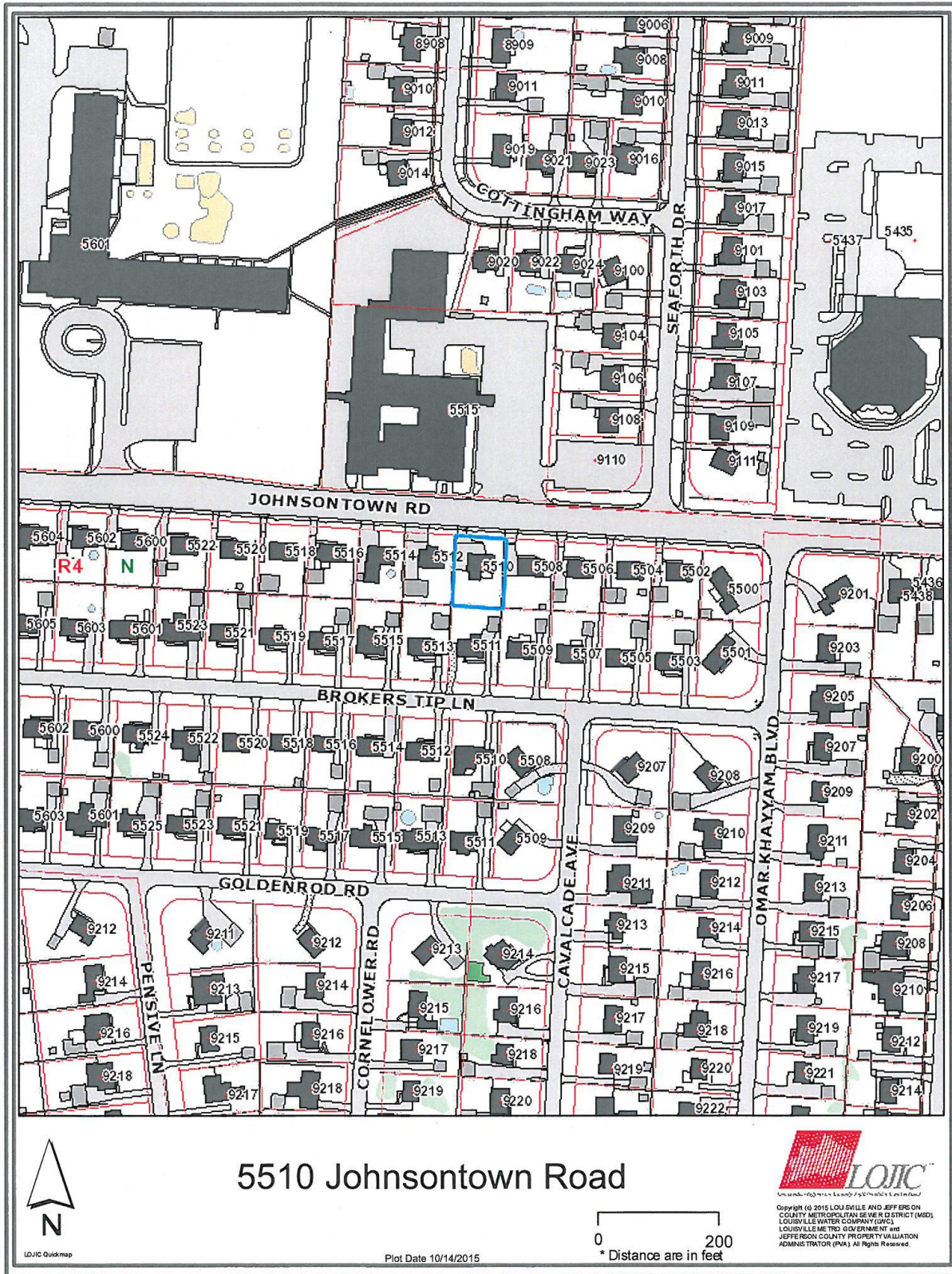
NOTIFICATION

Date	Purpose of Notice	Recipients
10/01/2015	BOZA Hearing	Neighborhood notification recipients
10/05/2015	BOZA Hearing	1 st tier adjoining property owners
10/08/2015	Sign Posting	Subject property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Survey
4. Elevations
5. Applicant's Justification Statement
6. Site Photographs

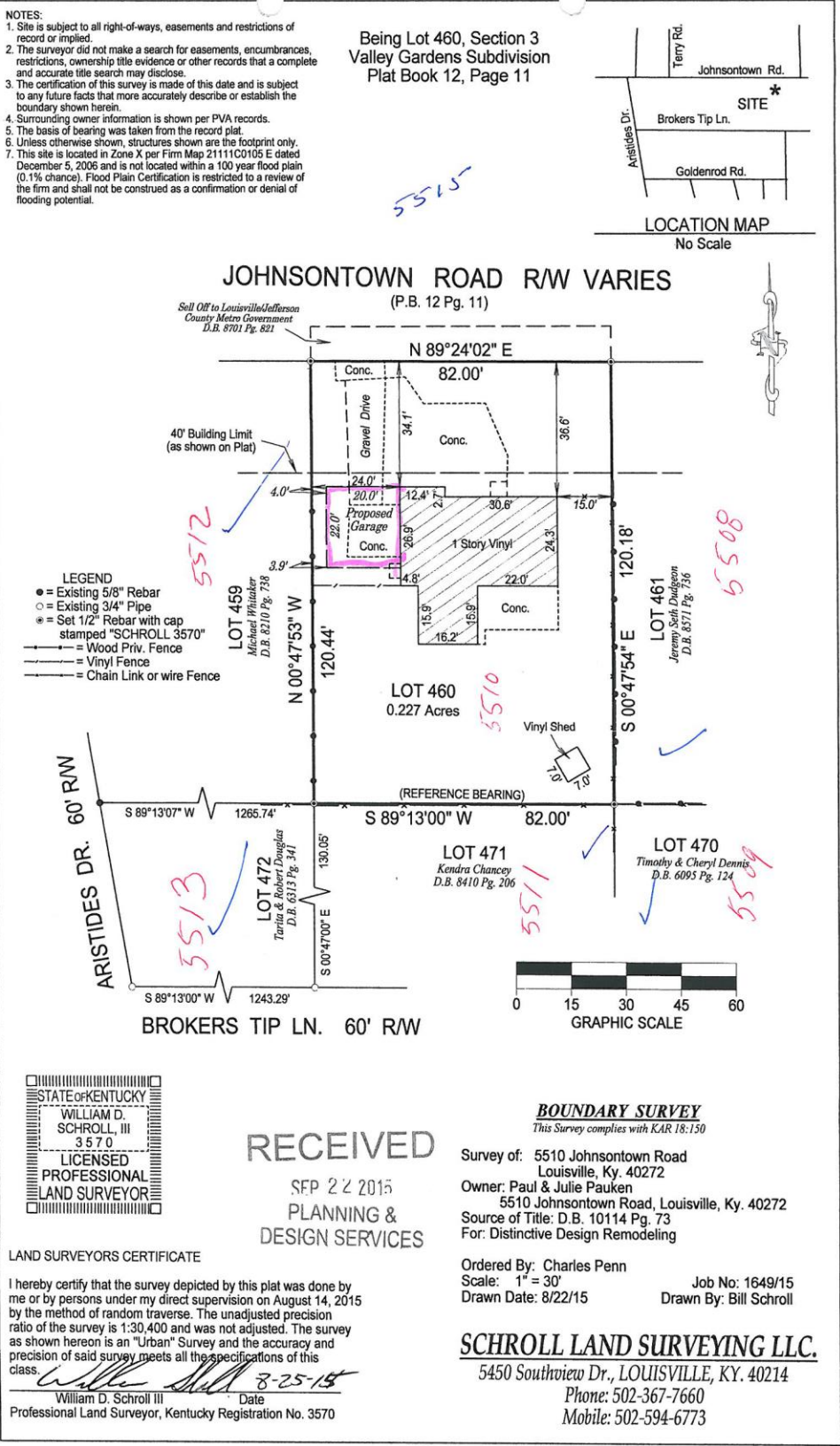
Attachment 1: Zoning Map



Attachment 2: Aerial Photograph



Attachment 3: Site Survey



STATE OF KENTUCKY
WILLIAM D. SCHROLL, III
3 5 7 0
LICENSED PROFESSIONAL LAND SURVEYOR

RECEIVED
SEP 22 2015
PLANNING & DESIGN SERVICES

BOUNDARY SURVEY
This Survey complies with KAR 18:150

Survey of: 5510 Johnsonstown Road
Louisville, Ky. 40272
Owner: Paul & Julie Pauken
5510 Johnsonstown Road, Louisville, Ky. 40272
Source of Title: D.B. 10114 Pg. 73
For: Distinctive Design Remodeling

Ordered By: Charles Penn
Scale: 1" = 30'
Drawn Date: 8/22/15
Job No: 1649/15
Drawn By: Bill Schroll

LAND SURVEYORS CERTIFICATE

I hereby certify that the survey depicted by this plat was done by me or by persons under my direct supervision on August 14, 2015 by the method of random traverse. The unadjusted precision ratio of the survey is 1:30,400 and was not adjusted. The survey as shown hereon is an "Urban" Survey and the accuracy and precision of said survey meets all the specifications of this class.

William D. Schroll III 8-25-15
Date
Professional Land Surveyor, Kentucky Registration No. 3570

SCHROLL LAND SURVEYING LLC.
5450 Southview Dr., LOUISVILLE, KY. 40214
Phone: 502-367-7660
Mobile: 502-594-6773

KAR 18:150

Attachment 5: 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.

This project in NO WAY will Adversely Affect public health, safety, or welfare of the general public. IN THIS AREA

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

The project will NOT ALTER THE CHARACTER BUT will actually Enhance the Visual Appeal of the community

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

This project will NOT CAUSE A hazard but will Add To The Safety & Well being of Their children.

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

This subdivision has Copious Amounts of concrete Black Top AND GARAGES. The only difference will be garage location AND much more added green space.

RECEIVED

SEP 22 2015

PLANNING & DESIGN SERVICES

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).

This house is located directly across from a school. The project will ^{act} AS A safety barrier from the school students as well as protection for the small children in the family

- 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.

By NOT building AS PLANNED IT would cause the HOMEOWNER TO SCRAP THE GARAGE OR USE A large % of the green space on his property.

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

HOMEOWNER HAS NO CAUSATIONAL ACTION Sought by This relief

VARIANCE doc

Attachment 6: Site Photographs



Front of the existing house



West side yard from front of house



West side yard from front of house



West side yard from rear of house



West side yard from rear of house