

Board of Zoning Adjustment
Staff Report
 August 30, 2021



Case No:	21-VARIANCE-0103
Project Name:	Wingate Road Variance
Location:	4317 Wingate Road
Owner/Applicant:	Laura Fowler
Jurisdiction:	Woodlawn Park
Council District:	7 – Paula McCraney
Case Manager:	Jon E. Crumbie, Planning & Design Coordinator

REQUESTS:

Variance from Land Development Code section 5.4.2.C.3.a. to allow an existing detached garage to encroach into the required side yard setback.

Location	Requirement	Request	Variance
East Side Yard	2.0 ft.	1.3 ft.	0.7 ft.

CASE SUMMARY/BACKGROUND

The applicant is asking to allow an existing detached garage to encroach into the required east side yard setback. A detached garage was built along with the original house in the 1950's. The detached garage was demolished and replaced in 2015.

STAFF FINDINGS

Staff finds that the requested variance meets standards (b), (c), and (d), but staff is concerned that the variance request does not meet standard (a) because maintenance of the detached garage may have an adverse impact on the adjoining property owner.

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 section 5.4.2.C.3.a. to allow an existing detached garage to encroach into the required side yard setback.

TECHNICAL REVIEW

The owner/applicant can't trespass onto the adjacent property without the owners consent regardless of the Boards decision on the variance request.

INTERESTED PARTY COMMENTS

No interested party comments were received by staff.

RELATED CASES

No related cases.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.1.10.F

- (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, because the detached garage is existing and has been in place for a number of years; however, staff is concerned that the variance could adversely affect the adjacent property owner because maintenance of the structure may require encroachment onto the property.

- (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 detached garage has been in place since 2015.

- (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 has been in place since 2015.

- (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 the encroach is only 0.7 feet.

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 which do generally apply to the land in the generally vicinity or the same zone as the lot is similar in size and shape as the surrounding properties.

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 as the detached garage would have to be moved.

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 since they built the detached garage on an existing foundation that has been in place for a number of years.

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.

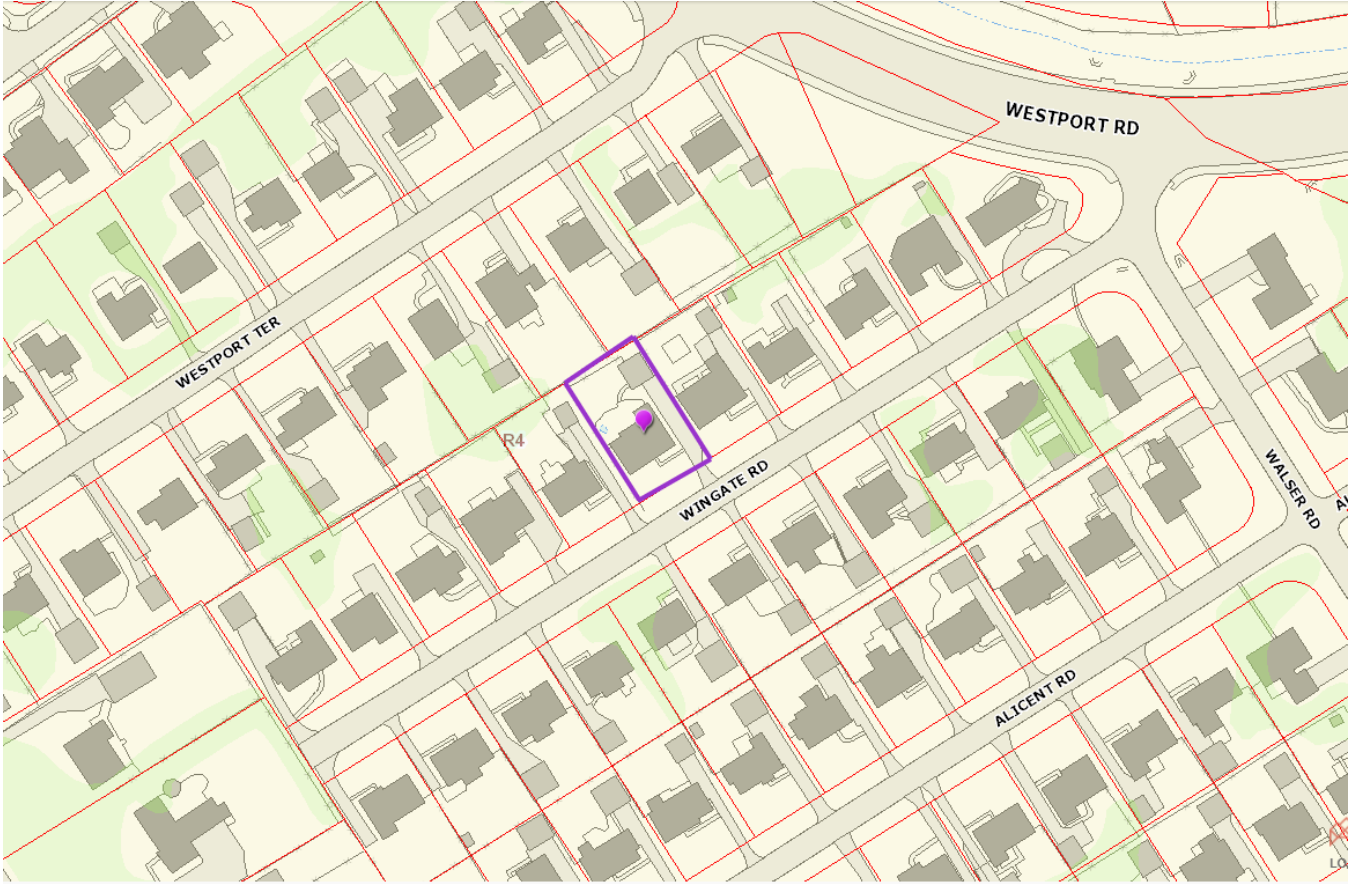
NOTIFICATION

Date	Purpose of Notice	Recipients
8/13/2021	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 7
8/17/2021	Hearing before BOZA	Notice posted on property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan

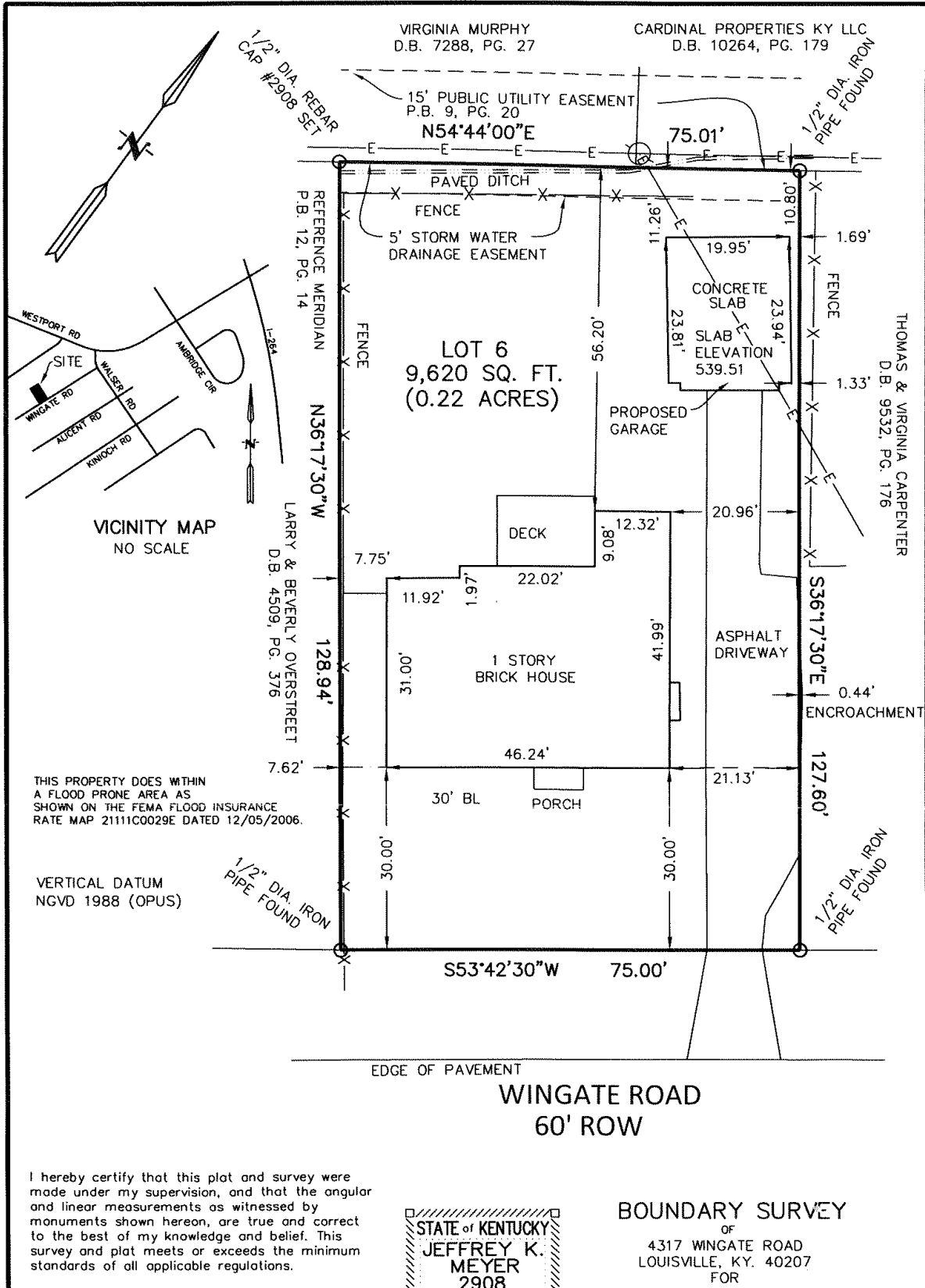
1. Zoning Map



2. Aerial Photograph



3. Site Plan



I hereby certify that this plat and survey were made under my supervision, and that the angular and linear measurements as witnessed by monuments shown hereon, are true and correct to the best of my knowledge and belief. This survey and plat meets or exceeds the minimum standards of all applicable regulations.

STATE OF KENTUCKY
 JEFFREY K.
 MEYER
 2908

BOUNDARY SURVEY
 OF
 4317 WINGATE ROAD
 LOUISVILLE, KY. 40207
 FOR