

# Board of Zoning Adjustment Staff Report

Decemebr 5, 2016



<b>Case No:</b>	16VARIANCE1091
<b>Request:</b>	Variance to reduce the private yard are to less than the required 20% of the total lot area.
<b>Project Name:</b>	351 Hillcrest Avenue Variance
<b>Location:</b>	351 Hillcrest Avenue
<b>Area:</b>	.14750 acres
<b>Owner:</b>	Michael Fallot – Pine Grove Design & Development
<b>Applicant:</b>	Michael Fallot – Pine Grove Design & Development
<b>Representative:</b>	Kathy Matheny – Cardinal Surveying
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	9 – Bill Hollander
<b>Case Manager:</b>	Ross Allen, Planner I

## REQUEST

- **Variance:** from the Land Development Code section 5.4.1.D.2 to reduce the private yard area to less than the 30% of the total lot area.

Location	Requirement	Request	Variance
<b>Private Yard Area (30% of total lot area)</b>	<b>1,880.7 sf.</b>	<b>1,033 sf. (55%)</b>	<b>847.7 sf. (45%)</b>

### CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing to construct a 22' x 24' two car garage at the rear of the property abutting an alley with a 20 foot right of way. As a result of the garage the applicant will need to reduce the private yard area by approximately 847.7 sf or 45% of what would be required for 30% of the lot area. A previous case, 16VARIANCE1024 was withdrawn that had a private yard area reduction and a side yard variance for an existing garage and an addition to the rear of the principal structure, that case was withdrawn when the applicant decided to reduce the deck to meet LDC side yard setback and demolition of the existing one car garage. The subject parcel is irregularly shaped having a 50' frontage along Pennsylvania Ave. and both side property lines tail off towards the rear property line with a width 25'. The proposed garage meets both side yard and rear yard setbacks for accessory structures.

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

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing</b>	Single Family Residential	R-5	Traditional Neighborhood
<b>Proposed</b>	Single Family Residential	R-5	Traditional Neighborhood
<b>Surrounding Properties</b>			
<b>North</b>	Single Family Residential	R-5	Traditional Neighborhood
<b>South</b>	Single Family Residential	R-5	Traditional Neighborhood
<b>East</b>	Single Family Residential	R-5	Traditional Neighborhood
<b>West</b>	Single Family Residential	R-5	Traditional Neighborhood

## PREVIOUS CASES ON SITE

16VARIANCE1026: withdrawn, private yard area variance and a side yard variance as a result of an enclosed deck addition onto the rear of the principal structure. Applicant demolished the existing garage (May 2016) in order to meet private yard area and also reduced the rear deck addition in order to comply with required setbacks and private yard area.

## INTERESTED PARTY COMMENTS

No comments were received from concerned citizens.

## APPLICABLE PLANS AND POLICIES

Land Development Code (Oct. 2016)

## STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

- (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 since the proposed garage will be approximately 9.35 feet at the shortest distance from the alley and at is longest 16.89 feet. Both side yard setbacks are met by LDC requirements (2 feet for an accessory structure) and the garage is located interior to the subject site.

- (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 since five homes along the same block have garages in the rear of their property facing the alley. Applicant states that the new garage will be in character with the remodeled house and other properties have similar garages.

- (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 since the garage is setback approximately at the shortest distance by 9.35 feet from the alley. Applicant states that the private yard area reduction would be similar in size to the neighboring properties and the garage will help to alleviate congestion along Pennsylvania Ave.

- (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 since the proposed garage meets applicable side yard setback and rear yard setback requirements. Applicant states many neighbors in the general area have garages or parking pads on similar sized lots and that the garage will stay in character with the area.

## 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 since the irregular shape of the applicants parcel has a 50' foot wide frontage along Pennsylvania Ave. and narrows to 25' along the rear property line abutting the

alley. The applicant had demolished an existing garage, defined as obsolete in the justification, which was situated in the center rear of the rear yard and the proposed replaces the previous 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 application of the provisions of the regulation would create an unnecessary hardship on the applicant since the property previously had a one car garage which was situated towards the center of the rear yard and failure to approve the variance would deprive the applicant of a garage which other residences in the general vicinity/same block face have at the rear of their properties.

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 since the subject property previously had a garage that would have met applicable code at the time of construction, "grandfathered", so the proposed garage is replacing the previous garage.

### TECHNICAL REVIEW

- None

### STAFF CONCLUSIONS

The variance request appears to be adequately justified and meets the standard of review. 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 standard of review for granting a variance as established in the Land Development Code (Oct. 2016) from section 5.4.1.D.2 to allow a an 22' x 24' one story garage to reduce the private yard area by approximately 847.7 square feet, a reduction of approximately 45% of the required private yard area (30% of the total lot area).

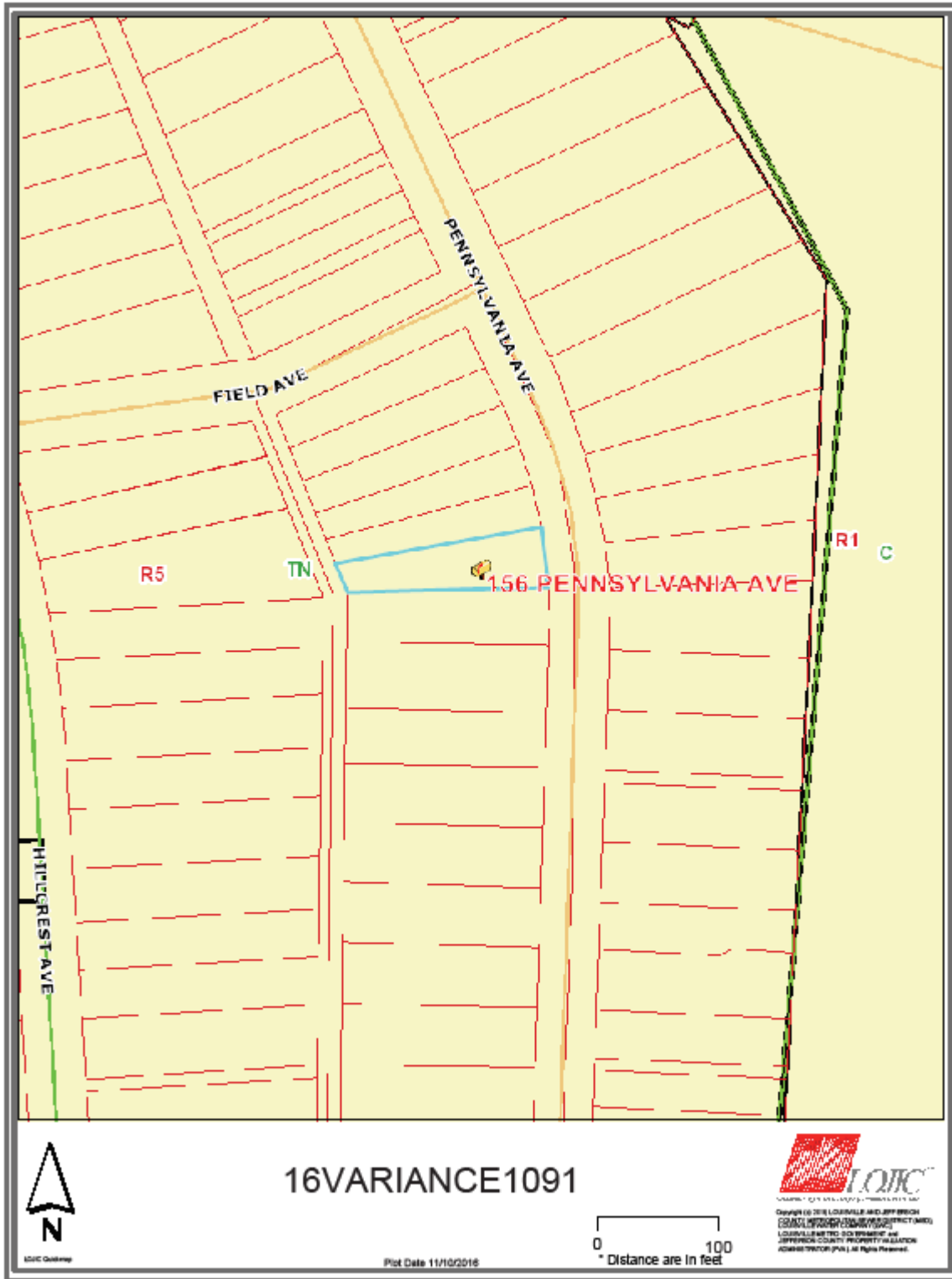
### NOTIFICATION

Date	Purpose of Notice	Recipients
November 18, 2016	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Subscribers of Council District 9 Notification of Development Proposals
November 25, 2016	Sign Posting for BOZA	Sign Posting on property

### ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

