

Board of Zoning Adjustment
Staff Report
 September 4, 2018



Case No:	18VARIANCE1066
Project Name:	Evergreen Place Court Variance
Location:	521 Evergreen Place Court
Owner(s):	Mathew McCluggage
Applicant Representative:	Charles Penn – Distinctive Design
Jurisdiction:	City of Middletown
Council District:	19 – Julie Denton
Case Manager:	Chris French, AICP, Planning Supervisor

REQUEST

- **Variance:** from City of Middletown Land Development Code table 5.3.1 for a proposed attached garage to encroach 13.4 ft. into the 30 ft. Front/Street Side Yard setback for an R-4 zoned parcel within a Neighborhood Form District.

Location	Requirement	Request	Variance
Variance: Front/Street Side Yard Setback	30 ft.	16.6 ft.	13.4 ft.

CASE SUMMARY/BACKGROUND

The subject property is located in eastern Louisville Metro within the City of Middletown on a .2977 acre R-4 zoned parcel within a Neighborhood Form District. The subject site is unique in that the parcel has a property line stretching along Evergreen Place Court beginning from a northern direction and curving in a south/southeastern direction for an approximate distance of 281.09 ft. The owner is proposing to construct an additional attached garage on the eastern portion of the single family home off the existing concrete driveway. The single family residential home is situated on the parcel with the front facing the northern direction and having an existing concrete driveway leading from Evergreen Place Court to the existing attached garage in an east/west direction. The proposed attached garage addition will be constructed south of the driveway adjacent to the existing concrete driveway. The front/street side yard setback as established in the City of Middletown LDC requires a 30 ft. setback, which the proposed attached garage would encroach into by approximately 13.4 ft. along the eastern front/street side yard setback. Additionally, plat book (book 39, page 46) for the subdivision indicates that the 30 ft. build limit line will need to be altered via a minor subdivision plat.

RELATED CASES

No related cases

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 City of Middletown Land Development Code 5.3.1; table 5.3.1 for a proposed attached garage to encroach 13.4 ft. into the 30 ft. Front/Street Side Yard setback for an R-4 zoned parcel within a Neighborhood Form District.

Condition of Approval:

#1) The applicant shall submit and record a minor subdivision plat to shift the 30 ft. build limit line on this parcel as shown in plat book 39 page 46.

TECHNICAL REVIEW

Evergreen Place Subdivision, plat book 39, page 46, would require the applicant to submit a minor subdivision plat to alter the existing 30 ft. build limit line.

INTERESTED PARTY COMMENTS

No interested party comments were received.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE: from the City of Middletown Land Development Code 5.3.1; table 5.3.1 for a proposed attached garage to encroach 13.4 ft. into the 30 ft. Front/Street Side Yard setback for an R-4 zoned parcel within a Neighborhood Form District.

(a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The proposed attached garage will be located on the eastern side of the existing home south of the existing driveway. The proposed attached garage will also be located interior, west of an existing tree in the street side yard meaning it is partially screened. No impacts would be present to the neighboring properties within or along Evergreen Place Court.

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

STAFF: The proposed attached garage will be located on the eastern side of the existing home south of the existing driveway. The proposed attached garage will also be located interior, west of an existing tree in the street side yard meaning it is partially screened. No impacts would be present to the neighboring properties within or along Evergreen Place Court.

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

STAFF: Staff finds that the proposed garage will pose no hazard or nuisance to the public since the proposed garage is located interior to the owner's property and is approximately 341 sq. ft. in size as attached to the existing residential dwelling southwest of the existing attached garage.

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

STAFF: As stated earlier in the staff report the lot is almost on a peninsula and having the entire frontage and street side yard being continuous along Evergreen Place Court. The record plat for the subdivision has no statements that would not allow for such an addition to the property and the applicant is using the existing driveway from Evergreen Place Court helping requiring no new curb cut.

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: Most garages in the area are attached but staff is not aware of whether the attached garages are any larger or smaller than the subject site. The attached garage as proposed will result in the subject site having two attached garages using the same driveway entrance which may be unique to the neighborhood.

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 deprive the applicant of reasonable use of the land. The applicant has stated that the proposed attached garage will match the existing home, use the existing driveway, and is partially screened from existing trees on the subject site.

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 taken subsequent to the adoption of the zoning regulation from which relief is sought since the applicant is requesting relief from the City of Middletown LDC 5.3.1; table 5.3.1 for a proposed attached garage to encroach 13.4 ft. into the 30 ft. Front/Street Side Yard setback.

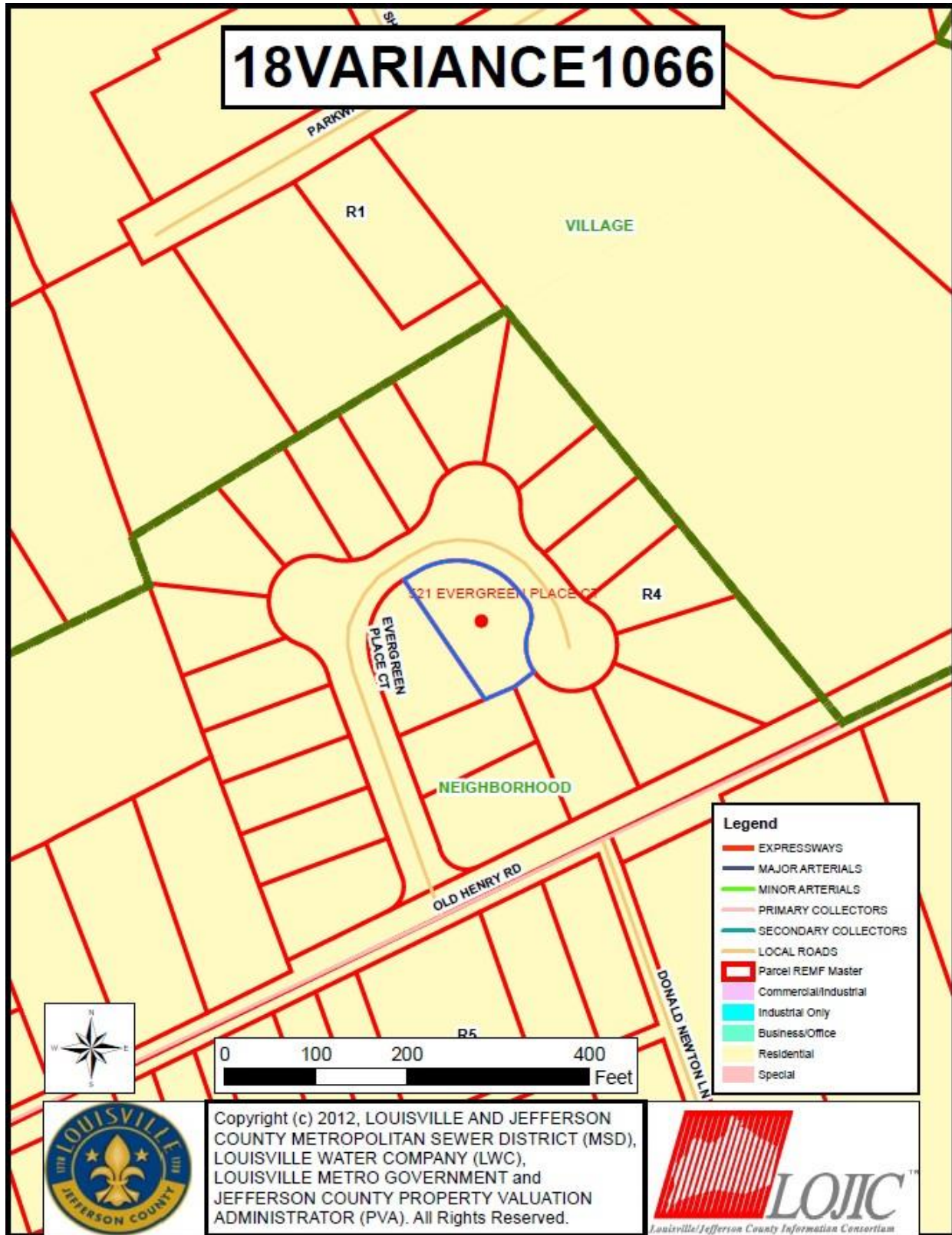
NOTIFICATION

Date	Purpose of Notice	Recipients
08/16/2018	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 19
08/23/2018	Hearing before BOZA	Notice posted on property

ATTACHMENTS

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

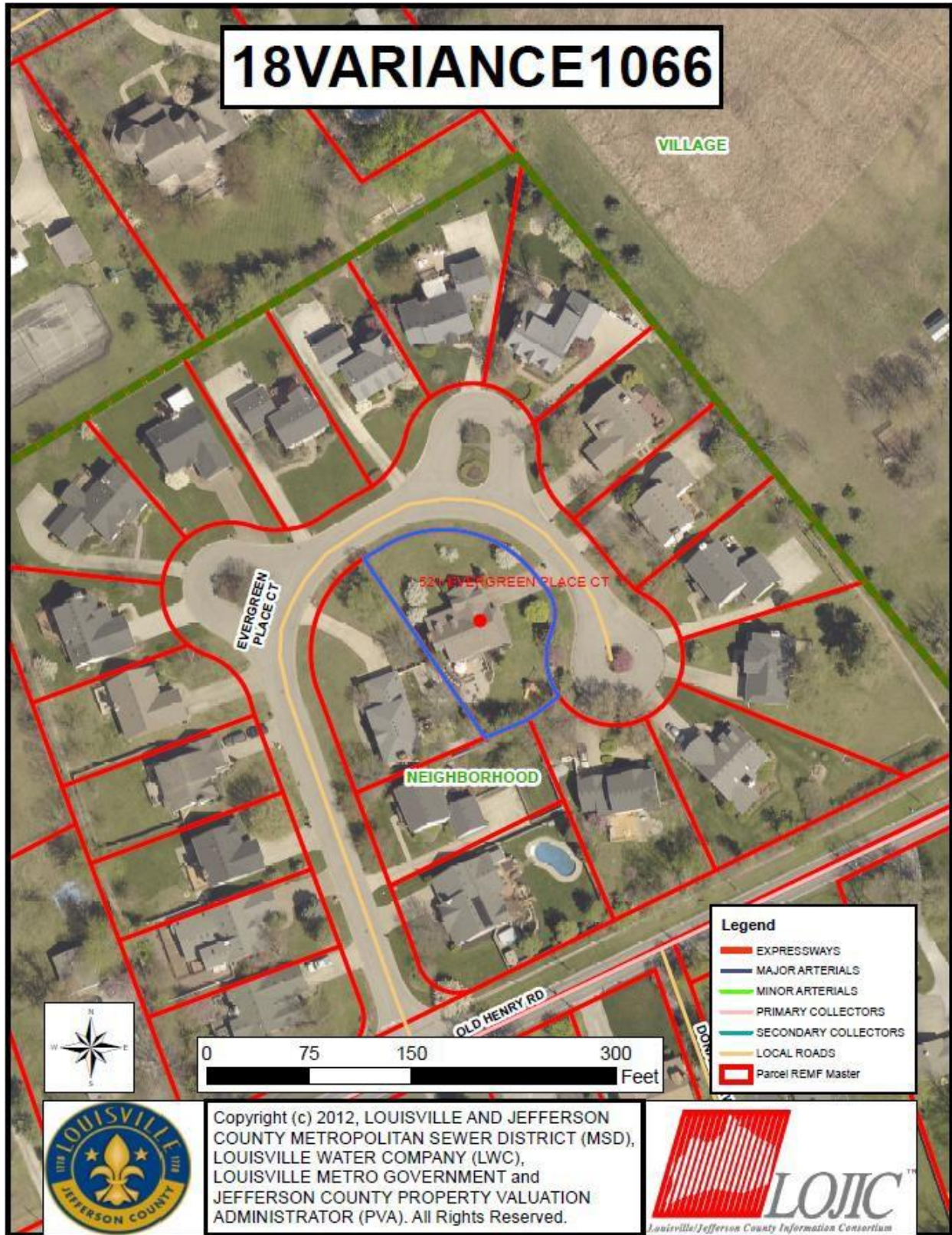
1. Zoning Map



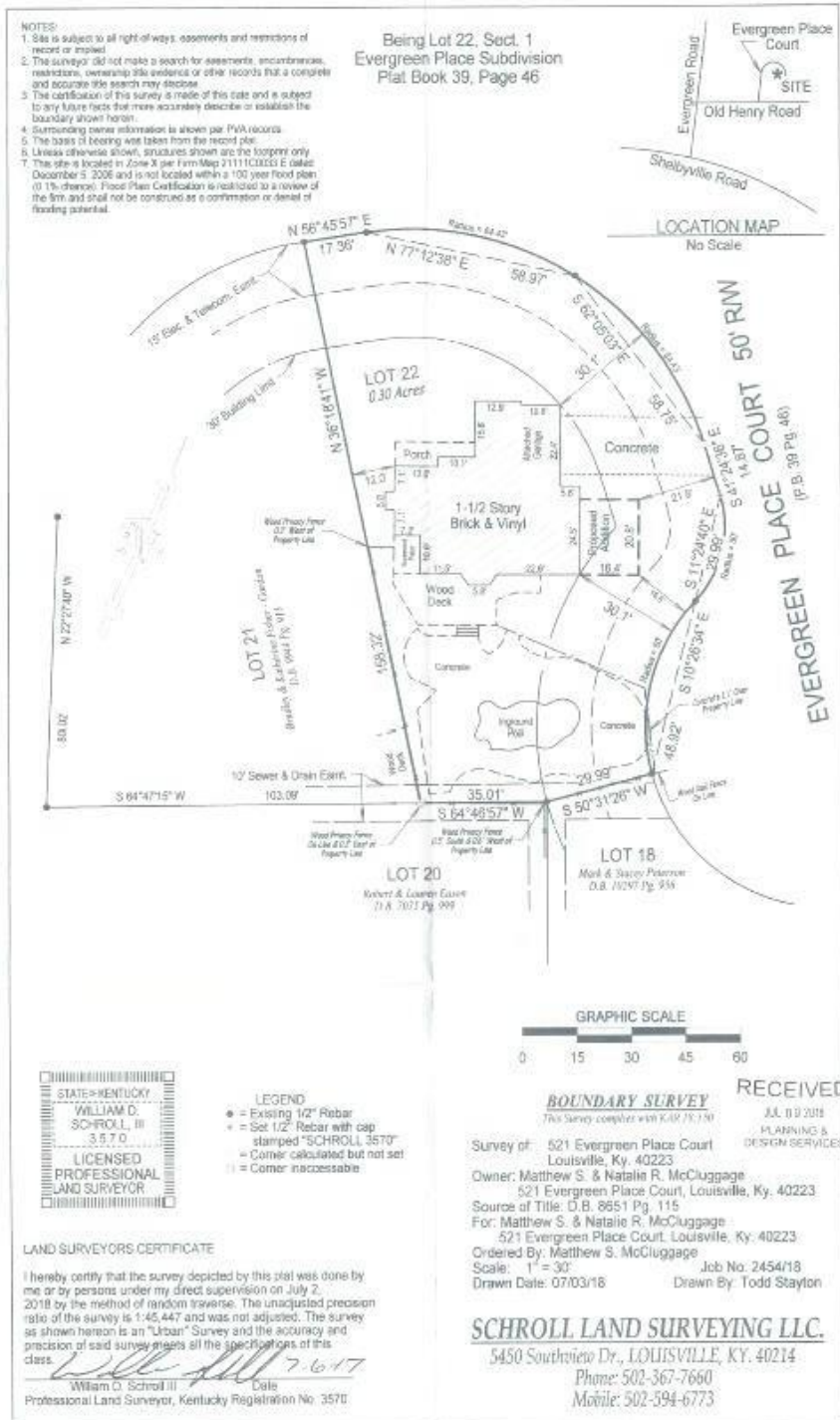
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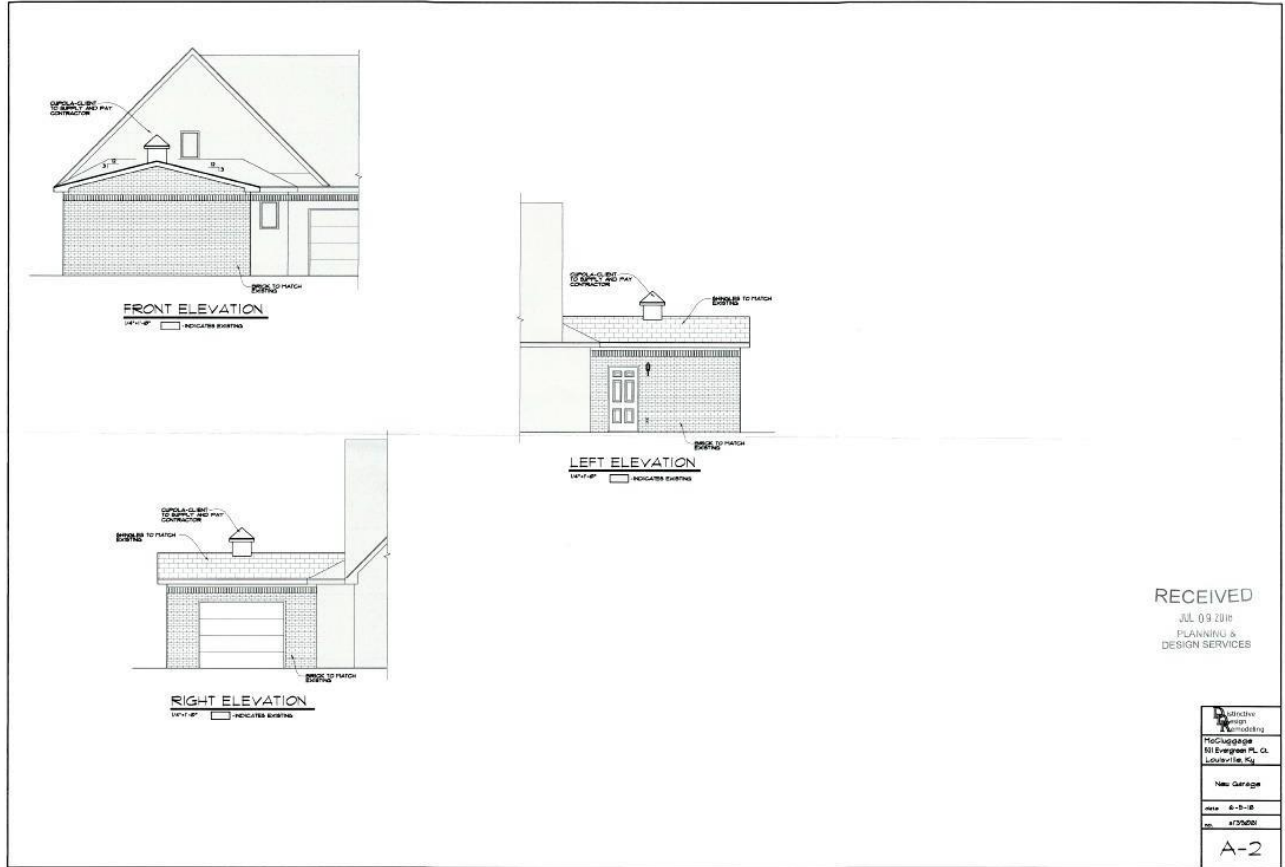
2. Aerial Photograph



3. **Site Plan**



4. **Elevation**





Front of the subject property.



Front of the subject property showing Evergreen Place Court.



Side of subject property.



Side of subject property showing existing driveway.



Location of proposed additional garage.



Location of proposed garage looking north.



Existing trees on the street side property line.



Existing trees on the street side property line looking north.



Public Hearing notice sign.