

Board of Zoning Adjustment Staff Report

March 20, 2017



Case No:	17VARIANCE1008
Request:	Variance from the required 30' street side yard setback and variance to allow a fence to exceed the 4' height limitation in a street side yard
Project Name:	3947 Grandview Ave Garage and Fence
Location:	3947 Grandview Ave
Area:	.3318 Acres
Owner:	Craig Rabeneck
Applicant:	Craig Rabeneck
Representative:	Craig Rabeneck
Jurisdiction:	City of St. Matthews
Council District:	9 – Bill Hollander
Case Manager:	Dante St. Germain, Planner I

REQUEST

- Variance from City of St. Matthews Development Code section 4.6.C.2.c for a garage to encroach into the required street side yard.
- Variance from City of St. Matthews Development Code section 9.1.B.1.a for a fence to exceed 4' in height in a street side yard.

Location	Requirement	Request	Variance
Street Side Yard Setback	30 ft.	15 ft.	15 ft.
Fence in Street Side Yard	4 ft.	6 ft.	2 ft.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant proposes an 816 square foot single-story garage to the rear of the subject property. There is an existing 1 ½ story residence on the lot, as well as an existing structure in the rear that is proposed to be used as a hobby studio and a guest bedroom. The subject property is 90 feet in width and 161 feet deep, for a total area of 14,490 square feet in area. The applicant proposes the new garage to be roughly in line with the residence, which is 13.38 feet from the street side property line, with the garage being 15 feet from the property line. The garage will be accessed from the alley at the rear of the property. Development Code section 4.6.C.2.c requires a street side yard of 30 feet. The applicant requests a variance of 15 feet to encroach into the street side yard.

The applicant further proposes a solid privacy fence approximately 3 feet from the street side property line. The fence is proposed to be 6 feet in height. Development Code section 9.1.B.1.a limits a fence in a required street side yard to 4 feet in height. The applicant requests a variance of 2 feet to build a fence 6 feet tall. The applicant has stated that he wants to ensure privacy from the two-story multi-family condos across Fairfax Avenue, and has agreed to keep the end of the fence 20 feet from the rear alley so as not to obstruct sight lines for vehicles turning out of the alley onto Fairfax.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<i>Subject Property</i>			
Existing	Single-Family Residential	R-4	Town Center
Proposed	Single Family Residential	R-4	Town Center
<i>Surrounding Properties</i>			
North	Single-Family Residential & Multi-Family Residential	R-4 & OR-3	Town Center
South	St. Matthews Eline Branch Library	OR-3	Town Center
East	Single-Family Residential & Multi-Family Residential	R-5 & OR-3	Town Center & Neighborhood
West	Single-Family Residential	R-4	Town Center

PREVIOUS CASES ON SITE

B-64-90

A request for variances for the existing structures on the property to encroach into the required yards was withdrawn.

INTERESTED PARTY COMMENTS

Soni Castleberry called staff to inquire as to details about the variance requests.

APPLICABLE PLANS AND POLICIES

Development Code for the City of St. Matthews.

**STANDARD OF REVIEW AND STAFF ANALYSIS
FOR VARIANCE FROM SECTION 4.6.C.2.c**

- (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 garage will be in line with the existing residence on the property, which has caused no known adverse effects.

- (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 there are other garages in the area which encroach into the required yards.

- (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 be set back far enough from the right-of-way to not obstruct vision for drivers emerging from the alley.

- (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 garage will be placed in line with the primary structure.

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 arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as most nearby corner lots have a different zoning district and therefore have different setback requirements.

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 preventing the applicant from aligning the garage with the existing residence.

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 existing primary structure was built in 1924, prior to the adoption of the zoning regulation.

**STANDARD OF REVIEW AND STAFF ANALYSIS
FOR VARIANCE FROM SECTION 9.1.B.1.a**

- (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 fence will be 20 feet from the rear property line so as not to interfere with visual clearance at the alley.

- (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 there are other fences in the area which are of a similar height.

- (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 fence will not obstruct vision at the alley and is needed to provide privacy.

- (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 fence is needed for privacy in the back yard.

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 arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the properties across Fairfax Avenue face the subject

property's rear yard, a circumstance that is not present for the other residential corner lots in the vicinity.

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 preventing the applicant from providing privacy to the back yard of the property.

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 taken subsequent to the adoption of the zoning regulation from which relief is sought as a variance has been requested and no fence has yet been built.

TECHNICAL REVIEW

- No technical review undertaken.

STAFF CONCLUSIONS

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 standards for granting variances established in the Development Code from section 4.6.C.2.c allowing the street side yard to be less than 30 feet, and from section 9.1.B.1.a to allow a fence in the street side yard to exceed 4 feet.

NOTIFICATION

Date	Purpose of Notice	Recipients
03-02-2017	Public Hearing before BOZA	1 st tier adjoining property owners Subscribers of Council District 9 Notification of Development Proposals
03-03-2017		Sign posted on property

ATTACHMENTS

1. Zoning Map
2. Aerial
3. Site Plan
4. Elevations
5. Site Photos
6. Photos Submitted by Applicant

1. Zoning Map



3947 Grandview Ave

feet

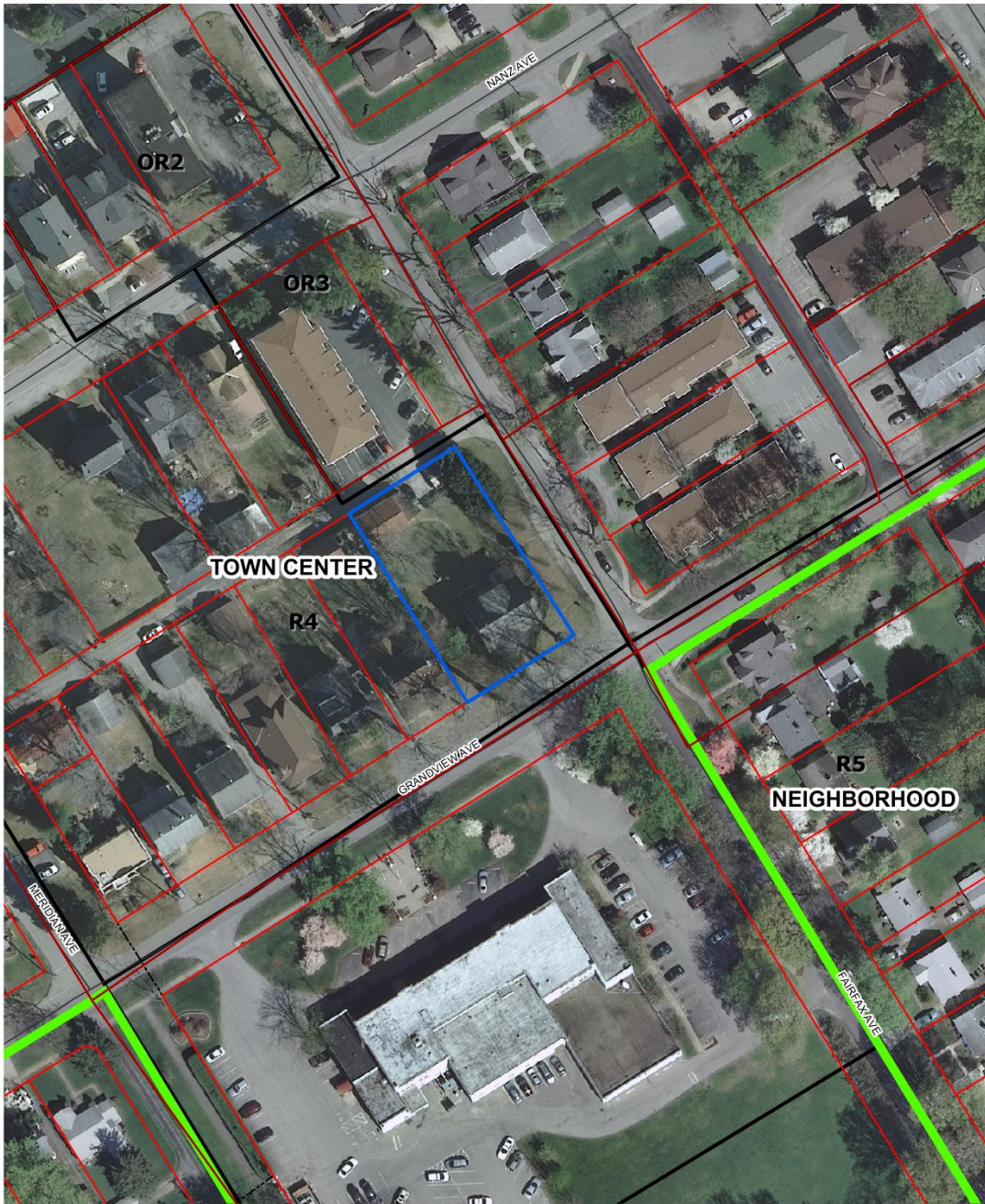
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Map Created: 3/8/2017

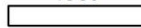


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2. Aerial



3947 Grandview
feet



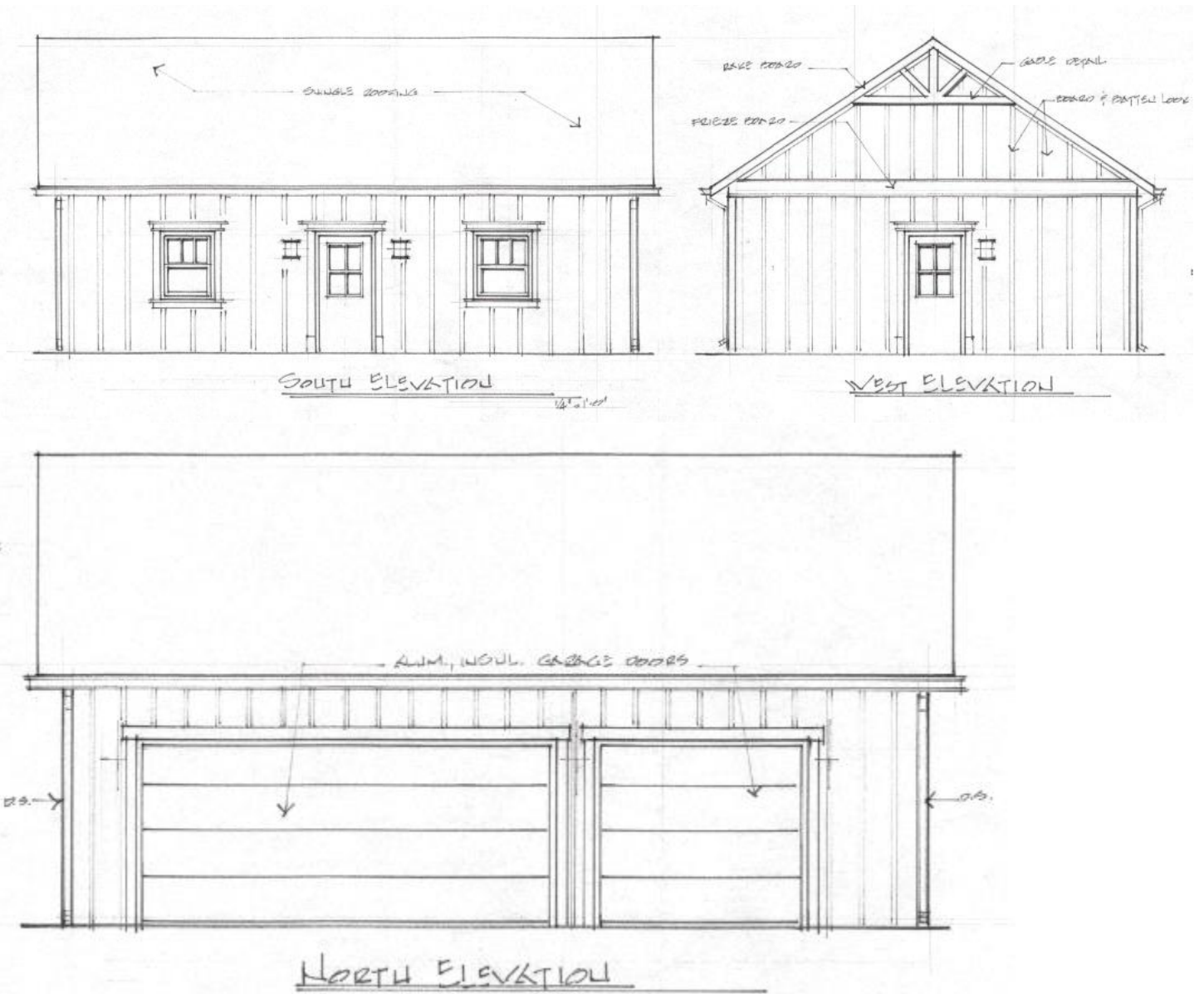
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Map Created: 3/8/2017



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4. Elevations



5. Site Photos



The front of the house.



Looking at the rear of the house where the fence and garage are proposed.



The rear of the house where the garage is proposed.



The side of the house where the fence is proposed.



The corner of the property where the garage and fence are proposed.

6. Photos Submitted by Applicant















