

**Board of Zoning Adjustment
Staff Report**

March 7, 2016 (continued from Feb. 15, 2016)



Case No:	16VARIANCE1001
Request:	Rear Yard/Street Side Yard Setback variance
Project Name:	1627 Ruth Avenue
Location:	1627 Ruth Avenue
Owner:	Mary Anne Hauck
Applicant:	Brad Abell
Representative:	Brad Abell
Jurisdiction:	Louisville Metro
Council District:	8 – Tom Owen
Case Manager:	Ross Allen, Planner I

REQUEST

Variations from LDC sections 5.4.2.C.1 and section 5.4.2.D.3.a.

- Variance 1: to allow an encroachment into the Side yard setback (Principal Structure) by .1 ft. or 1.2 inches.
- Variance 2: to allow an encroachment into the Rear Yard Setback (Accessory Structure) by 1 foot.

Variations

Location	Requirement	Request	Variance
Side Yard Setback (Principal Structure)	3 ft.	2.9 ft.	.1 ft
Rear Yard setback for accessory Structure	5 ft.	4 ft.	1 ft.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The property located at 1627 Ruth Avenue is zoned R-5 in a Neighborhood form district. The property is surrounded by residentially zoned properties. The applicant is proposing to construct a rear addition onto the principal structure that would encroach into the side yard setback and proposing to construct an accessory (garage) in the rear of the property which is located on a dead end alley.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

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

PREVIOUS CASES ON SITE

No related cases.

INTERESTED PARTY COMMENTS

No comments have been received from concerned citizens.

APPLICABLE PLANS AND POLICIES

Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES

Variance #1 Side Yard Setback

- (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 existing principal structure already has a setback of 2.9 ft. from the parcel boundary and adjacent properties rear yards abut the applicant's property with no encroachment into any other nearby structures.

- (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 the applicant's addition has architecturally similar features to the existing home.

- (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 principal structure has had a pre-existing setback of 2.9 ft. and is abutting other residential parcels that set perpendicular to the applicant's residence.

- (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 addition will allow a uniform setback with the principal structure and no construction of either proposed additions has taken place to date.

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 not generally apply to the land in the general vicinity or the same zone since the new addition to the rear of the principal structure will have a uniform setback.

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 the reasonable use of the land and create an unnecessary hardship on the applicant since the addition will allow additional square footage.

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 no construction has occurred on the proposed additions which the applicant is requesting relief.

Variance #2 Rear Yard Setback

- (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 alley in the rear of the proposed garage is a dead end and abuts the rear of a private 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 since the property to the northwest has an existing accessory structure located in the alley and the prior garage, now dilapidated and in disrepair, was constructed in the rear with less setback than the newly proposed garage the applicant is requesting.

- (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 proposed garage will be set back more than the current dilapidated structure on site. The current condition of the dilapidated garage on site is a greater hazard/nuisance than the proposed.

- (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 would remove an existing dilapidated garage and add a new concrete block garage to the rear of the property.

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 not generally apply to the land in the general vicinity or the same zone since two other structures currently exist within the gravel dead end alley.

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 the reasonable use of the land and create an unnecessary hardship on the applicant since the applicant is replacing an old dilapidated garage.

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 no construction for the proposed garage has taken place to date (2/10/2016).

TECHNICAL REVIEW

- Upon reviewing elevations for the proposed addition to the rear of the principal structure and having no design information for the proposed garage the primary contact was asked if both proposed additions would have gutters to divert water away from the applicant’s structure and adjacent properties, the representative stated “yes”.

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 Land Development Code sections 5.4.2.C.1 and section 5.4.2.D.3.a.

Variance 1: a variance from the minimum 3 foot side yard setback due to the proposed addition onto the rear of the principal structure. Staff has determined it meets the standard of review.

Variance 2: a variance from the minimum 5 foot rear yard setback for a proposed accessory structure. The applicant is requesting a 4 ft. setback. The applicant is proposing to teardown an existing wood barn at the rear of the property and replacing it with a new garage. Staff would recommend that the applicant move the accessory structure one foot further back when beginning new construction in order to meet the setback of 5 feet. In moving the structure back one foot the applicant shall need to move the accessory structure sufficient distance from the side yard setback 3 feet.

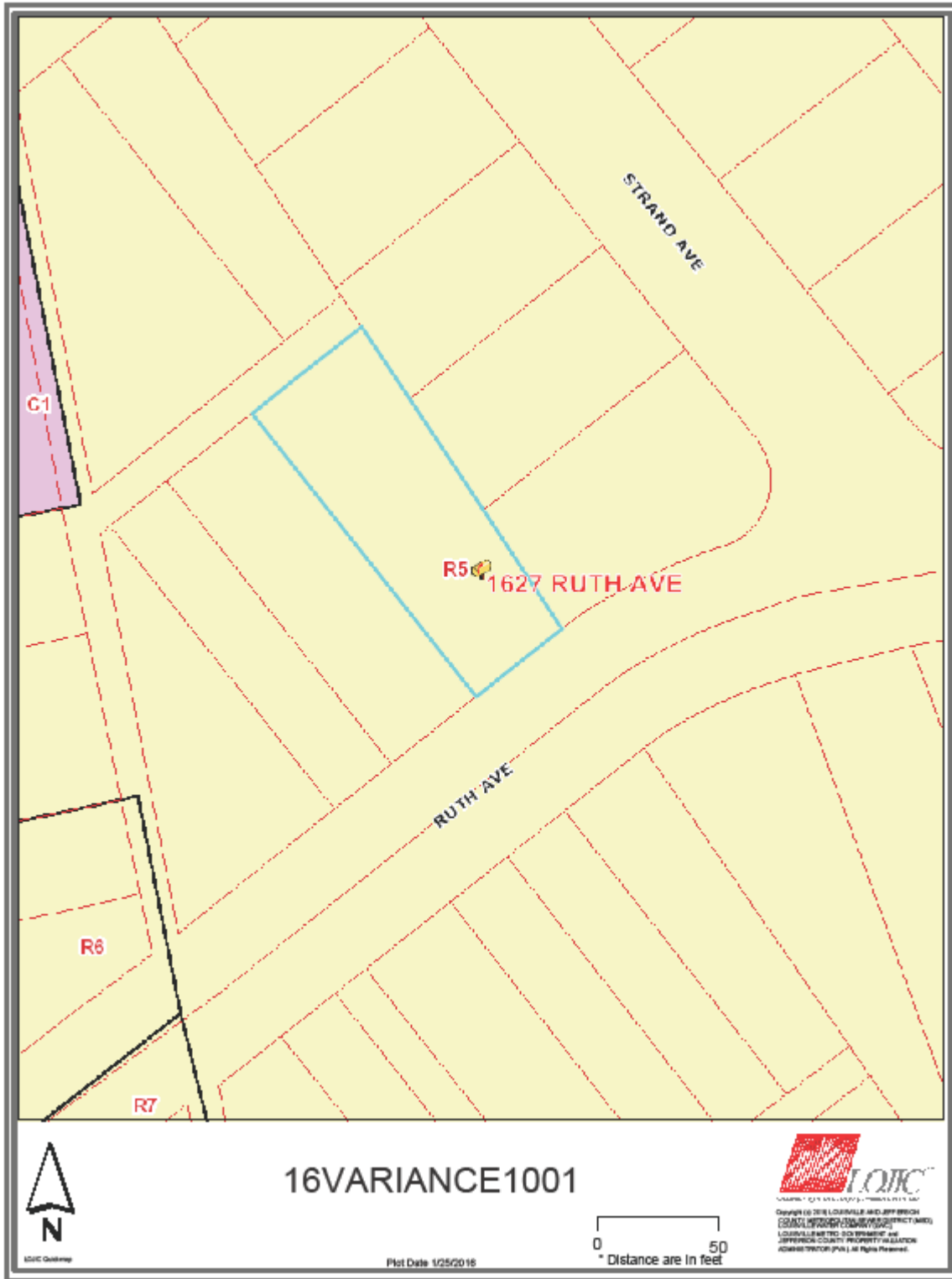
NOTIFICATION

Date	Purpose of Notice	Recipients
Jan. 29, 2016	Hearing before BOZA	1 st tier adjoining property owners
Jan. 29, 2016	Hearing before PC / BOZA	Sign Posting on property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Site Inspection Report

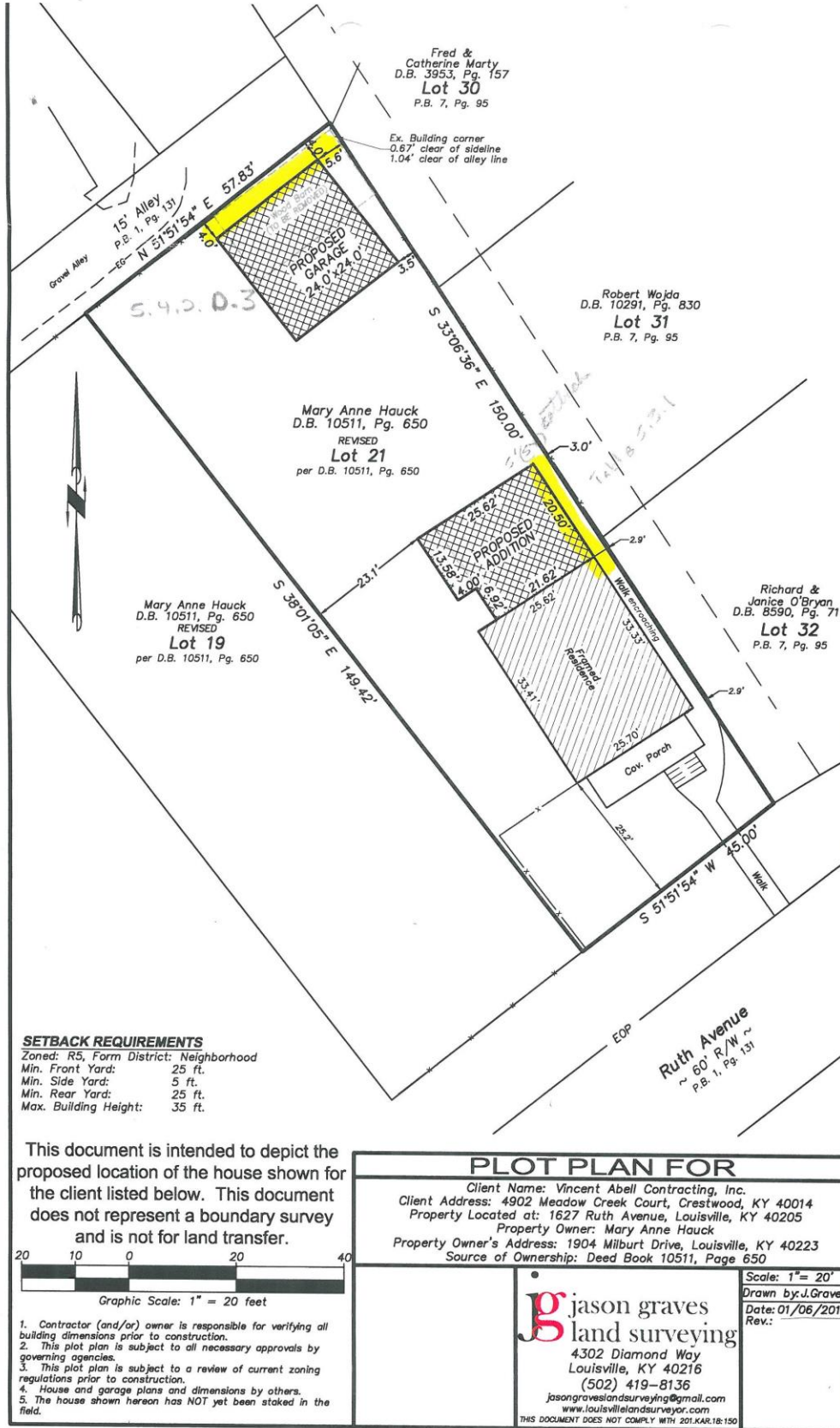
1. Zoning Map



2. Aerial Photograph



3. Site Plan



proposed addition
 sq ft. = 497.53 sq ft
 principal structure =
 853,9146 sq ft.

RECEIVED
 JAN 15 2016
 LAND SURVEYING &
 DESIGN SERVICES

16 VARIANCE 001

4. Site Inspection Report



Front of Principal Structure at 1627 Ruth Ave. (Looking NW)



Side Yard looking towards rear of property at the dilapidated garage. (looking NW)



Rear Yard where the proposed rear addition to the principal structure would be constructed. (Looking NE)



Rear Yard where the existing dilapidated garage has fell and where the proposed garage would be placed (looking N)



Rear yard of the property looking at a different angle (Looking NE) of the dilapidated garage to be replaced.



Looking at the rear of the principal structure where the new rear addition would be built. (Looking SE)



Looking down the Northeastern property line where the rear addition to the principal structure is proposed to be added. Providing an idea of distance from property line. (Looking SE)