

Board of Zoning Adjustment

Staff Report

June 26, 2023



Case No:	23-VARIANCE-0052
Project Name:	Wallace Avenue Variance
Location:	611 Wallace Avenue
Owner:	Jessica Farquhar and Mark Campbell
Applicant:	Mark Campbell
Jurisdiction:	City of St. Matthews
Council District:	9 – Andrew Owen
Case Manager:	Amy Brooks, Planner I

REQUESTS:

Variance from City of St. Matthews Development Code section 4.6.C.2.b to allow an accessory structure to encroach within the required side yard setback.

Variance from City of St. Matthews Development Code section 4.7.C.2.d to allow an accessory structure to encroach into the required rear yard setback.

Location	Requirement	Request	Variance
Side Yard Setback	6 ft.	3 ft.	3 ft.
Rear Yard Setback	25 ft.	5 ft	20 ft.

CASE SUMMARY/BACKGROUND

The subject property is zoned R-4 Residential Single Family and is in the Neighborhood Form District. It is located near the intersection of Wallace and Nanz Avenues in the City of St. Matthews. The site currently has a 1.5-story single-family residential structure with an existing garage. The applicant is proposing to construct a new garage that would encroach more than 30% into the required rear yard and be located 3 feet from the side property line.

The City of St. Matthews has no objection to the variance for the structural encroachment. However, their zoning regulations do not allow a business to be operated from an accessory structure and do not allow living quarters in an accessory structure. Therefore, the city proposes the following condition: if the variance is granted, the building shall not be used for a business nor occupied as living quarters.

STAFF FINDINGS

Staff finds that the requested variances are adequately justified and meet 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 St. Matthews Development Code to allow an accessory structure to encroach into the required side and rear yard setbacks.

TECHNICAL REVIEW

The applicant is required to obtain a building permit and the proposed addition or structure may require alterations to the proposed building plans in order to meet building code requirements.

INTERESTED PARTY COMMENTS

Staff received interested party comments from the City of St. Matthews.

RELATED CASES

No related cases

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 4.7.C.2.b (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, because the structure must be constructed to comply with all building codes, including fire codes.

- (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 proposed garage will be located in an area where minimal setbacks from the side property line are common. Please see site photos for neighborhood examples.

- (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 encroachment of the accessory structure into the side setback does not impede safe movement of vehicles or pedestrians.

- (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 accessory structure replaces an existing garage that currently encroaches more into the side setback than the proposed accessory structure.

ADDITIONAL CONSIDERATIONS:

- a. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or in the same zone.

STAFF: The requested variance does not arise from special circumstances which do generally apply to land in the general vicinity or the same zone as the property is similar in size and shape to other properties in the area.

- b. The strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would not create an unnecessary hardship on the applicant as the proposed addition to the principal structure could be modified to allow for 15 feet between the accessory structure and house. This separation would allow the proposed garage to encroach into the required side yard setback.

- c. Such special circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulations.

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 the applicant has not started construction and has applied for a variance.

- d. Reasons that the variance will not adversely affect the public health, safety and welfare, and will not alter the essential character of the general vicinity and will not cause a hazard or a nuisance to the public.

STAFF: The variance will not adversely affect the public health, safety and welfare, and will not alter the essential character of the general vicinity and will not cause a hazard or a nuisance to the public as it will be constructed to meet all building codes and there are similar setbacks in the area.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 4.7.C.2.d (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, because the structure must be constructed to comply with all building codes, including fire codes.

- (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 seemingly other accessory structures that encroach into the rear yard setback. These other accessory structures are within the same block as Wallace Avenue as indicated in the site photos.

- (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 structure must be constructed to comply with all building codes.

- (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 there is limited room between the principal structure and accessory structure to maintain the required setbacks from the rear property line.

ADDITIONAL CONSIDERATIONS:

- a. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or in the same zone.

STAFF: The requested variance does not arise from special circumstances which do generally apply to land in the general vicinity or the same zone as the property is similar in size and shape to other properties in the area.

- b. The strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would not create an unnecessary hardship on the applicant as the proposed addition to the principal structure could be modified to allow for 15 feet between the accessory structure and house. This separation would allow the garage to encroach into the required yards without the need for a variance.

- c. Such special circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulations.

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 applicant has not started construction on the addition.

- d. Reasons that the variance will not adversely affect the public health, safety and welfare, and will not alter the essential character of the general vicinity and will not cause a hazard or a nuisance to the public.

STAFF: The variance will not adversely affect the public health, safety and welfare, and will not alter the essential character of the general vicinity and will not cause a hazard or a nuisance to the public as it will be constructed to meet all building codes and there are similar setbacks in the area.

VARIANCE PLAN REQUIREMENT

In accordance with the St. Matthews Development Code Section 9.1.D Portions of this regulation that govern height, length, or setback requirements may be modified by the appropriate Board of Zoning Adjustment. The Board may grant a dimensional variance after a public hearing if the requirements of KRS 100.243 are found to be met.

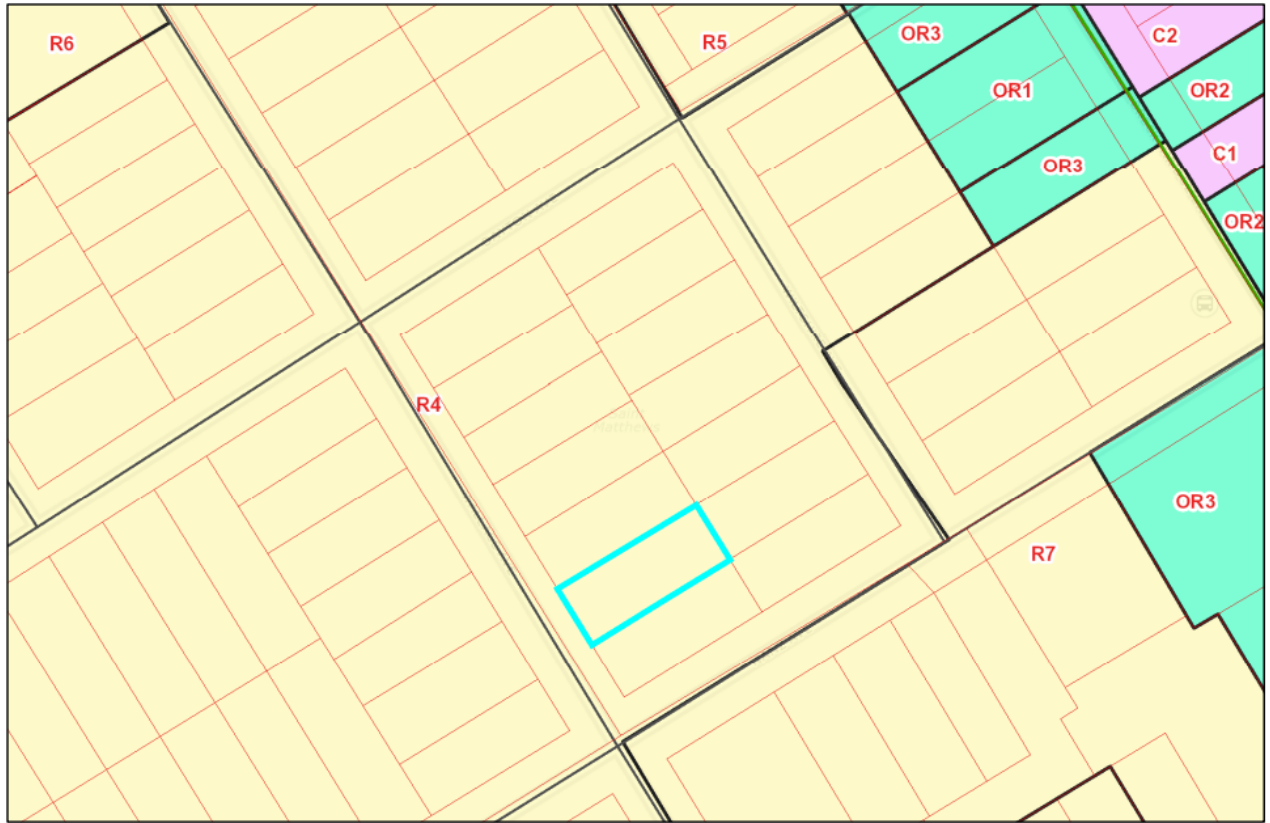
NOTIFICATION

Date	Purpose of Notice	Recipients
06/10/2023 06/12/2023	Hearing before BOZA	1 st tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 9
06/12/2023	Hearing before BOZA	Notice posted on property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Elevations
5. Site Photos

1. Zoning Map



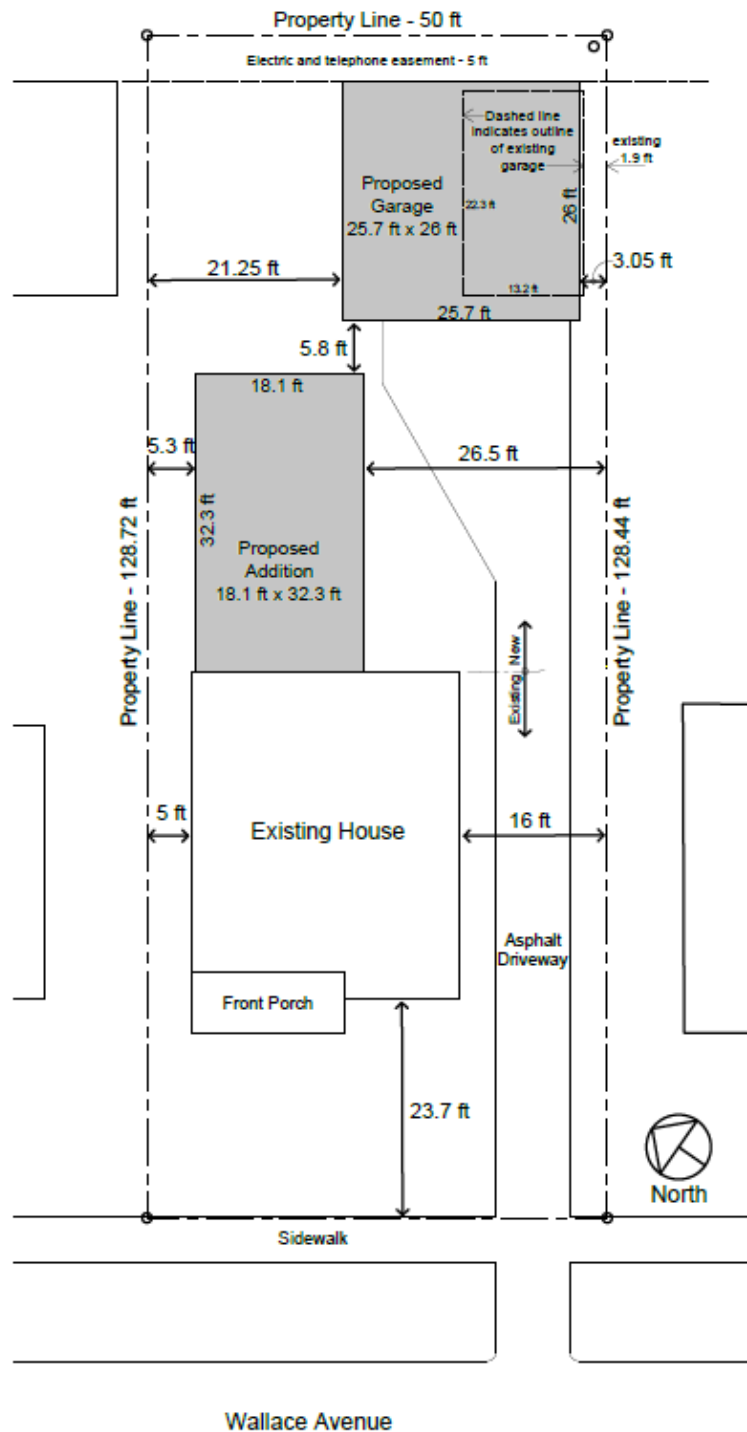
2. Aerial Photograph



N



3. Site Plan



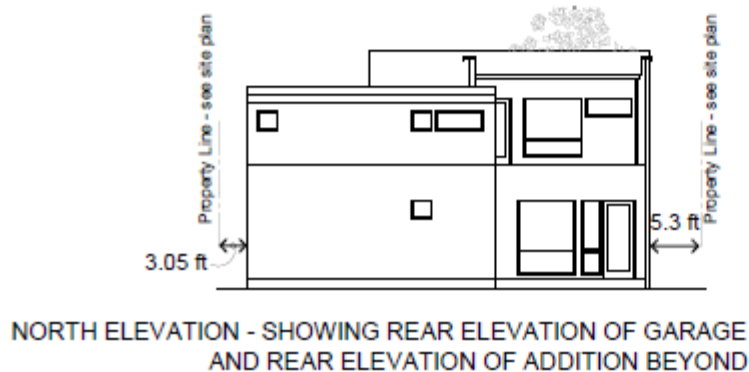
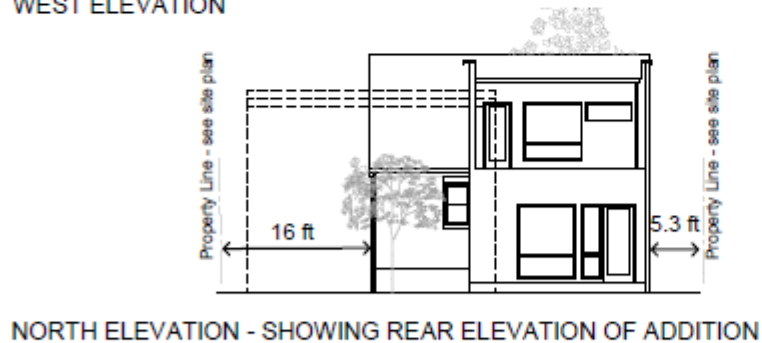
Vicinity Map

SITE INFORMATION

611 Wallace Ave
Louisville, KY 40207
Lot 13, Block 'S', Unit 3 Breckinridge
Villa Subdivision Plat Book 6, Page 51
Jessica and Mark Campbell
R4 Single Family Residential
Neighborhood Form District



4. Elevations



SITE INFORMATION

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Lot 13, Block 'S', Unit 3 Breckinridge

Villa Subdivision Plat Book 6, Page 51

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Neighborhood Form District



SCALE 1" = 16' - 0"

5. Site Photos



Front of subject property.



Left of subject property.



Right of subject property.



Across the street.



Requested variance areas.