

Board of Zoning Adjustment Staff Report

October 17, 2016



Case No:	16VARIANCE1076
Request:	To allow a proposed detached 2 car garage with storage on the 1 st level to encroach into the street side yard setback and rear yard setback.
Project Name:	1654 Cherokee Road Variance
Location:	1654 Cherokee Road
Area:	.77840
Owner:	Amy and Sterling Lapinski
Applicant:	Amy and Sterling Lapinski
Representative:	Amy and Sterling Lapinski
Jurisdiction:	Louisville Metro
Council District:	8 – Tom Owen
Case Manager:	Ross Allen, Planner I

REQUEST

- **Variance:** from the Land Development Code section 5.4.2.C, table 5.3.1 to allow a proposed detached 2 car garage with storage on the 1st level to encroach into the street side yard setback by approximately 13 feet.

Location	Requirement	Request	Variance
Minimum Street Side Yard Setback (Eastern Property Line)	25 feet	12 feet	13 feet

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing to construct a 30 foot by 24 foot (720 SF footprint) detached 2 car garage with two levels approximately 12 feet from the street side yard property line and approximately 16 feet from the rear property line. The upper level will be for vehicular parking while the lower level will be for storage, as stated by the applicant. The garage will be situated at the rear and street side yard facing Cherokee Terrace. The property is an irregular diamond shaped lot. The lot comes to a vertex at the corner of Cherokee Road and Cherokee Terrace with a convex property line along Cherokee Rd. (front yard) and a concave property line along Cherokee Terrace (Street side yard). The side yard is perpendicular to Cherokee Rd. and runs in a south easterly direction while the rear yard runs perpendicular to Cherokee Terrace both meet at a vertex southwest of the principal structure.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Residential Single Family	R-5	Neighborhood
Proposed	Residential Single Family	R-5	Neighborhood
Surrounding Properties			
North	Residential Single Family	R-1	Neighborhood
South	Residential Single Family	R-5	Neighborhood
East	Residential Single Family	R-1	Neighborhood
West	Residential Single Family	R-5	Neighborhood

PREVIOUS CASES ON SITE

None

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 garage will be approximately 12 ft. from the street side yard property line and 16 ft. from the rear yard property line. The garage will be located behind the principal structure and will not be visible from Cherokee Rd. Last, traffic is limited since this is a local road and only 13 homes are found along Cherokee Terrace.

- (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 proposed garage will be designed to match with 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 proposed detached garage will provide more off-street parking for Cherokee Terrace which has a varying road width of between 13 to 15 feet along the eastern property line of the subject site. Second, the garage will not impede traffic visibility and will make the pool in the rear yard less visible from the street.

- (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 will be approximately 12 feet from edge of pavement along Cherokee Terrace and approximately 16 feet from the rear property line allowing for safe entrance and exit.

ADDITIONAL CONSIDERATIONS:

1. The requested variance does not arise from special circumstances which do generally apply to land in the general vicinity or 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 since the location as proposed is the directly off of Cherokee Terrace, replacing the gravel off-street parking area.

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 proposed location as defined by LDC is the only location on the subject site where it may be located with variances.

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 propose garage is to be considered before BOZA for the required variances prior to any construction to occur.

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 from section 5.4.2.C.2, as shown in table 5.3.1 to allow a proposed detached two level two car garage to encroach into the minimum street side yard setback by approximately 13 feet along Cherokee Terrace.

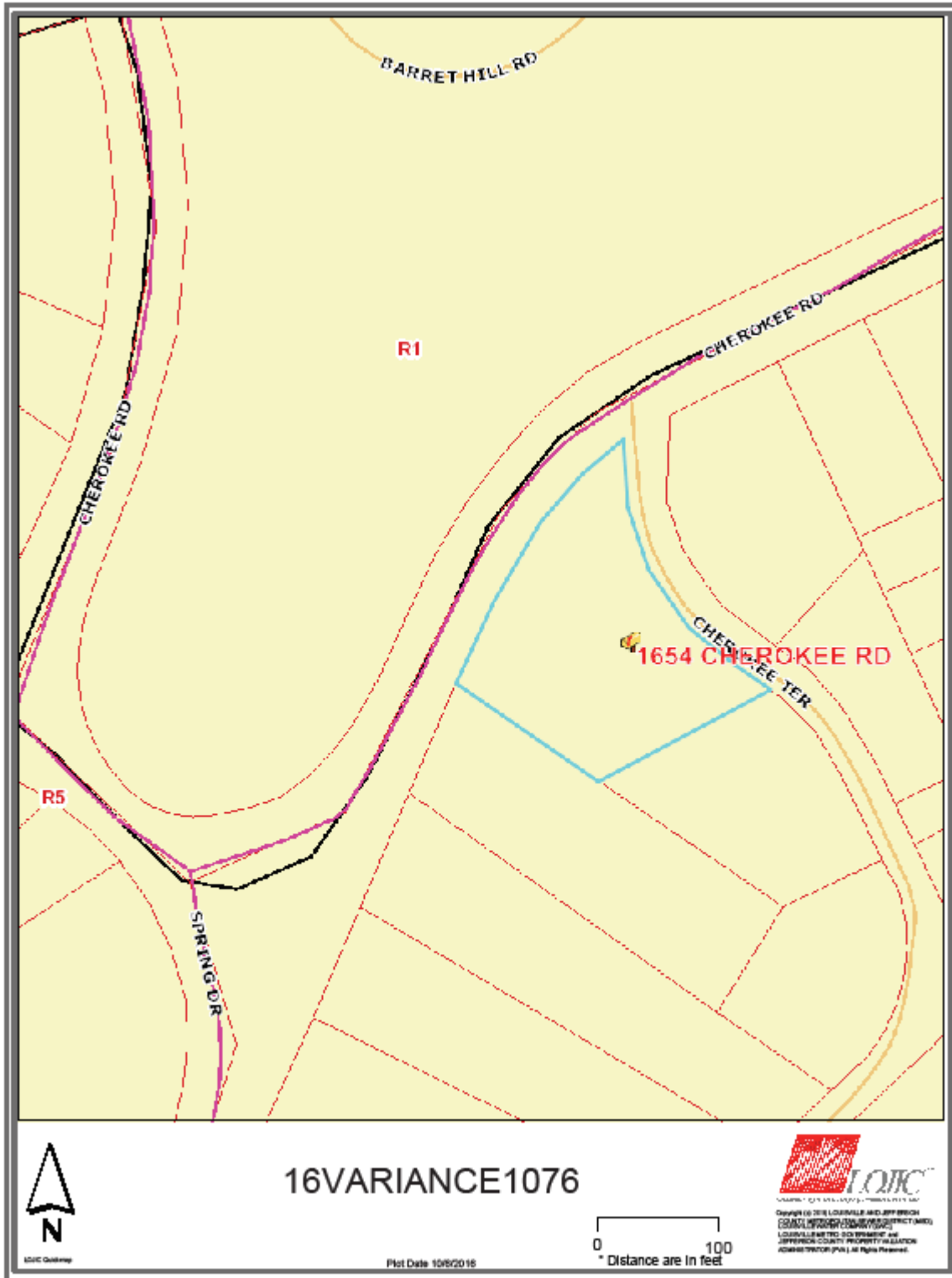
NOTIFICATION

Date	Purpose of Notice	Recipients
September 30, 2016	Hearing before BOZA	1 st tier adjoining property owners Subscribers of Council District 8 Notification of Development Proposals
September 30, 2016	Sign Posting for BOZA	Sign Posting on property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

