

Board of Zoning Adjustment Staff Report

May 16, 2016



Case No:	16VARIANCE1022
Request:	Variances from a side yard setbacks and rear yard setback.
Project Name:	955 Barret Avenue
Location:	955 Barret Avenue
Project Area/Size:	10640 acres or 4634.784 sf.
Existing Zoning District:	CR, Single Family Residential
Existing Form District:	CR, Single Family Residential
Owner:	Peter L. Bivens – Kentucky Shelters LLC.
Applicant:	Peter L. Bivens – Kentucky Shelters LLC.
Representative:	Peter L. Bivens – Kentucky Shelters LLC.
Jurisdiction:	Louisville Metro
Council District:	8 – Tom Owen
Case Manager:	Ross Allen, Planner I

REQUEST

- Variance #1: from LDC section 5.4.1.E.5 to allow a proposed garage to encroach into the minimum required side yard setback along the north and south property lines.

Location	Requirement	Request	Variance
Side Yard Setbacks	2' ft.	0' ft.	2' ft.

- Variance #2: from LDC section 5.4.1.E.2 to allow a proposed garage to encroach into the minimum rear yard setback by 2 feet.

Location	Requirement	Request	Variance
Rear Yard Setback	5' ft.	3' ft.	2' ft.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The subject site is located at 955 Barret Avenue within a CR zoning District in a Traditional Neighborhood Form District. The subject property is bounded on the west by Barret Avenue and the east by an alley running perpendicular between Morton Ave. and Highland Ave.

The applicant is proposing to construct a garage in the rear of the property adjacent to an alley to replace an existing garage. The proposed garage would have a three foot setback from the alley and have no proposed setbacks in either side yard area with an 18 inch thick brick wall along both sides of the proposed garage, acting as a firewall. The new garage would have a 600 sf. on the first story with a small loft of 260 sf. on the second story.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<i>Subject Property</i>			
Existing	Residential Single Family	CR	Traditional Neighborhood (TN)
Proposed	Residential Single Family	CR	Traditional Neighborhood (TN)
<i>Surrounding Properties</i>			
North	Residential Single Family	CR	Traditional Neighborhood (TN)
South	Residential Single Family	CR	Traditional Neighborhood (TN)
East	Residential Two-Family	R-5B	Traditional Neighborhood (TN)
West	Residential Multi-Family	R-7; R-8A	Traditional Neighborhood (TN)

PREVIOUS CASES ON SITE

No previous cases associated with the subject property.

INTERESTED PARTY COMMENTS

Applicant has all adjacent/adjoining property owners' signatures required for a Non-public hearing.

APPLICABLE PLANS AND POLICIES

Land Development Code
Comprehensive Plan (Cornerstone 2020)

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE #1: from LDC section 5.4.1.E.5 to allow a proposed garage to encroach into the minimum required side yard setback along the north and south property lines.

- (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 applicant is proposing to construct a garage that is replacing an existing garage at the rear of their property. The proposed garage will build to line in the side yard setbacks and will have 18 inch thick brick layer which meets or exceeds Kentucky Building Code for fire rated construction.

- (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 existing garage, though smaller (one story), is closer to the side yards, both northern and southern adjacent properties, similar to the setbacks of the proposed garage.

- (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 no structures are built to either side of the proposed garage and the existing garage is at a lower grade than both northern and southern adjacent properties.

- (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 applicant is proposing to construct a garage with a greater setback than is currently the case with the existing garage. Furthermore, the many homes within the general vicinity have elongated lots with side setbacks that are not compliant to LDC code.

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 land in the general vicinity or the same zone since the applicant has a lot width of 25' ft. To comply with LDC the lot would require setbacks that are 5 feet in each side yard allowing for a structure to have a width of 15' ft. which limits construction in the general 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 deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant since as stated previously the lot width limits construction on narrow width lots.

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 because the applicant is requesting variances from LDC prior to undertaking any construction of the proposed garage.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE #2: from LDC section 5.4.1.E.2 to allow a proposed garage to encroach into the minimum rear yard setback by 2 feet.

- (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 applicant is proposing to construct a garage that is replacing an existing garage at the rear of their property. The proposed garage will build to line in the side yard setbacks and will have 18 inch thick brick layer which meets or exceeds Kentucky Building Code for fire rated construction.

- (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 existing garage, though smaller, is closer to the rear property line than the proposed garage. In the general vicinity there is a two story carriage house which is set back from the alley curb by approximately 15 ft.

- (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 no structures are built to either side of the proposed garage, as well, the proposed garage will have a greater setback than the existing garage increasing width in 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 since the applicant is proposing to construct a garage with a greater setback than is currently the case with the existing garage. Furthermore, the many homes within the general vicinity have elongated lots with side setbacks that are not compliant to LDC code.

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TECHNICAL REVIEW

- See agency comments for development plan review comments.

STAFF CONCLUSIONS

The variance requests appear to be adequately justified based upon the site inspection and documents provided by the applicant. 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 a variance established in the Land Development Code from sections 5.4.1.E.5 and 5.4.1.E.2.

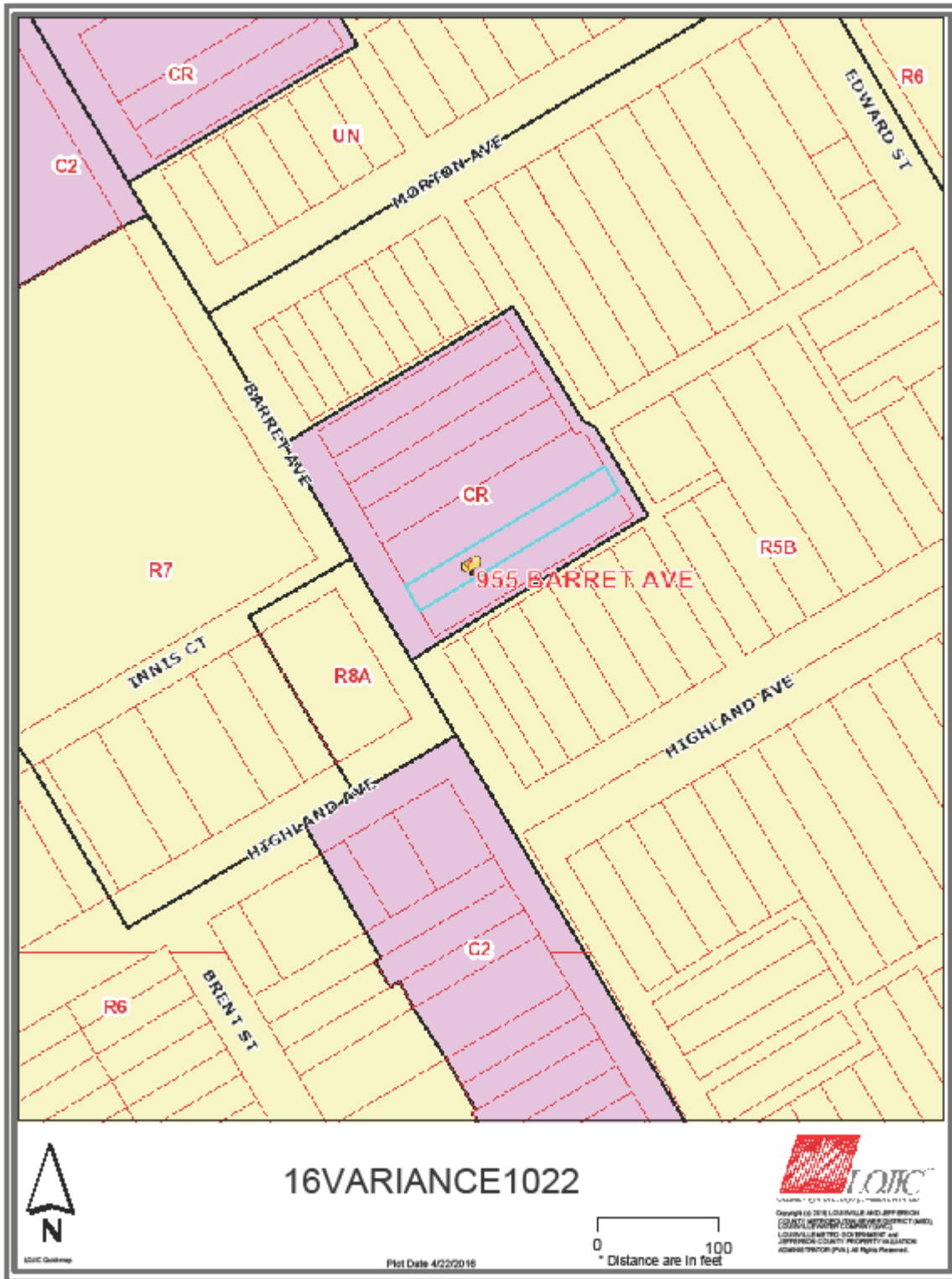
NOTIFICATION

Date	Purpose of Notice	Recipients
None required for a non-public hearing.	Hearing before BOZA	Applicant has all 1 st tier adjoining property owners signatures for a Non-public hearing.
None	Sign Posting for BOZA	Applicant has all 1 st tier adjoining property owners signatures for a Non-public hearing.

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Rendering of Proposed Garage
5. Existing Conditions in the General Vicinity

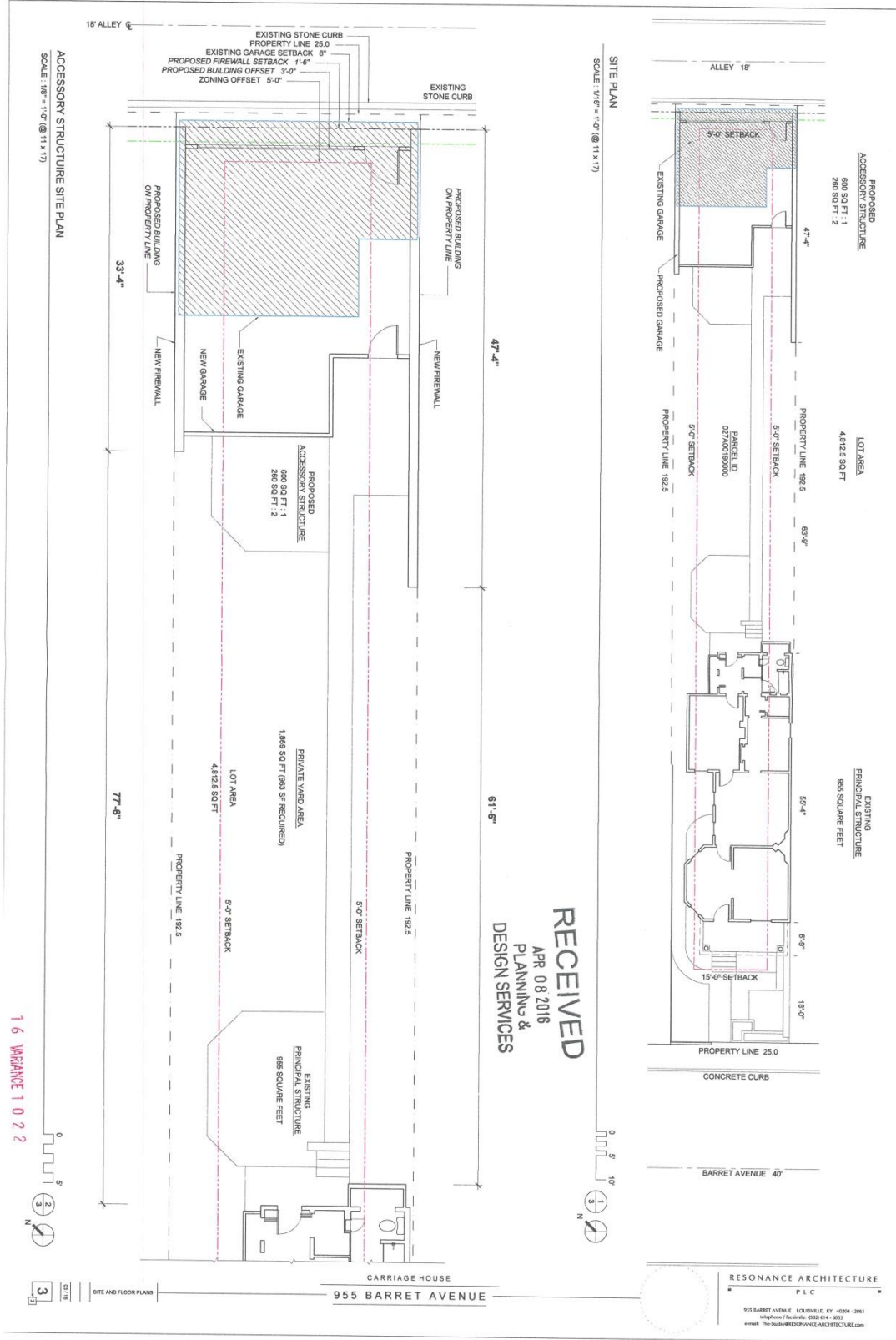
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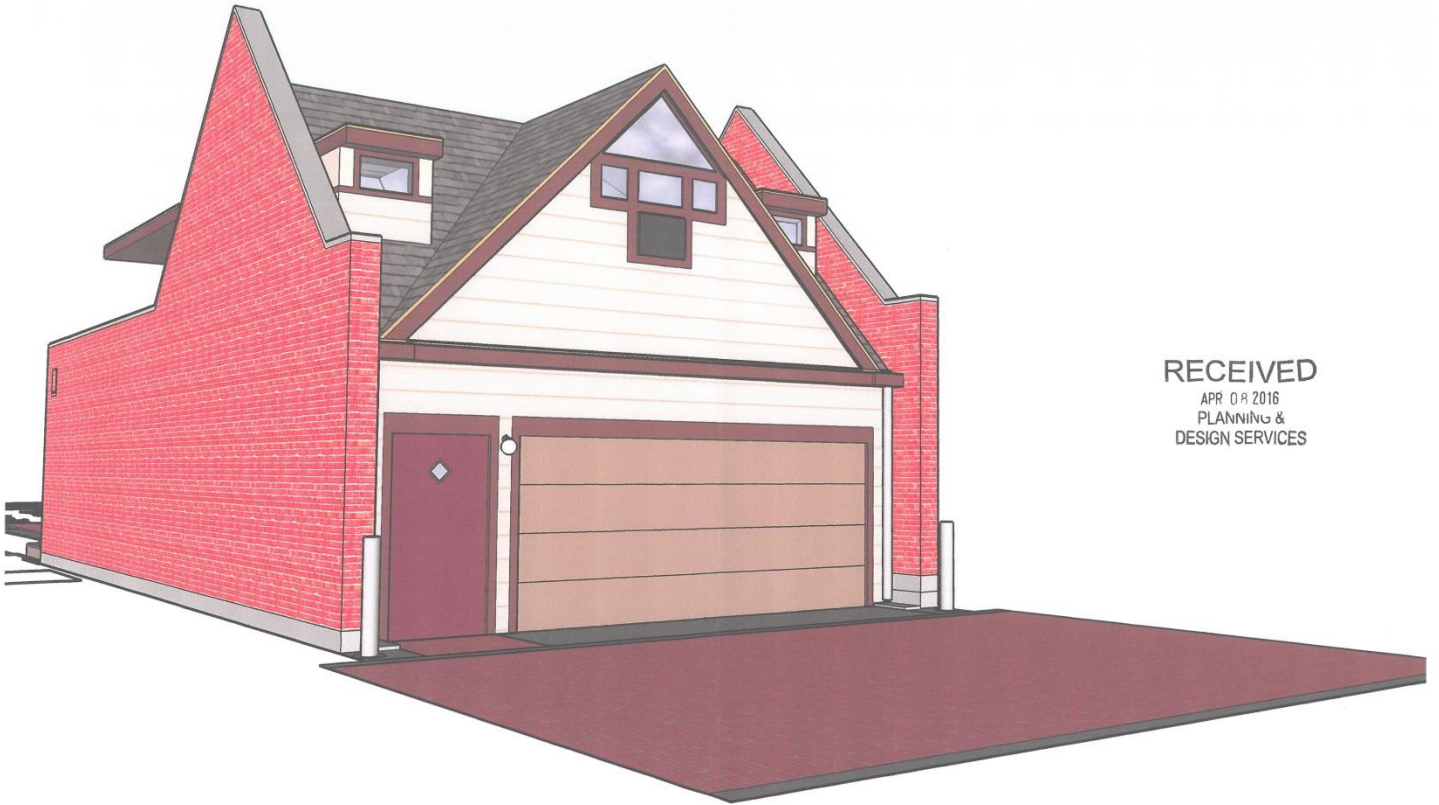
2. Aerial Photograph



3. Site Plan



4. Rendering of Proposed Garage



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5. **Existing Conditions in the General Vicinity**

A 1313 HIGHLAND GARAGE
955 BARRET GARAGE
1313 HIGHLAND GARAGE
1315 HIGHLAND GARAGE

B 955 BARRET GARAGE
1313 HIGHLAND GARAGE

C 1313 HIGHLAND GARAGE
955 BARRET GARAGE
1315 HIGHLAND GARAGE

D 1313
955
957 BARRET

E 1315R HIGHLAND GARAGE

F INFILL CONTEXT (APPROXIMATE):
1315 ACCESSORY STRUCTURE IS 1' FROM PL
(PRINCIPAL STRUCTURE OVERHANGS TO CURB)
1313 ACCESSORY STRUCTURE IS 6" FROM PL
(PRINCIPAL STRUCTURE IS 6" FROM PL)

RESONANCE ARCHITECTURE
P.L.C.
951 BARRET AVENUE, SUITE 100
ANNAPOLIS, MARYLAND 21403
PHONE: 410-261-1000
WWW.RESONANCEARCHITECTURE.COM

CARRIAGE HOUSE
955 BARRET AVENUE

PHOTOGRAPHS OF EXISTING CONDITIONS REFERENCE SHEET 1 VICINITY MAP FOR VIEW LOCATIONS

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