

Board of Zoning Adjustment

Staff Report

November 21, 2022



Case No: 22-VARIANCE-0132
Project Name: Deer Park Avenue Variance
Location: 1611 Deer Park Ave
Owner/Applicant: James Kammer
Jurisdiction: Louisville Metro
Council District: 8- Cassie Chambers Armstrong
Case Manager: Amy Brooks, Planner I

REQUEST:

Variance from the Land Development Code, section 5.4.2.C.3 to allow an accessory structure to encroach into the side yard setback.

Location	Requirement	Request	Variance
Side Yard Setback	2 ft.	1.7 ft	.3 feet

CASE SUMMARY/BACKGROUND

The subject site is zoned R-5 Single Family Residential in the Neighborhood Form District. The property is located on the northern side of Deer Park Avenue between Hartman Avenue and Newburg Road in the Deer Park neighborhood. The subject property has a single-family home. The applicant has begun construction on a 288 sq. ft. garage that encroaches into the side yard setback.

STAFF FINDINGS

Staff finds that the requested variance meets standards (b), (c), and (d), but staff is concerned that the variance request does not meet standard (a) because construction and maintenance of the structure may have an adverse impact on the adjoining property owner.

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 Land Development Code.

TECHNICAL REVIEW

No outstanding technical review comments.

INTERESTED PARTY COMMENTS

No interested party comments were received by staff.

RELATED CASES

RES-NEW-22-00812
ENF-BLD-22-06023

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM 5.4.2.C.3

- (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 applicable building codes and the Land Development Code, except where relief is requested. However, staff is concerned that the variance could adversely affect the adjacent property owner because construction and maintenance of the structure may require encroachment onto the adjacent property.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The structure will not alter the essential character of the general vicinity as it will be built with material that is in character with the surrounding residential neighborhood. Moreover, there are other detached garages in the general vicinity that appear to encroach into the side yard setbacks.

- (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 the location of the detached garage is similar to other properties located on 1600 block of Deer Park Avenue.

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 generally apply to the land in the general vicinity or the same zone as the lot is similar in size and shape to the surrounding properties.

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 not create an unnecessary hardship on the applicant as an accessory structure meeting the requirements are capable of being accommodated.
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 taken by the applicant subsequent to the adoption of the zoning regulation from which relief is sought. However, these actions have occurred in violation of the requirements.

VARIANCE PLAN REQUIREMENT

In accordance with LDC Section 11.5B.1.C (Requirement to Follow Approved Plan), a variance shall be approved only on the basis of the plan approved by the Board and shall be valid only for the location and area shown on the approved plan. All construction and operations must be conducted in accordance with the approved plan and conditions attached to the variance.

NOTIFICATION

Date	Purpose of Notice	Recipients
11/03/2022	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 8
11/8/2022	Hearing before BOZA	Notice posted on property

ATTACHMENTS

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

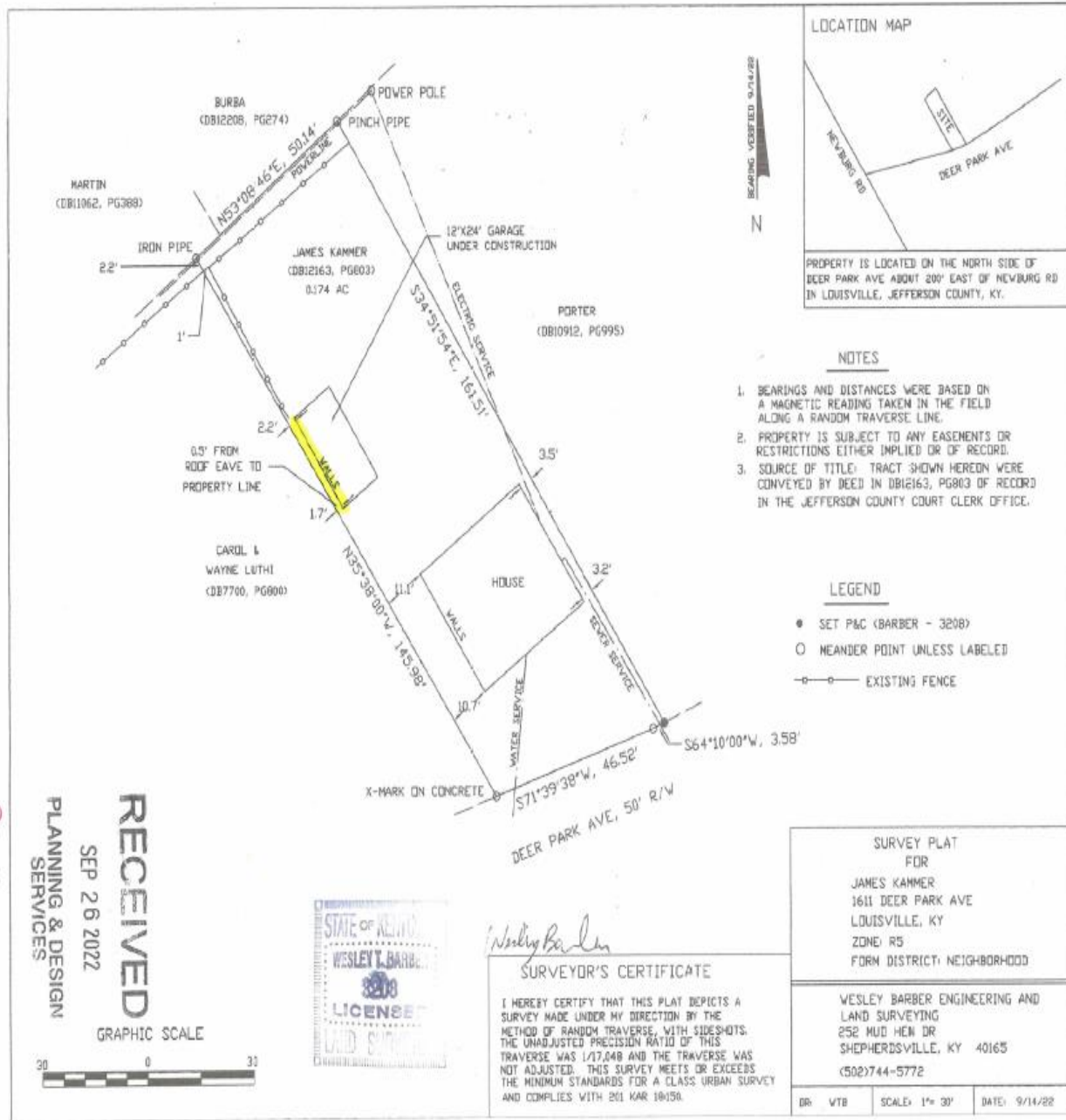
1. Zoning Map



2. Aerial Photograph



3. Site Plan



4. Site Photos



Front of subject property and neighboring properties



Property to the left.



Property across the street.



View of variance area and location relative to neighbor's property.



View of variance area.



Another view of variance area.