

**Board of Zoning Adjustment
Staff Report**
May 18, 2015



Case No:	15Variance1022
Project Name:	New Garage
Location:	1466 South 3 rd Street
Owner(s):	Mary Martin & Stan Murrell
Applicant:	Anne Del Prince, Del Prince Designs, LLC
Representative:	same as above
Project Area/Size:	0.178 Acres
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Sherie' Long, Landscape Architect

REQUEST

Variance #1: Variance from the Land Development Code, Chapter 5, Section 5.4.1E.6, to allow a proposed garage to encroach into the required south side yard.

Variance #2: Variance from the Land Development Code Chapter 5, Section 5.4.1D.3, to allow a reduction in the 30% required private yard.

Variance #1

Location	Requirement	Request	Variance
Side Yard (south)	2 feet (24 inches)	16 inches	8 inches

Variance #2

Location	Requirement	Request	Variance
Private Yard	2,283sf (30%)	1,603sf	680sf

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing to construct a new one story 884sf garage at the rear of the property. This property located on the west side of South 3rd Street, north of West Hill Street, is in the Old Louisville Historic Preservation District. Construction of the garage will replace an existing parking area located at the rear of the property. The applicant has received approval to construct the new garage from Landmarks Preservation Staff. Due to the location of the new garage variances are needed to allow encroachment into the south side yard; and a reduction of the required private yard.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

The site is zoned Traditional Neighborhood Zoning District (TNZD) within the Tradition Neighborhood Form District (TN). It is surrounded by single family residential, multi-family residential, and commercial office property zoned TNZD in the Traditional Neighborhood Form District (TN).

	Land Use	Zoning	Form District
Subject Property			
Existing	Single-family residential	TNZD	TN
Proposed	Single-family residential	TNZD	TN
Surrounding Properties			
North	Single-family residential	TNZD	TN
South	Single-family residential	TNZD	TN
East	Multi-family residential	TNZD	TN
West	Commercial Office	TNZD	TN

PREVIOUS CASES ON SITE

- 15COA1059 Certificate of Appropriateness from the Historic Landmarks and Preservation Districts Commission to construct a new garage approved on April 20, 2015.
- 13980 Certificate of Appropriateness from the Historic Landmarks and Preservation District Commission to install skylights on north side of the roof approved on March 31, 2010.
- 9404 Certificate of Appropriateness from the Historic Landmarks and Preservation District Commission to replace the roof and flashings, valleys, and ridge cap with synthetic slate and copper approved on August 3, 2007.

INTERESTED PARTY COMMENT

A neighbor inquired about the application requests.

APPLICABLE PLANS AND POLICIES

Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

Variance #1: Variance from the Land Development Code, Chapter 5, Section 5.4.1E.6, to allow a proposed garage to encroach into the required south side yard.

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The variance will not adversely affect the public health, safety or welfare because the garage is located at the rear of the property and accessed from the existing alley. The new garage is not blocking or impeding traffic flow. Plus the location of the garage is similar to other garages in the vicinity.

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

STAFF: The requested variance will not alter the general character since the new garage will be located where other and similar garages are located in the general vicinity, at the rear of the property and accessed from the existing alley. Plus the new garage construction materials have been

reviewed and approved by the Historic Preservation Commission staff. In addition, the proposed location of the garage preserves the existing private yard area.

- (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 new garage will not obstruct views or traffic in the alley. Plus the new garage will be similar to other garages in the vicinity.

- (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 other garages in the vicinity are located on the properties similar to this proposal.

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. The garage could be modified to accommodate the setback however, the size of the garage would need to be changed and the access to the rear yard would also need to be modified.

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 because the proposed garage design and location would be required to be modified to conform with the regulation. However, the applicant would not be deprived of a reasonable use of the land since the garage could be built.

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 the applicant is requesting a variance prior to construction.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

Variance #2: Variance from the Land Development Code Chapter 5, Section 5.4.1D.3, to allow a reduction in the 30% required private yard.

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The variance will not adversely affect the public health, safety or welfare because the existing private yard will be increased from the current square footage by an additional 120 square feet.

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

STAFF: The requested variance will not alter the general character. The existing private yard will be maintained. Plus the total area of the private yard will be increased with the construction of a new 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 because the existing private yard will be maintained. Plus the location of the garage will increase the current private yard area, an additional 3 feet or 120 square feet.

- (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 a variance is required. Plus the existing private yard area will be increased which improves the current situation.

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 arise from special circumstances since the existing yard area currently does not meet the private yard regulation. The proposal will however increase the current private yard area which is an improvement of the existing condition.

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 because the proposed garage would not be able to be built.

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 the applicant is requesting a variance prior to construction.

TECHNICAL REVIEW

There are no technical review issues.

STAFF CONCLUSIONS

Based upon the information in the staff report, the analysis of the standards of review support the request to grant the variances, therefore, the Board of Zoning Adjustment must determine if the proposal meets the standard for a variance established in the Development Code based on the testimony and evidence provided at the public hearing.

NOTIFICATION

Date	Purpose of Notice	Recipients
05/01/2015	BOZA Hearing	1 st tier adjoining property owners Neighborhood notification recipients
05/04/2015	Sign Posting	Subject property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Elevations
5. Applicant's Justification Statement
6. Site Photographs
7. Certificate of Appropriateness

Attachment 1: Zoning Map:



Attachment 2: Aerial Photo:



Case: 15Variance1022

Attachment 5: Applicant's Justification Statement

Variance Justification:

In order to justify approval of any variance, the Board of Zoning Adjustment considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

1. Explain how the variance will not adversely affect the public health, safety or welfare.

PUBLIC IS NOT AFFECTED BECAUSE THIS IS PRIVATE PROPERTY.

2. Explain how the variance will not alter the essential character of the general vicinity.

ESSENTIAL CHARACTER REMAINS IN TACT BECAUSE PROPOSED GARAGE IS SAME TYPE OF USE AS GARAGES ON EACH SIDE OF PROPERTY + ACROSS ALLEY. SAME TYPE OF BUILDING.

3. Explain how the variance will not cause a hazard or a nuisance to the public.

NO HAZARD OR NUISANCE BECAUSE IT IS FOR PRIVATE USE. THE PUBLIC IS NOT WELCOME TO USE.

4. Explain how the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.

NO UNREASONABLE CIRCUMVENTION BECAUSE THERE IS STILL A REASONABLE PRIVATE YARD AREA TO SEPARATE HOUSE FROM GARAGE

Additional consideration:

1. Explain how the variance arises from special circumstances, which do not generally apply to land in the general vicinity (please specify/identify).

THE LOT IS NOT LARGE ENOUGH TO ACCOMMODATE THE REQUIRED PRIVATE YARD AREA.

2. Explain how the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship.

HARDSHIP: WITH NO GARAGE - DAMAGE TO CARS IS VERY POSSIBLE. OWNER REQUIRES COVERED GARAGE SPACE TO SHELTER BELONGINGS + FOR ENTERTAINING AS WELL AS CAR SAFETY + PROTECTION!

3. Are the circumstances the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought?

NOT OWNERS FAULT THE LOT IS TOO SHORT IN LENGTH TO ACCOMMODATE GARAGE + PRIVATE YARD AREA. HOUSE IS ALREADY ON SITE + CANNOT BE MOVED.

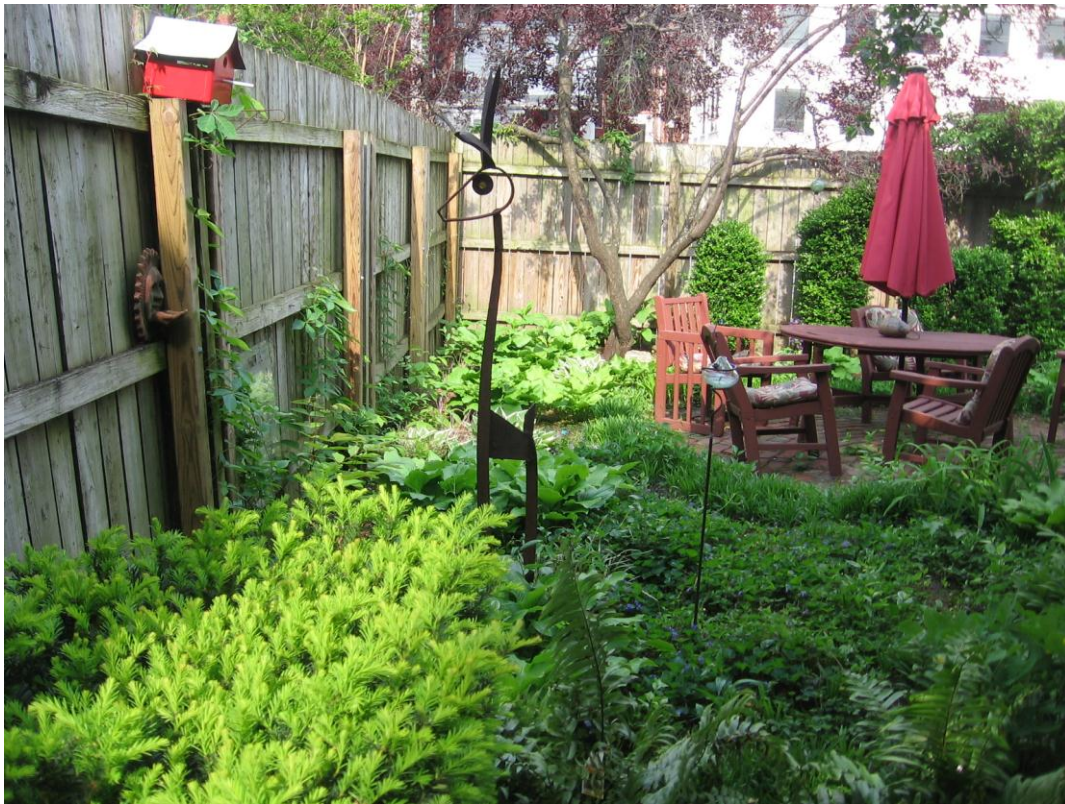
Attachment 6: Site Photographs



Front of the house



Looking toward alley. Existing private yard area



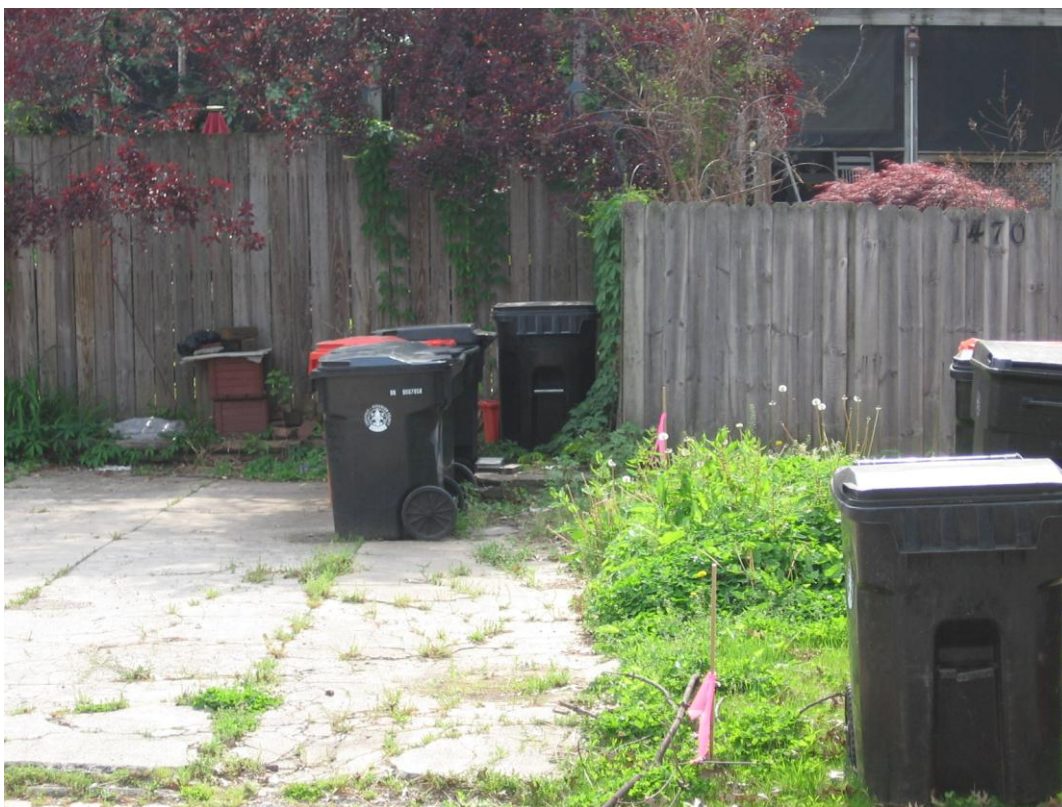
Existing private yard area



Existing private yard area



Existing parking pad and private yard privacy fence. Both are to be removed to construct new garage.



South side yard variance location



Looking south down alley



Looking north up alley



Properties across the alley



**Historic Landmarks and Preservation
Districts Commission**

Certificate of Appropriateness

To: Mary Martin and Stan Murrell
Thru: Robert Keesaer, AIA, NCARB – Urban Design Administrator
From: Burcum Keeton, Architectural Projects Coordinator
Date: April 15, 2015

Case No: 15COA1059

Classification: Staff Review

GENERAL INFORMATION

Property Address: 1466 S. 3rd Street
Louisville, KY 40208

Owner: Mary Martin and Stan Murrell
1466 S 3rd Street
Louisville, KY 40208
502-637-4000
oldloumary@aol.com

Applicant: Anne Del Prince
Delprince Designs
640 Country Club Road
Louisville, KY 40206
502-893-6026
Adelprince@att.net

Estimated Project Cost: \$20,000

Description of proposed exterior alteration

The applicant requests approval to build a 3 car garage at the rear of their property.

Case #: 15COA1059
Page 1 of 6

Communications with Applicant, Completion of Application

The application was received by Planning and Design Services on April 8, 2015. The application was determined to be complete and needing staff review on April 13, 2015.

FINDINGS

The following design review guidelines, approved for the Old Louisville Preservation District, are applicable to the proposed exterior alteration: **Site and Garage.**

The report of the Commission Staff's findings of fact and conclusions with respect to these guidelines are attached.

The following additional findings are incorporated in this report:

Site Context/Background

The subject site, located on the west side of Third Street, north of W. Hill Street, and is zoned Traditional Neighborhood Zoning District and within the Traditional Neighborhood form district. The 3-story red brick home was built in 1890.

CONCLUSIONS

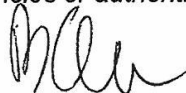
The proposed new structure generally meets the Old Louisville Preservation District design guidelines.

DECISION

On the basis of the information furnished by the applicant, the application for a Certificate of Appropriateness is **approved on condition:**

1. Owner to consider exterior lighting of garage at alley side

The foregoing information is hereby incorporated in the Certificate of Appropriateness as approved and is binding upon the applicant, his successors, heirs or assigns. This Certificate does not relieve the applicant of responsibility for obtaining the necessary permits and approvals required by other governing agencies or authorities.



Burcum Keeton
Architectural Projects Coordinator



Date

Attachments:

1. Staff checklist

Case #: 15COA1059
Page 2 of 6

SITE

Design Guideline Checklist

- + Meets Guidelines
- Does Not Meet Guidelines
- +/- Meets Guidelines with Conditions as Noted
- NA Not Applicable
- NSI Not Sufficient Information

	Guideline	Finding	Comment
ST1	Consider the relationships that exist between the site and structure when making exterior alterations. Changes to one will affect the other. A primary goal should be to maintain a complementary relationship.	+	
ST2	Retain established property line patterns and street and alley widths. Any replatting should be consistent with original development patterns.	+	
ST3	Use paving materials that are compatible with adjacent sites and architectural character.	+	
ST4	Restore and reuse historic paving materials for streets and sidewalks such as brick and hexagonal pavers and limestone curbing. Maintain original curbing whenever possible. The historic relationship between the road surface and edging should be preserved. Any replacement should use historic materials. If replacement with original materials is not technically or economically feasible, a substitute material may be used if it duplicates the color, texture, and visual appearance of the original.	+	Existing pavers to be removed and stored by owner
ST5	Maintain brick, stone, or poured concrete steps wherever present. If replacement is required, original materials should be used. New construction should incorporate steps on blocks where they are a character-defining feature.	+	
ST6	Do not harm historic resources through road widening or underground utility repair.	+	
ST7	Locate driveways, parking areas, and loading docks to the side and rear of properties. Access from alleys is preferred.	+	
ST8	Maintain original front yard topography, including grades, slopes, elevations, and earthen berms where present. New construction should match the grade of adjacent properties. Do not recontour front-yard berms into stepped terraces, using railroad ties, landscape timbers, or any other historically-inappropriate material for retaining walls.	+	
ST9	Do not carry out excavations or regrading within or adjacent to a historic building, which could cause the foundation to shift or destroy significant archeological resources.	+	
ST10	Do not install masonry walls in street-visible locations unless they are used to retain earth at changes in grade, screen service areas, or unless a historic precedent exists.	+	
ST11	Use materials that match existing sections of historic fencing in material, height, and detail when carrying out limited replacement projects. If an exact match cannot be made, a simplified design is appropriate.	+	

Case #: 15COA1059
Page 3 of 6

ST12	use materials that match the existing character of the original when replacing retaining walls or curbing. If an exact match cannot be made, a simplified design is appropriate.	+	
ST13	Install only historically-compatible iron fencing under 2'-5" in height where there is demonstrable historic precedent.	NA	
ST14	Do not install front-yard fencing where there is no historic precedent.	NA	
ST15	Install any rear- or side-yard privacy fencing so that it is set back from the side wall at least two feet and presents the finished side out. Any privacy fencing should be less than seven feet in height. Contact the Department of Inspections, Permits, and Licenses regarding additional restrictions on fencing at corner properties.	+	
ST16	Do not install chain-link, split-rail, or woven-wood fencing, or concrete block walls in areas that are visible from a public way. Opaque fencing, such as painted or stained pressure-treated wood, may be permitted with appropriate design.	+	
ST17	Use understated fixtures when installing any type of exterior lighting. Fixture attachment should be done so as not to damage historic fabric. Fixtures should not become a visual focal point.	NSI	
ST18	Do not light parking areas or architectural features in a harsh manner. Generally, an average illumination level of 1.5 to 2.0 foot-candles will be sufficient. Light should be directed down and away from neighboring properties.	NSI	
ST19	Parking lots of a certain size should have a portion of the parking area dedicated to plantings that will soften the expanse of paving. See the Jefferson County Development Code - Requirements for Landscaping and Land Use Buffers for specific requirements.	+	
ST20	Use high-pressure sodium or metal halide lights to create a soft illumination where site or streetscape lighting is desired.	NSI	
ST21	Position fixtures, such as air conditioning units, satellite dishes, greenhouse additions, and overhead wiring, on secondary elevations where they do not detract from the character of the site. Try to minimize noise levels to adjacent properties.	+	
ST22	Preserve large trees whenever possible and enhance established street tree patterns by planting additional trees along public rights-of-way. Consult the city arborist to determine what tree species are suitable for placement near overhead wires. Select and place street trees so that the plantings will not obscure historic storefronts once mature. Removal of trees within or immediately adjacent to a public right-of-way or within public open spaces requires review unless directed by the city arborist for emergency or public safety reasons.	NA	
ST23	Ensure that all proposed cellular towers and associated fixtures will be properly screened from view.	NA	
ST24	Install utility lines underground whenever possible.	NA	

Case #: 15COA1059
Page 4 of 6

GARAGE

Design Guideline Checklist

- + Meets Guidelines
- Does Not Meet Guidelines
- +/- Meets Guidelines with Conditions as Noted
- NA Not Applicable
- NSI Not Sufficient Information

Design Element	Building Feature		Approved	Comments
Location		+	Rear-yard location	
		+	Align with adjacent secondary structures	
		+	Use to define and enclose rear yard	
		+	Minimize paving	
Materials	Walls	NA	Horizontal wood siding (3" or 4" exposure)	
		NA	Board and batten siding	
		NA	Brick	
		NA	Stucco over frame or concrete block	
		NA	Cast stone, molded concrete block	
		+	Aluminum and vinyl siding (3" or 4" exposure)	4" exposed hardi plank
		+	No painted concrete block.	
		+	No un-painted concrete block.	
		+	No T-111 plywood.	
	Roof	+	Asphalt, fiberglass, wood, vinyl, or slate shingles.	
		NA	Metal roofing	
		+	Half-round or Ogee gutters	
		NA	Approved Gable-end element	
		NA	No membrane roofing on sloped roofs.	
Building Forms	Main Block	+	Simple, rectangular, prismatic volumes	
		NA	Ell-shaped buildings	
		NA	Slightly-projecting bays	
		NA	Cantilevered, second floors	
		+	No overly-elaborate volumes	
	Roof	+	Simple gable roofs (6-in-12 minimum slope)	
		+	Hipped, shed, and flat roofs with parapets	
		+	Intersecting gables	
		+	Overhanging eaves	

Case #: 15COA1059
Page 5 of 6

		+	Half-round gutters	Ogee gutters are acceptable
		+	No low-pitched gable roofs (less than 6-in-12 slope)	
		+	No flush eaves	
		+	No roofs without gutters	
Openings	Garage	+	Single-car openings	Precedence in alley of double door
	Doors	+	Surface area of door broken up by articulated panels or stiles and rails to reduce scale	
		+	No double and triple doors	Precedence in alley
		+	No flush garage doors (they accentuate the large size of the openings)	
	Windows	+	Use window openings to break up wall surface	
		NA	Security grills installed on the inside face of the windows	

Case #: 15COA1059
Page 6 of 6