

Board of Zoning Adjustment Staff Report

February 20, 2017



Case No:	17VARIANCE1003
Request:	Variance from the required 30% minimum private yard area requirement and variance from the required 3' side yard setback
Project Name:	1942 Payne Street Addition
Location:	1942 Payne Street
Area:	.1542 Acres
Owner:	Monica Mahoney
Applicant:	Architectural Artisans
Representative:	Jeff Rawlins – Architectural Artisans
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Dante St. Germain, Planner I

REQUEST

- Variance from Land Development Code section 5.4.1.D.2 to allow the private yard area to be less than the required 30% of the overall lot size in the Traditional Neighborhood Form District.
- Variance from Land Development Code section 5.2.2 to allow a structure to encroach into the 3' required side yard setback.

Location	Requirement	Request	Variance
Private Yard Area	2,015 sq. ft. (30%)	1,469.5 sq. ft. (22%)	545.5 sq. ft. (8%)
Side Yard Setback	3 ft.	1.5 ft.	1.5 ft.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant proposes to construct a 330 square foot single story addition to the rear of the principal structure and a 541 square foot garage. The total lot area is 6,716 square feet, and the required private yard area is 30% of this total, or 2,015 square feet. The proposed new construction would reduce the private yard area to 1,469.5 square feet, or 22% of the total lot area. The garage is proposed to be located significantly forward of the rear alley in order to preserve an existing large mature tree, which is growing near the alley and which has a canopy and root system which extend into the yard. The garage is proposed to be built out of the way of the tree.

The addition onto the principal structure is proposed to encroach into the required side yard setback by 1.5 feet in order to align with an existing stair. The required setback is 3 feet. The requested setback is 1.5 feet.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Single Family Residential	R-5A	Traditional Neighborhood
Proposed	Single Family Residential	R-5A	Traditional Neighborhood
Surrounding Properties			
North	Single Family Residential	R-5A & R-6	Traditional Neighborhood
South	Single Family Residential	R-5	Traditional Neighborhood
East	Single Family Residential	R-5A	Traditional Neighborhood
West	Single Family Residential	R-5A	Traditional Neighborhood

PREVIOUS CASES ON SITE

B-40-90

Board of Zoning Adjustment approved an appeal concerning continuance of a non-conforming use (grocery store).

16COA1309

Clifton Architectural Review Committee approved the design of the proposed new construction as meeting the Clifton historic preservation district guidelines.

INTERESTED PARTY COMMENTS

No interested party comments were received by staff.

APPLICABLE PLANS AND POLICIES

Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.4.1.D.2

- (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 as the private yard area reduction is necessitated by the location of the garage, which is placed so as to preserve an existing large mature tree.

- (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 removal of the existing large tree would have a greater impact on the general vicinity than reducing the 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 as the reduction in private yard area will not impact the public.

- (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 variance is needed in order to preserve an existing large tree. Preservation of tree canopy is encouraged by the Land Development 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 arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the variance is requested in order to preserve an existing large tree.

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 by requiring the applicant to build the garage closer to the alley and remove the existing large tree.

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 the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is requesting the variance and has not yet constructed the proposed new garage.

**STANDARD OF REVIEW AND STAFF ANALYSIS
FOR VARIANCE FROM SECTION 5.2.2**

- (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 as the side yard into which the house addition will encroach abuts an alley.

- (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 house addition is proposed to be in-line with an existing side stair, which is in-character for houses of a similar style.

- (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 as the side yard into which the house addition is proposed to encroach abuts an alley.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will allow an unreasonable circumvention of the zoning regulations as there are no topographic or architectural concerns that require an encroachment into the side yard.

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 arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the side yard abuts an alley, a circumstance which is not present for most homes in the vicinity.

2. The strict application of the provisions of the regulation would not 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 deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant as the applicant could reduce the size of the house addition or relocate the addition to provide the full side yard.

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 the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is requesting the variance and has not yet constructed the proposed new addition.

TECHNICAL REVIEW

- No technical review undertaken.

STAFF CONCLUSIONS

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 section 5.4.1.D.2 allowing the private yard area to be less than the required minimum of 30%, and a variance from section 5.2.2 allowing the side yard to be less than 3 feet.

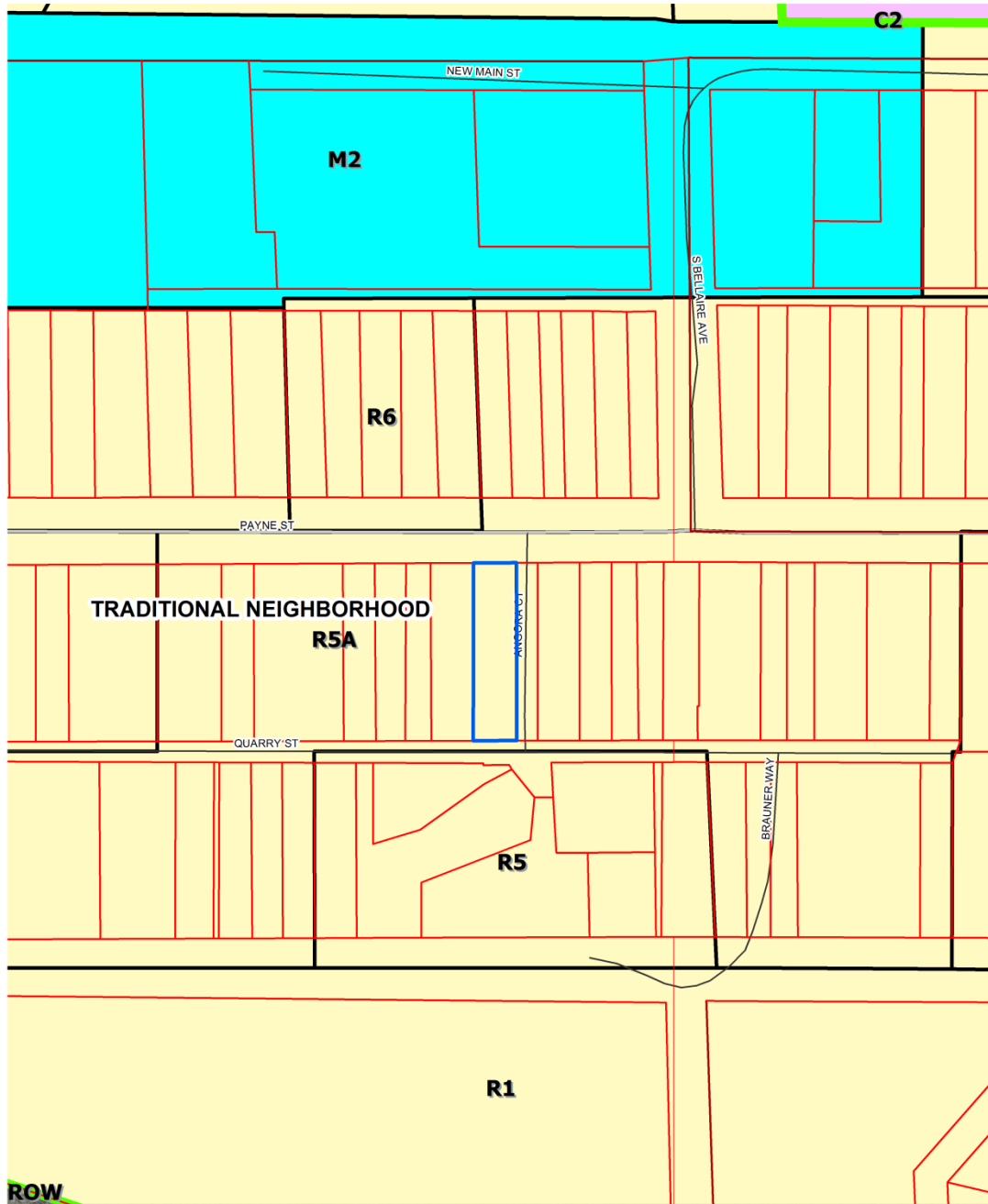
NOTIFICATION

Date	Purpose of Notice	Recipients
01-31-2017	Hearing before BOZA	1 st tier adjoining property owners Subscribers of Council District 9 Notification of Development Proposals
02-03-2017	Sign Posting for BOZA	Sign Posting on property

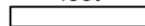
ATTACHMENTS

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

1. Zoning Map



1942 Payne Street
feet



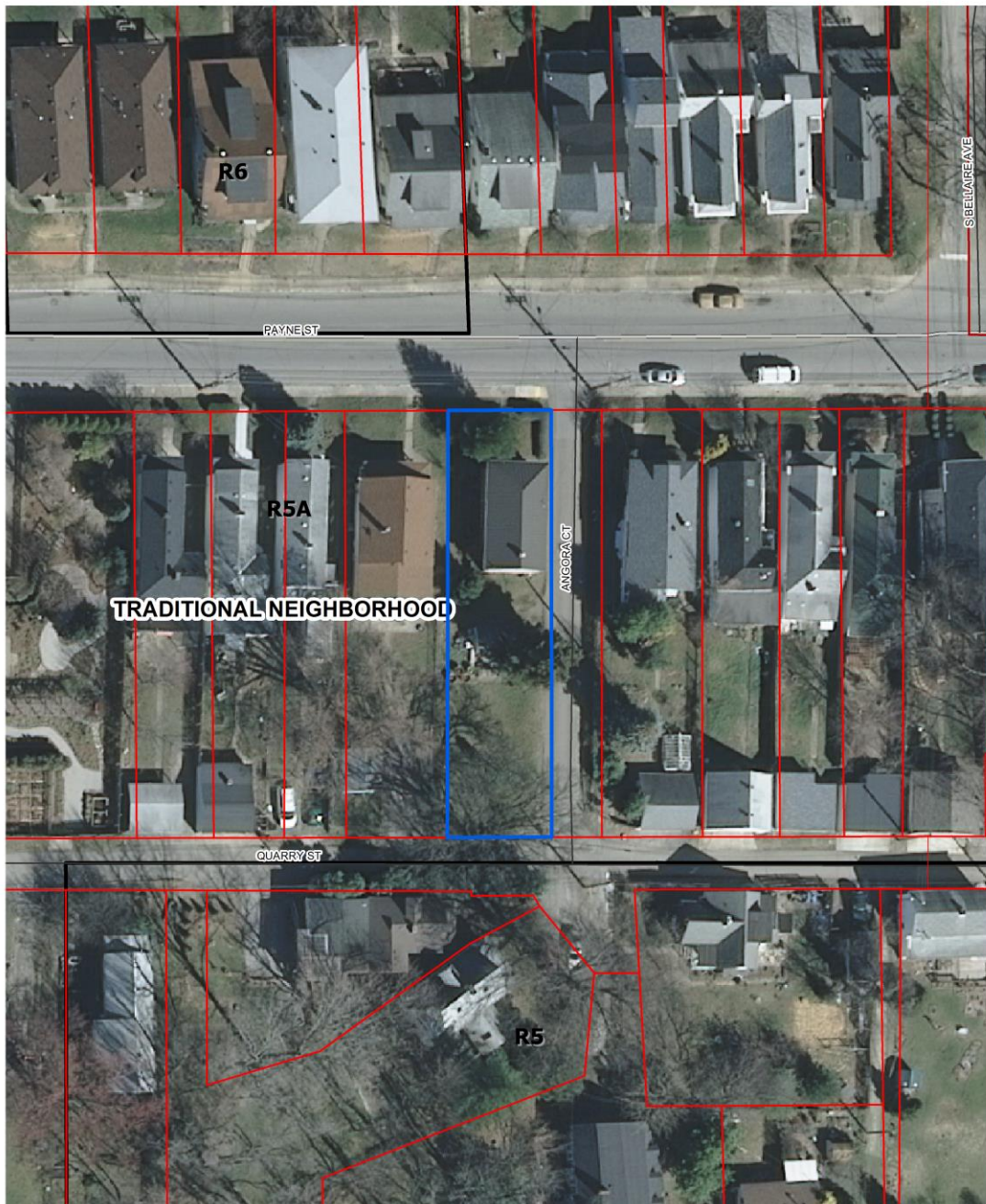
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Map Created: 2/9/2017

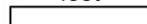


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2. Aerial



1942 Payne Street
feet



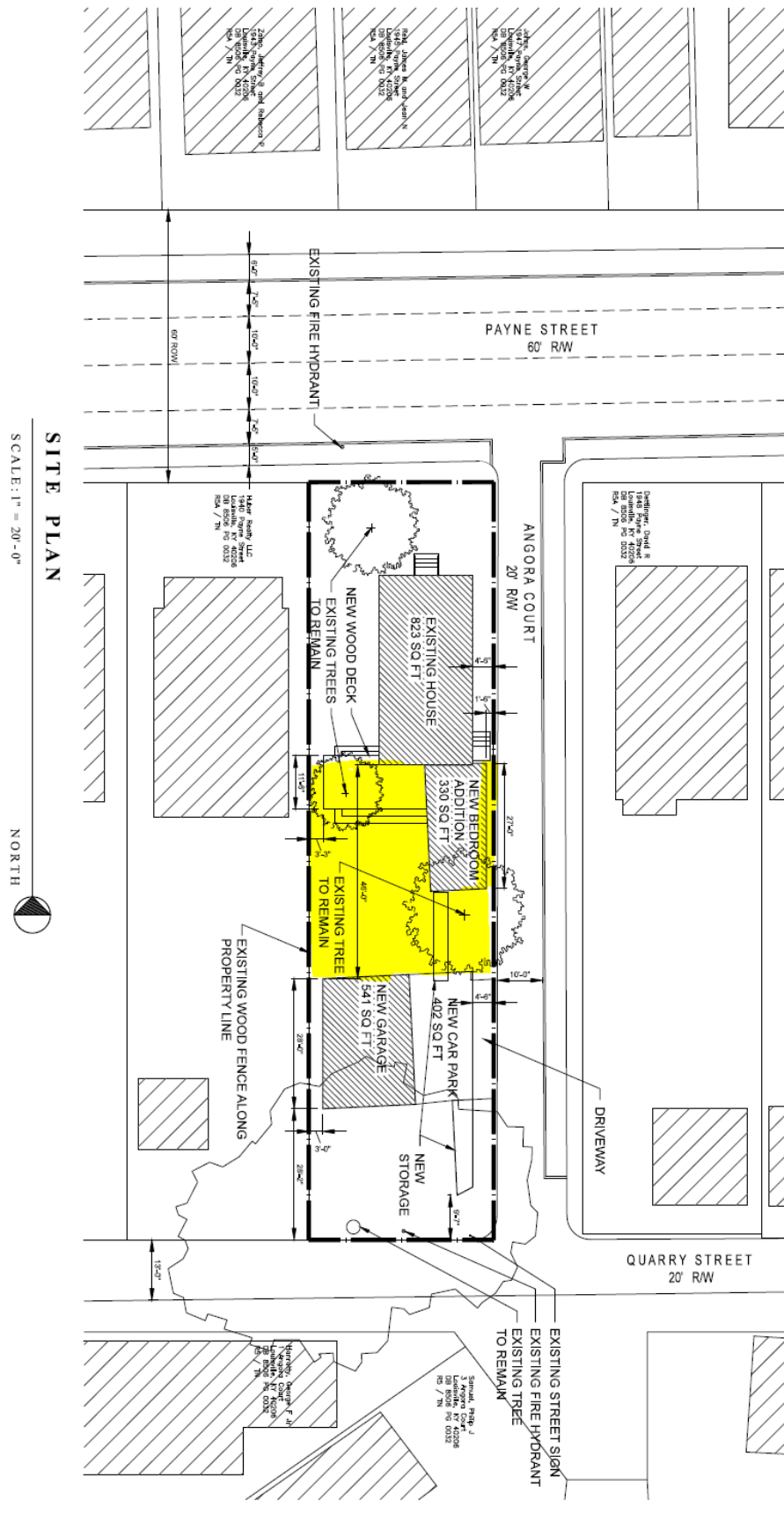
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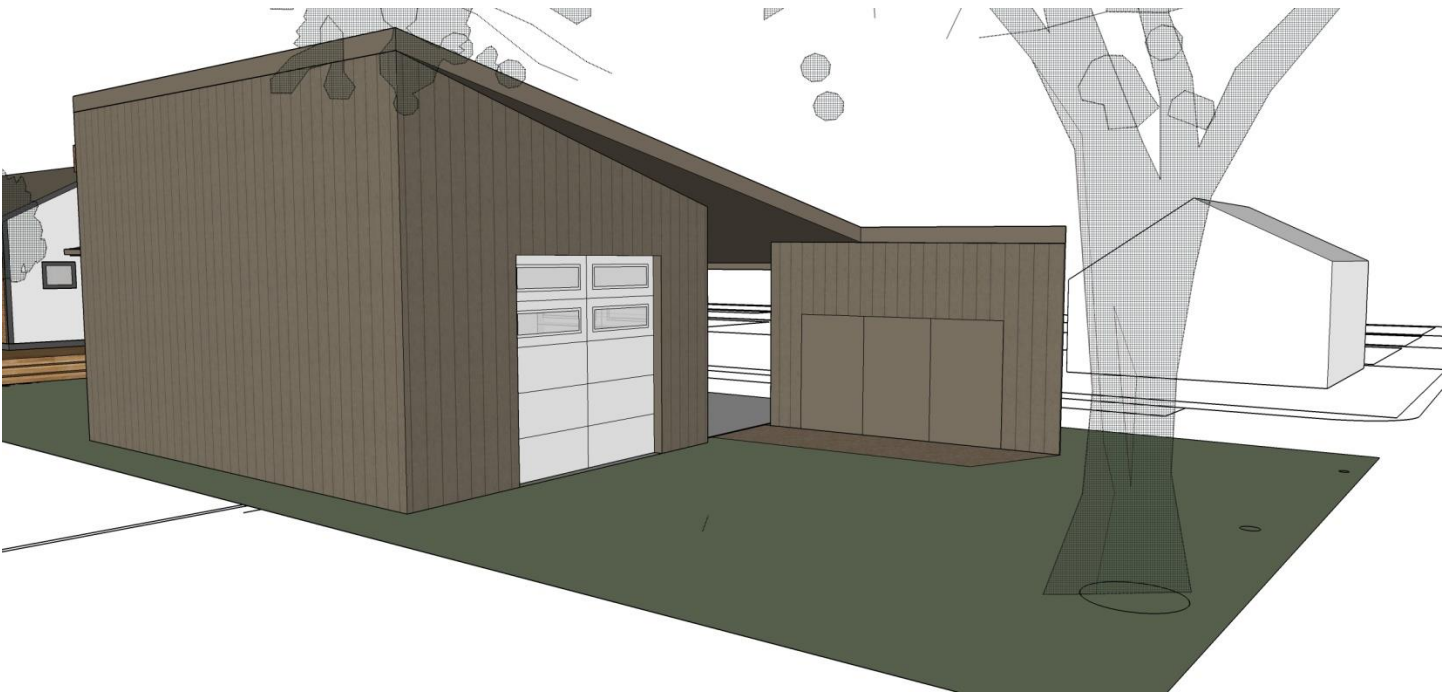
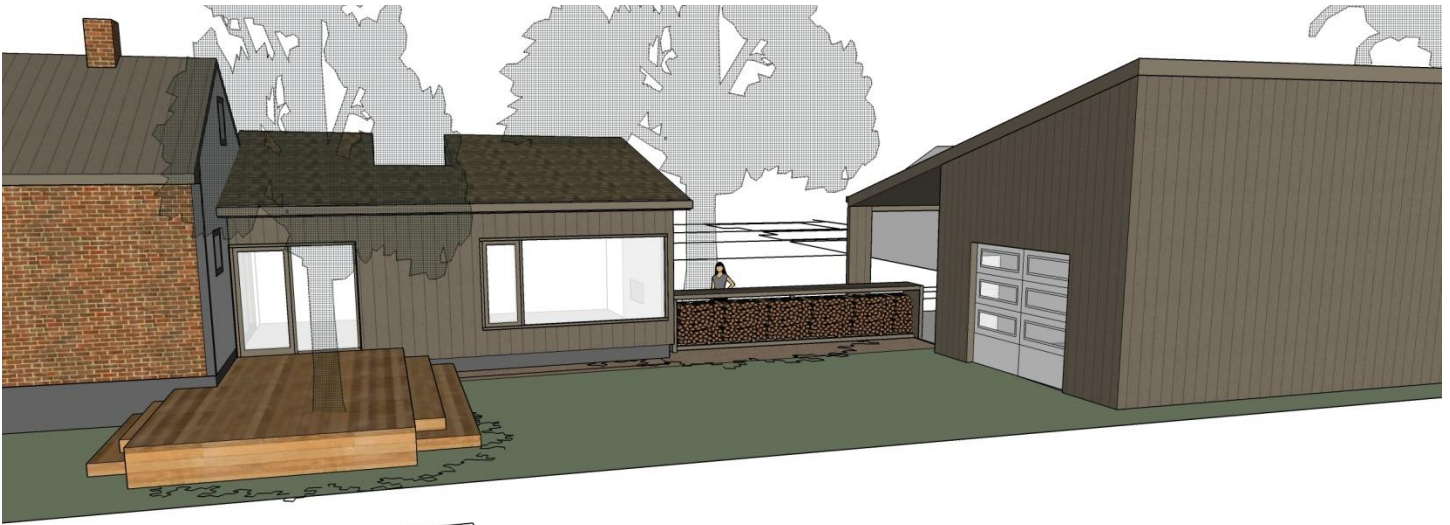


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3.



4. Elevations





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17 VARIANCE 1003

5. Site Photos



Looking along the side alley toward where the addition would be built.



Looking toward the location of the new addition from the side stair. The addition is proposed to align with the stair.



Looking toward the house from the intersection of the side and rear alleys.



Looking toward the house from the rear alley where the garage will be built. The large tree to be preserved is visible.