

Board of Zoning Adjustment
Staff Report
 March 3, 2017



Case No.	17VARIANCE1001
Request	Reduction of street side yard setback
Project Name	1024 Lampton Street
Location	1024 Lampton Street
Owner	Tommy Satterfield
Applicant	Tommy Satterfield
Representative	Cardinal Surveying
Jurisdiction	Louisville Metro
Council District	4 – Barbara Sexton Smith
Case Manager	Beth Jones, AICP, Planner II

REQUEST

- Variance from Land Development Code Section 5.2.2. Table 5.2.2. to permit new second-floor construction over an existing garage to encroach into the required street side yard

Location	Requirement	Request	Variance
Street side yard setback	3 ft.	1.83 ft.	1.17 ft.

CASE SUMMARY / BACKGROUND / SITE CONTEXT

The applicant has begun construction on a second floor addition onto an existing 635 sq ft garage at the rear of the property, behind an existing three-story residence. The site is zoned R-6 Residential Multi-Family within a Traditional Neighborhood form district.

The site is a corner lot fronting on Lampton Street to the north and Dupuy Court to the west. Most of the other homes in the Lampton block are two-story in height with a one-story accessory structure to the rear. Fronting the west side of Dupuy are residences, most two story. On the east side of Dupuy is a large surface parking lot which serves the Metro Government Center on Baxter Avenue.

LAND USE / ZONING DISTRICT / FORM DISTRICT

Land Use		Zoning	Form District
Subject Property			
Existing	Single-family residential	R-6	Traditional Neighborhood
Proposed	Single-family residential		
Surrounding Properties			
North	Surface parking lot	R-6	Traditional Neighborhood
South	Single-family residential		
East	Single-family residential		
West	Single-family residential		

PREVIOUS CASES ON SITE

No related cases are associated with the subject site.

INTERESTED PARTY COMMENTS

No comments have been received from concerned citizens.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES

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

STAFF: The variance does not affect public health, safety or welfare as the setback will not interfere with the public right-of-way or further restrict pedestrian and vehicular movement or visibility.

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

STAFF: The variance will not alter the essential character or the vicinity as the all lots on this block fronting Lampton Street are narrow and developed with relatively narrow side setbacks.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The variance will not affect the public right-of-way, as it is for the second story of an existing structure.

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

STAFF: The variance is compatible with existing development on neighboring properties. Since it is at the rear of the property and on a street side yard, it will not directly affect an abutting lot.

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 new construction is a second-story addition to an existing garage. The lot has two street frontages and an alley to its rear.

2. The strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: Application of the regulation would not deprive the applicant of reasonable use of the property, which is already fully developed with a house and a garage. The applicant would, however, be forced to remove the addition already under construction and re-roof the garage for future use.

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 existing garage was constructed in 1990 by the current property owner, who has stated the he relied on the word of the contractor who constructed it that all necessary permits were obtained at the time. The proposed second floor addition would not increase the non-conformity of the existing conditions.

TECHNICAL REVIEW

- No technical review undertaken.

STAFF CONCLUSIONS

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 from Land Development Code Section 5.2.2. Table 5.2.2. to permit new second-floor construction over an existing garage to encroach into the required street side yard.

NOTIFICATION

Date	Purpose of Notice	Recipients
2/16/17	Hearing before BOZA	First and second tier adjoining property owners Development notification list for Council District 4
2/17/17	Sign Posting for BOZA	On property

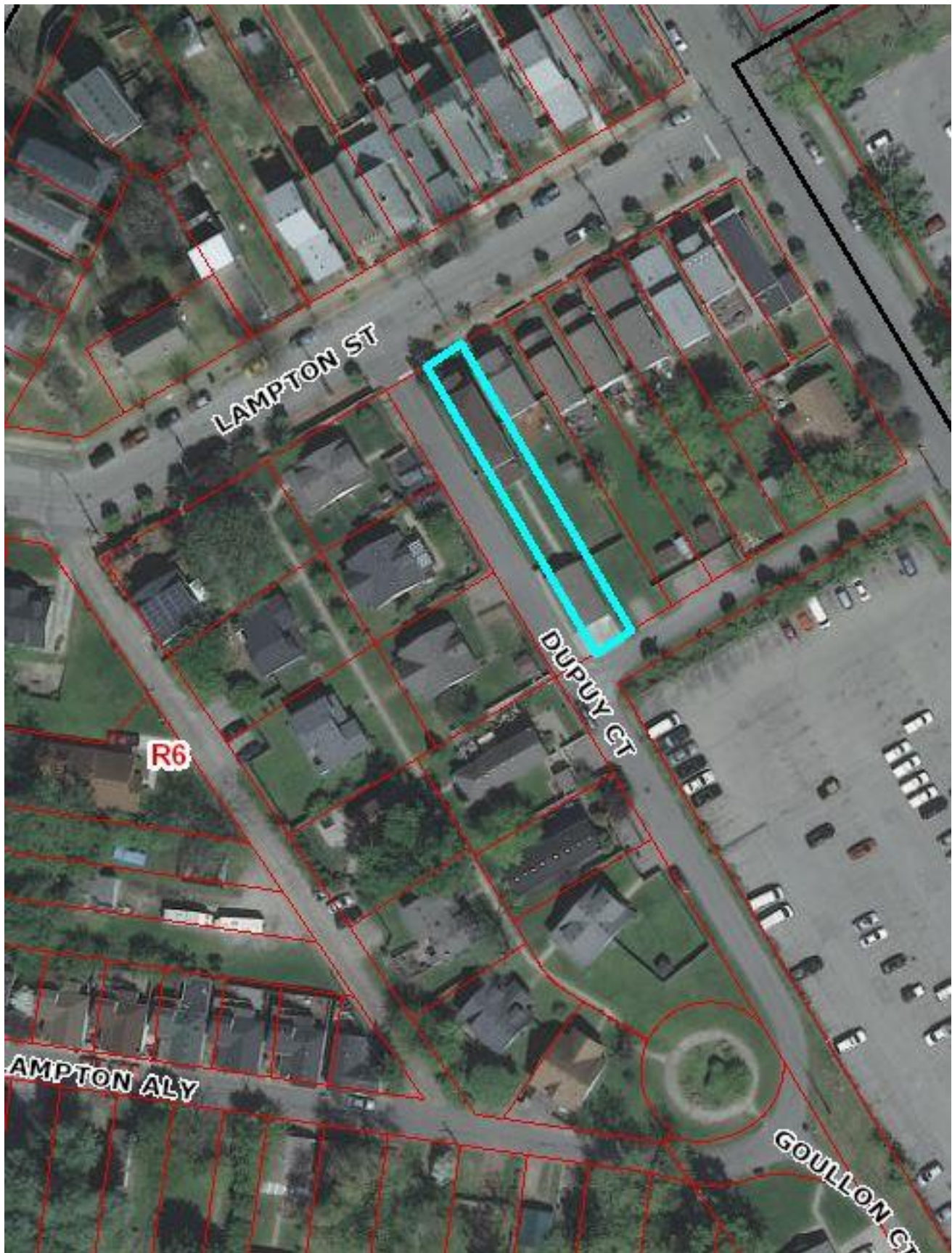
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Applicant Justification

1. Zoning Map



2. Aerial Photograph



3. Applicant Justification

Supplemental Information- Justification for BOZA Docket No. _____

Zoning of Site is R6 Form District Traditional Neighborhood
Existing and Proposed Use is Residential

1 Variance Requested

REQUESTED VARIANCE

Variance Side Yard Set Back Minimum is 3 feet
Request a variance from 3 feet to 1.83 feet of the side yard setback for a garage second floor (loft) addition on the west side/street side yard.
The external construction is complete.

LDC Section 5.2.2, Table 5.2.2

The variance is requested for a 1.17 foot variance of side yard setback requirements. The new set back would be 1.83 feet. This is a second story loft addition to a garage. According to PVA records, the garage was built in early 1990s. The owner began the second story addition under the belief, that if no footprint change was occurring, the garage did not any variances. He stated he hired a company to build the garage in the 1990s and that a construction permit was pulled according to them. Initial permits for plumbing and electrical were pulled for the upstairs renovations but as construction went forward, the owner was advised that the garage might be too close to the side property line. At that point, a boundary survey was ordered. It was determined the current garage set about 1.83 feet off the side property line at it closest point, rather than the required 3 feet.

The owners is requesting a side yard setback variance of 1.83 feet so that they he can complete the project.

Question 1A.

The requested variance will not adversely affect the public health, safety or welfare of neighboring landowners. The requested variance is for a total of 1.17 feet. The addition is directly above the existing garage with the same footprint. The area has undergone a lot of remodels on houses in the past few years. Across the street, a new plat was developed and houses built in the 1990s as an urban infill project. Paristown, like Germantown, is experiencing a lot of redevelopment at this time. This type of garage with a room over top is not unusual for the area. The style fits with the long narrow lot layout of houses in the Paristown area.

The existing house is on a 25 foot wide lot and is a three story dwelling. The lot is 180 feet deep. The garage sits 64 feet behind the house and is almost 32 feet long and 19.90

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feet wide. If fully compliant with the required side yards, the garage would be perfectly centered and 19 feet wide allowing for 3 foot side yards on each side. The attached photos show what it looks like from the adjacent right of way. The construction and set back fit in well with the existing retaining wall for the street. The structures are in character with the area and present no safety issues.

For these reasons, the granting of this variance will not adversely affect the public health, safety or welfare of neighboring landowners.

Question 1B

The variance will not alter the character of the general vicinity. The houses on these 25 foot lots are very similar in construction. Some houses in the area have rear garages of similar size and width. The 1.17 foot encroachment into the street side yard is not that visually discernable nor does it stand out in the neighborhood. Additionally there is a retaining wall along the right of way which creates a good barrier between the yard and the street.

Question 1C

The variance will not cause a hazard or nuisances to the public. The public is not impacted by this side yard variance in the rear portion of a lot. The retaining wall separates the yard from the street right of way. No new hazards are presented by this 1.17 foot difference in the garage placement.

Question 1D

The variance will not allow an unreasonable circumvention of the zoning regulations. The purpose of setbacks is to establish consistent building placement. In this situation, the garage was placed 25 years ago. At this time, only a loft addition is being added. The encroachment is minor and not intentional.

Question 2a

The variance request arises from special circumstances which do not generally apply to land in the general vicinity which is that this proposed variance is small in magnitude.

Question 2b

The strict application of the provision of the regulation as to TN setbacks would require the applicant to remove either the already constructed loft addition or 1.17 feet of a garage that has existed for 25 years. All other building code requirements are being met.

This is a request for Board's equitable powers to be given for a 1.17 foot mistake made during construction 25 years ago.

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