

Board of Zoning Adjustment Staff Report

June 19, 2017



Case No:	17VARIANCE1031
Request:	Variance from the required 6' side yard setback
Project Name:	313 Fairlawn Road Addition
Location:	313 Fairlawn Road
Area:	.117 Acres
Owner:	Kimberlee Kessler
Applicant:	Gary Doda – Affordable Builders LLC
Representative:	Gary Doda
Jurisdiction:	City of St. Matthews
Council District:	9 – Bill Hollander
Case Manager:	Dante St. Germain, Planner I

REQUEST

- Variance from St. Matthews Development Code section 4.6.C.2.b to allow a structure to encroach into the required side yard setback.

Location	Requirement	Request	Variance
Side Yard Setback	6 ft.	0.8 ft.	5.2 ft.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The subject property is located in the City of St. Matthews, and currently contains a 1 ½ story single-family residence with a one-story detached garage. The applicant proposes to demolish an existing dilapidated one-story addition on the back of the residence and construct a new 168 square foot addition. The separation between the new addition and the existing garage will be 9.1 feet.

St. Matthews Development Code section 4.6.C.2.b requires a side yard setback of 6 feet. However, Development Code section 9.2.P permits a garage which is more than 15 feet from the rear of the principal structure to be as close as 2 feet to the side property line. The existing garage is 0.8 feet from the side property line. After the new addition is constructed, the separation between the garage and the principal structure will be 9.1 feet, and section 9.2.P will no longer apply. The garage is currently non-conforming with an encroachment into the required side yard by 1.2 feet. Once the new addition has been constructed and the setback is determined by section 4.6.C.2.b, the garage will encroach into the required side yard by 5.2 feet due to the greater required side yard setback. Because of the increase in non-conformance, the applicant requests a variance from St. Matthews Development Code section 4.6.C.2.b for the garage to encroach into the required 6 foot side yard. The addition is proposed to be used to expand the existing kitchen.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<i>Subject Property</i>			
Existing	Single Family Residential	R-4	Traditional Neighborhood
Proposed	Single Family Residential	R-4	Traditional Neighborhood
<i>Surrounding Properties</i>			
North	Single Family Residential	R-4	Traditional Neighborhood
South	Single Family Residential	R-4 & R-5	Traditional Neighborhood
East	Single Family Residential	R-4	Traditional Neighborhood
West	Single Family Residential	R-4	Traditional Neighborhood

PREVIOUS CASES ON SITE

No previous cases.

INTERESTED PARTY COMMENTS

No interested party comments were received by staff.

APPLICABLE PLANS AND POLICIES

St. Matthews Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 4.7.C.2.b

- (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 garage is existing on the property and has caused no known adverse effects.

- (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 other nearby properties have similar garages at similar distances from the principal structures.

- (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 garage is being renovated and will comply with current building code.

- (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 garage is existing and the encroachment is increasing only due to the construction of an addition onto the rear of the principal structure.

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 garage is existing on the property and the encroachment is increasing only because of the construction of the addition onto the principal structure.

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 move an existing garage.

3. 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.

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 as the garage already exists on the property.

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 Development Code from section 4.6.C.2.b to allow a proposed addition to encroach into the required side yard setback.

NOTIFICATION

Date	Purpose of Notice	Recipients
06-01-2017	Public Hearing before BOZA	1 st tier adjoining property owners Subscribers of Council District 9 Notification of Development Proposals
06-02-2017		Sign posted on property

ATTACHMENTS

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

1. **Zoning Map**



313 Fairlawn Road

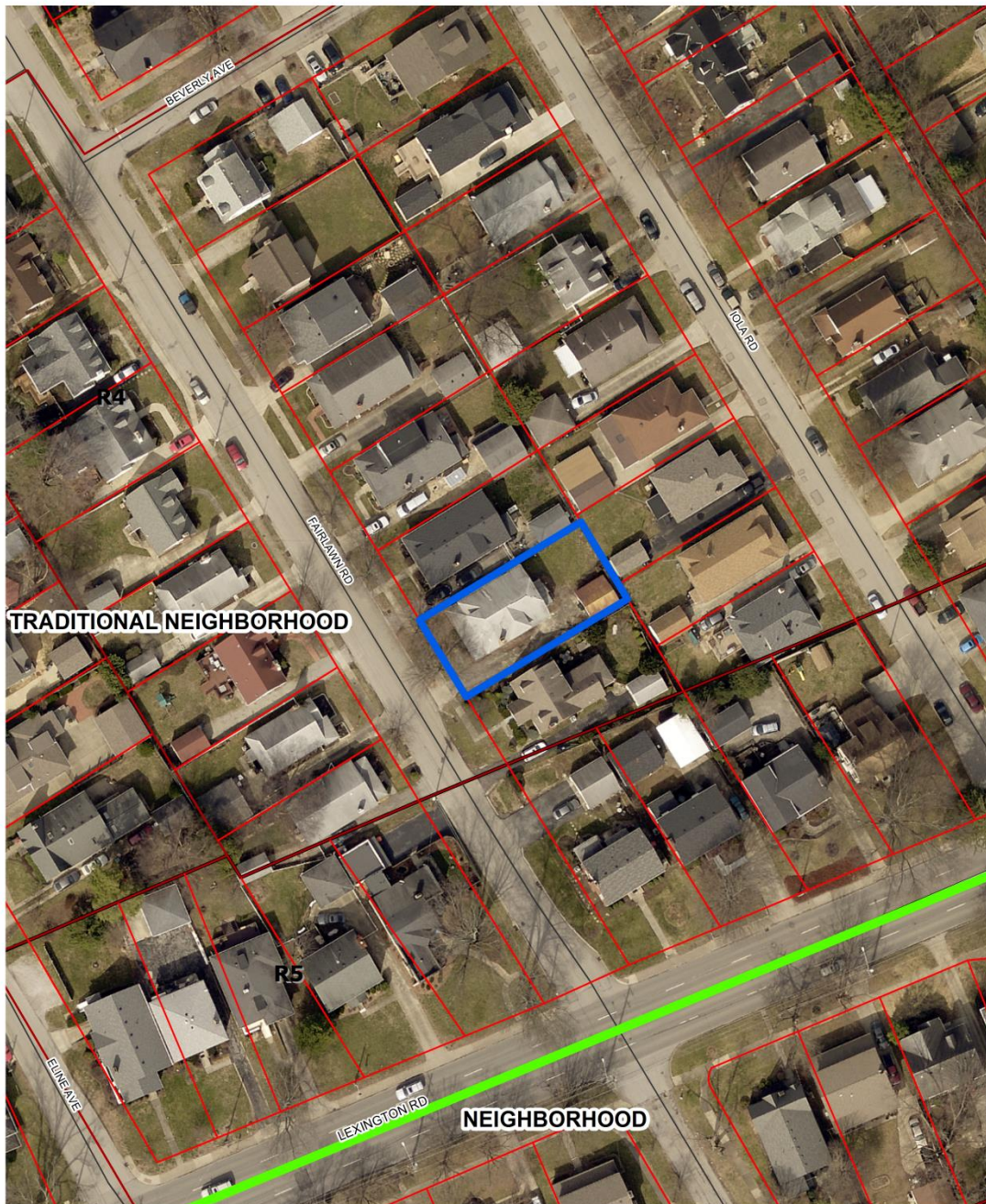
feet
140

Map Created: 6/8/2017



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2. Aerial



313 Fairlawn Road

feet



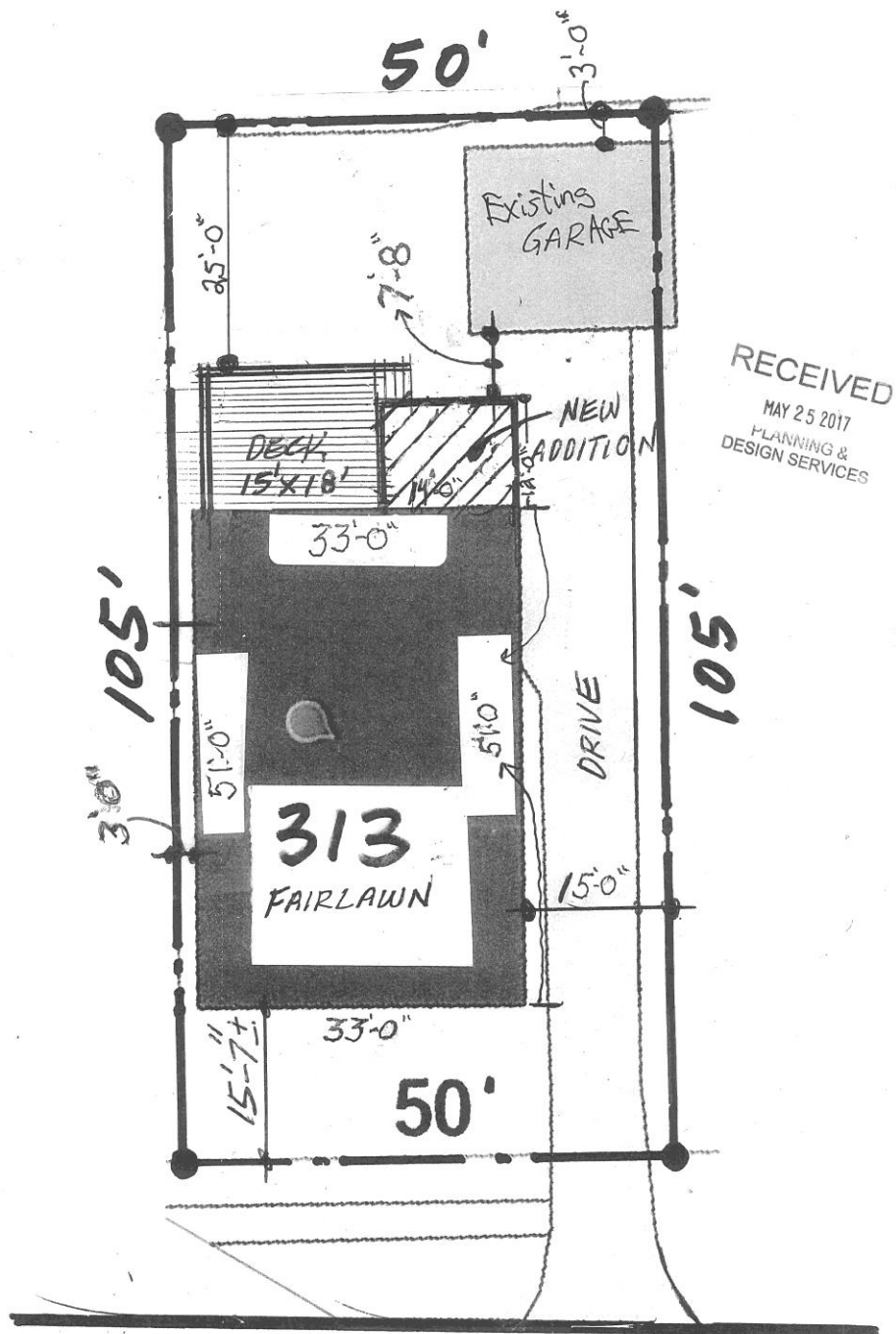
70

Map Created: 6/8/2017



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3. Site Plan



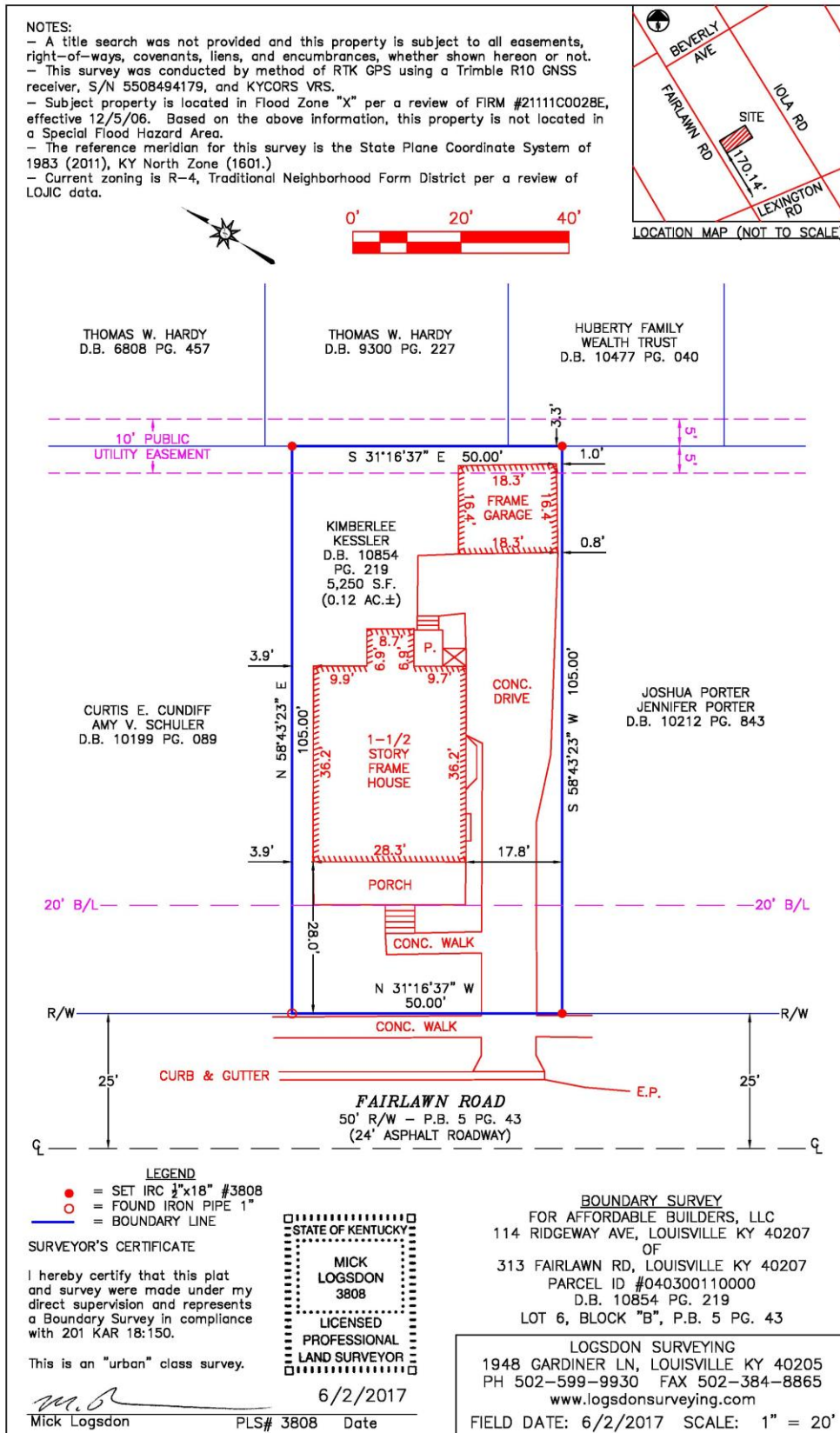
313 FAIRLAWN AVE.

Affordable Builders, LLC.
Gary Doda
502-807-3090

Scale 1" = 10'

17Variance1031

4. Existing Conditions



5. Site Photos



The front of the subject property.



The property across Fairlawn Road.



The residence to the north-west of the subject property.



The residence to the south-east of the subject property.



The existing dilapidated addition to be removed. The new addition will be constructed in this approximate location, with a deck beside it.



The existing garage is to be renovated but not moved or removed.