

# Board of Zoning Adjustment

## Staff Report

February 19, 2018



<b>Case No:</b>	17VARIANCE1109
<b>Project Name:</b>	2043 Sherwood Avenue Residence
<b>Location:</b>	2043 Sherwood Avenue
<b>Owner(s):</b>	Kimberly Ann Rogers Revocable Trust
<b>Applicant:</b>	Steve Rogers
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	8 – Brandon Coan
<b>Case Manager:</b>	Dante St. Germain, Planner I

### REQUEST

- **Variance** from Land Development Code section 5.4.1.D.2 to allow a private yard area to be less than the required 30% of the area of a lot
- **Waiver** from Land Development Code section 5.4.1.E.3 to allow parking access to be achieved from the primary street where alley access is available in the Traditional Neighborhood form district

Location	Requirement	Request	Variance
Private Yard Area	2,175 sf (30%)	975 sf (13.4%)	1200 (16.6%)

### CASE SUMMARY

The subject property is located in the Bonnycastle neighborhood, and is currently undeveloped. The lot is 50 feet in width and 145 feet in depth. The applicant proposes to construct a new 1 ½ story single-family residence on the subject site with a detached garage. The proposed locations of the principal structure and the accessory structure result in a reduced private yard area below the required 30% of the area of the lot. The applicant requests a variance to allow the reduced private yard area. The applicant received all adjoining property owner signatures for the variance request.

The applicant further requests a waiver to allow the use of an existing curb cut on Sherwood Avenue, to allow access to the proposed detached garage from the front of the property. The applicant proposes to also use alley access to the garage. Land Development Code section 5.4.1.E.3 states that access to parking shall be achieved through a rear alley, except where rear alley access is not available. A rear alley to access the lot is available, and the applicant does propose to access the garage from the alley in addition to access from the primary street.

### STAFF FINDING

Staff finds that the requested variance is adequately justified and meets the standard of review. Staff finds that the requested waiver is not adequately justified and does not meet the standard of review.

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 from section 5.4.1.D.2 to allow a private yard area to be less than the required 30% of the area of a lot, and if the proposal meets the standards

for granting a waiver from the Land Development Code from section 5.4.1.E.3 to allow parking access to be achieved from the primary street where alley access is available in the Traditional Neighborhood form district.

## **TECHNICAL REVIEW**

- The plan has received preliminary approval from Transportation Planning on the condition that the waiver is approved or that access from Sherwood Avenue is discontinued.

## **INTERESTED PARTY COMMENTS**

Staff received an email from neighbor Debra Harlan objecting to the driveway leading from the primary street to the garage. Ms. Harlan stated that other similar driveways in the neighborhood have been filled in and believes this one should be filled in as well. She supports alley access to the proposed garage.

## **CASE BACKGROUND**

This property is included in the Bonnycastle Neighborhood Plan, adopted in 2002. This plan does not address private yard areas. The plan does address alleys and the use of alleys, stating that alley usage is to be promoted. The section titled "Using Alleys as a Planning Tool" on page 14 of the neighborhood plan encourages rating alleys according to their functionality and tying redevelopment proposals to the condition and capacity of the adjoining alley. The plan also refers to a vision for Bonnycastle to include preserving and expanding alleys and sidewalks on page 3 of the plan, and describes the "traditional neighborhood" as intrinsically involving an alley system also on page 3.

## **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 significant private yard area will remain.

- (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 reduced private yard area is consistent with other private yard areas in the immediate vicinity.

- (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 significant private yard area will remain to handle rain events and other weather.

- (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 street is otherwise fully developed and similar site plans are common in this area.

**ADDITIONAL CONSIDERATIONS:**

1. The requested variance does not arise 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 not generally apply to land in the general vicinity or the same zone because the lot is regular in shape and comparable in area to other lots in the same vicinity.

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 may create an unnecessary hardship on the applicant by requiring the applicant to reduce the size of the proposed house or garage and limiting the use of the property.

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 applicant is requesting the variance and has not begun construction.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 5.4.1.E.3**

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners as there are other properties in the area which have curb cuts to Sherwood Avenue.

- (b) The waiver will violate specific guidelines of Cornerstone 2020; and

STAFF: The waiver may violate specific guidelines of Cornerstone 2020 as Cornerstone 2020 states that revitalization and reinforcement of the Traditional Neighborhood Form will require particular emphasis on (a) preservation and renovation of existing buildings in stable neighborhoods (if the building design is consistent with the predominant building design in those neighborhoods), (b) the preservation of the existing grid pattern of streets and alleys, (c) preservation of public open spaces. The ability to access the garage via the street may reduce or minimize the residents' use of the alley to access the garage. Alley access is promoted and preferred in the traditional neighborhood form.

- (c) The extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant as the proposed garage will have access from the alley in addition to access from Sherwood Avenue. Only one point of access is necessary.

(d) Either:

(i) The applicant has not incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

(ii) The strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The applicant has not incorporated other design measures that exceed the minimums of the district to compensation for non-compliance with the requirements to be waived, and the strict application of the provision 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 garage is proposed to be accessed from the alley, and only one mode of access is necessary.

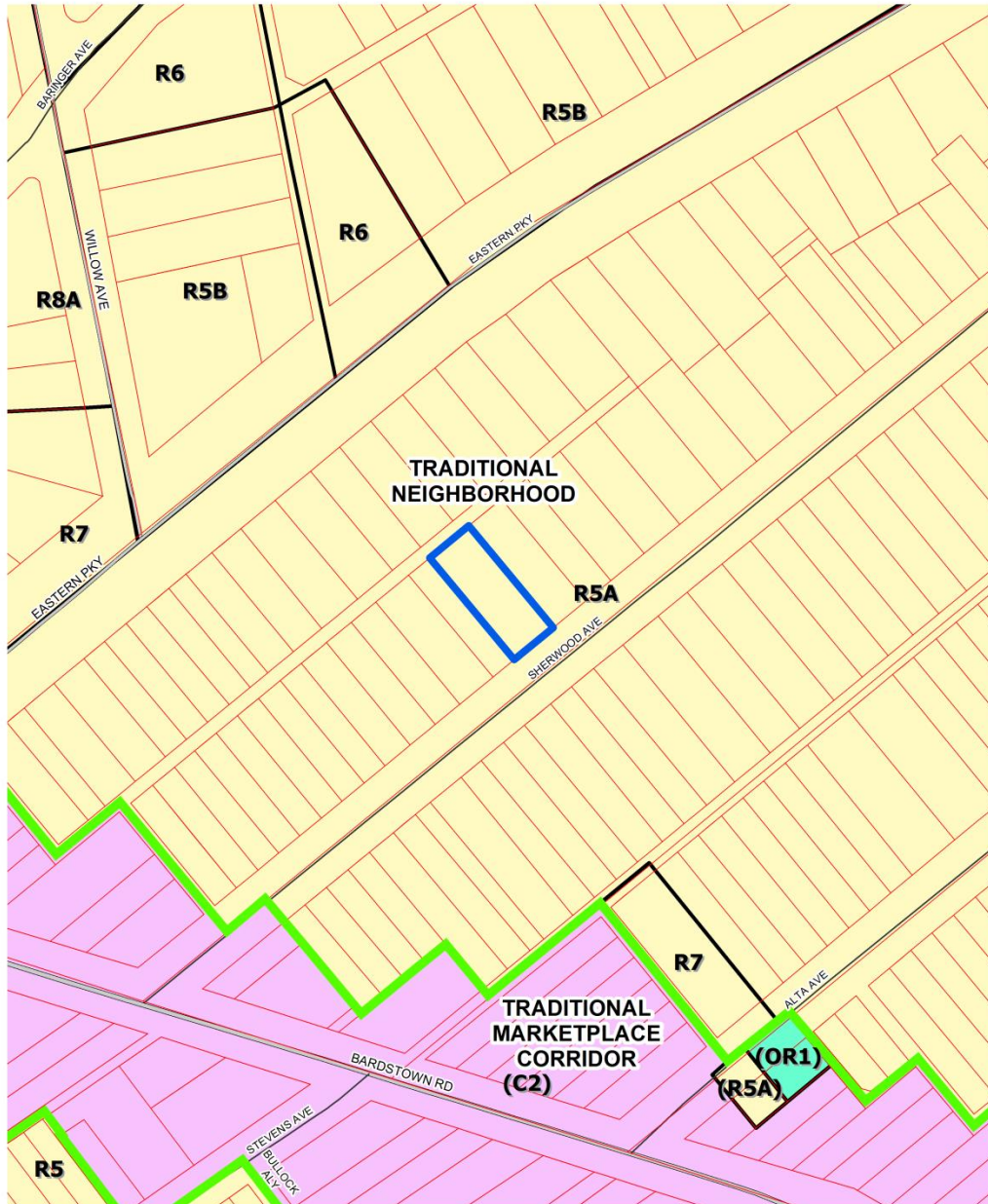
#### **NOTIFICATION**

Date	Purpose of Notice	Recipients
01/31/2018	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 8
02/02/2018	Hearing before BOZA	Notice posted on property

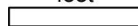
#### **ATTACHMENTS**

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

1. Zoning Map



2043 Sherwood Avenue  
feet



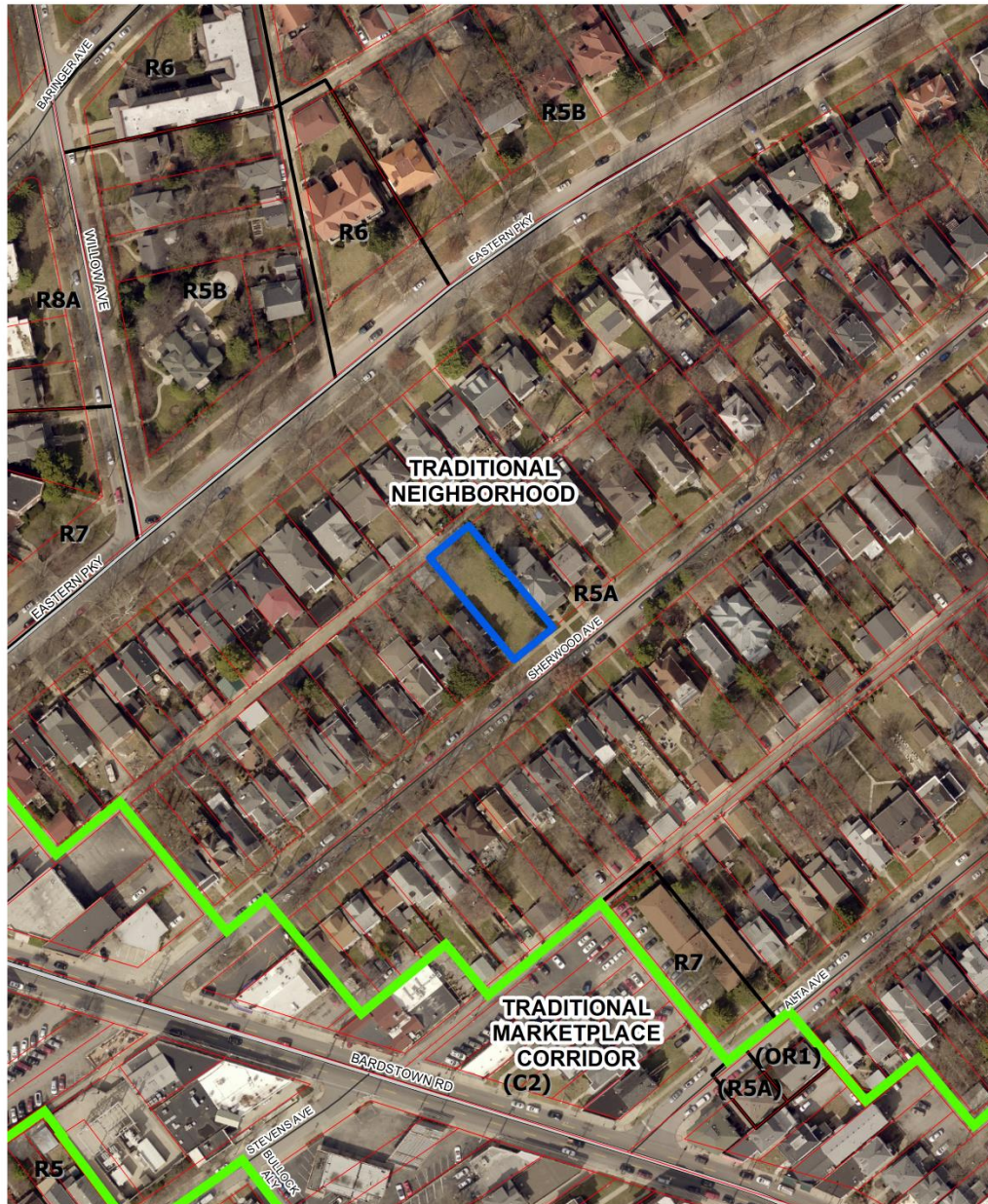
140  
Map Created: 2/6/2018



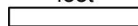
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LOUISVILLE METRO GOVERNMENT and  
JEFFERSON COUNTY PROPERTY VALUATION  
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## 2. Aerial Photograph



2043 Sherwood Avenue  
feet



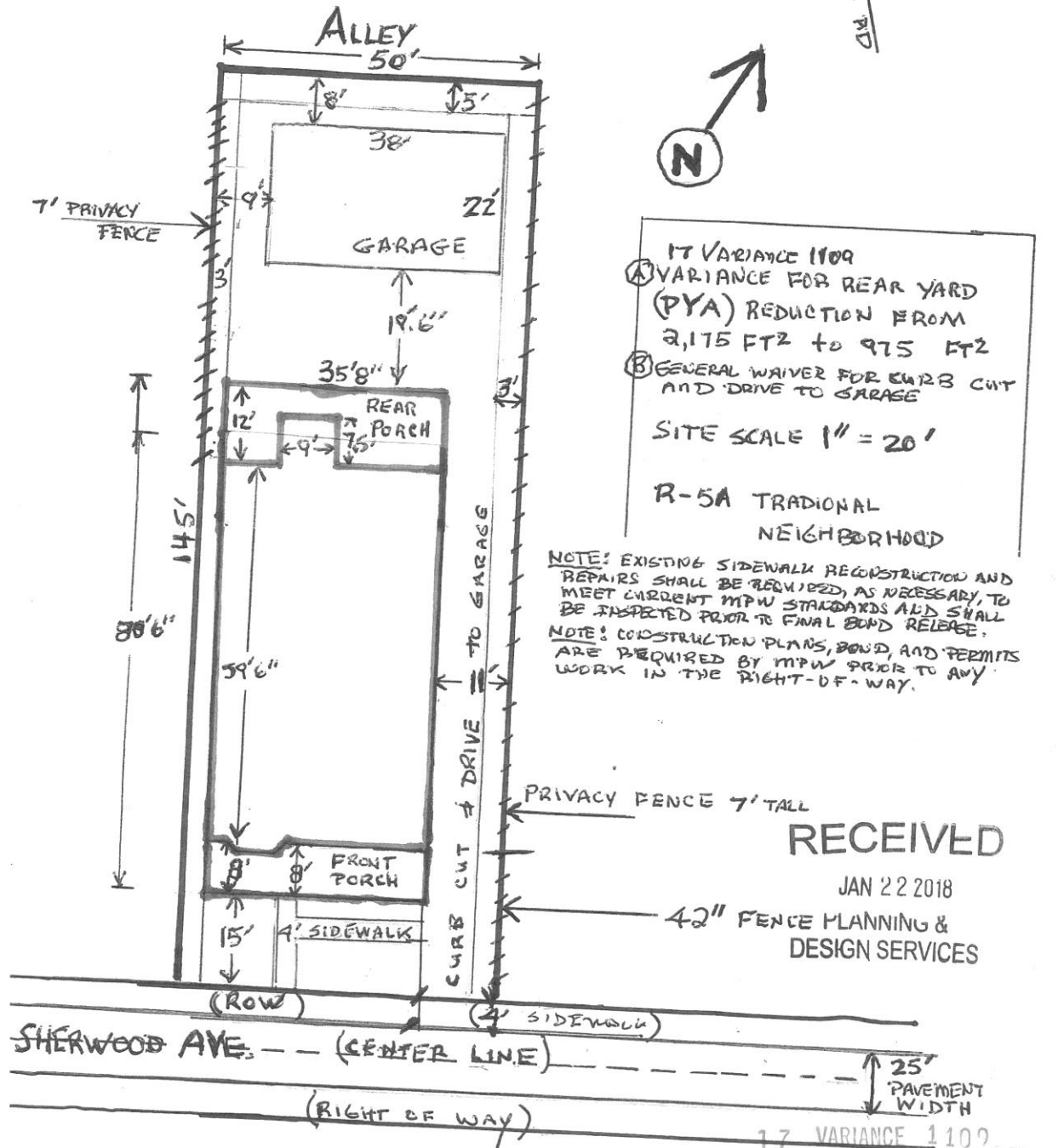
Map Created: 2/6/2018



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3. Site Plan

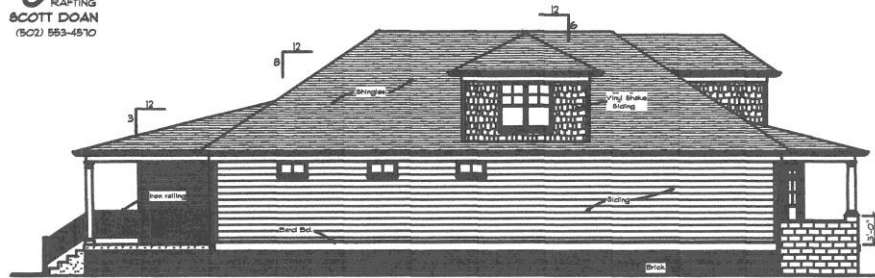
2043 SHERWOOD AVE  
LOUISVILLE, KY 40205  
PARCEL # 077C00600000



#### 4. Elevations

DOAN  
DESIGN  
SCOTT DOAN  
(502) 553-4510

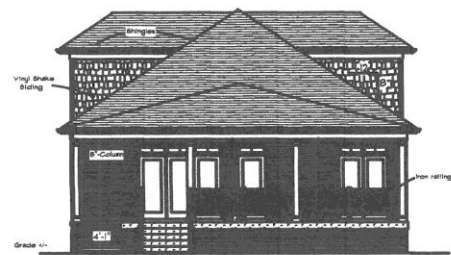
RECEIVED  
DEC 29 2017  
PLANNING &  
DESIGN SERVICES



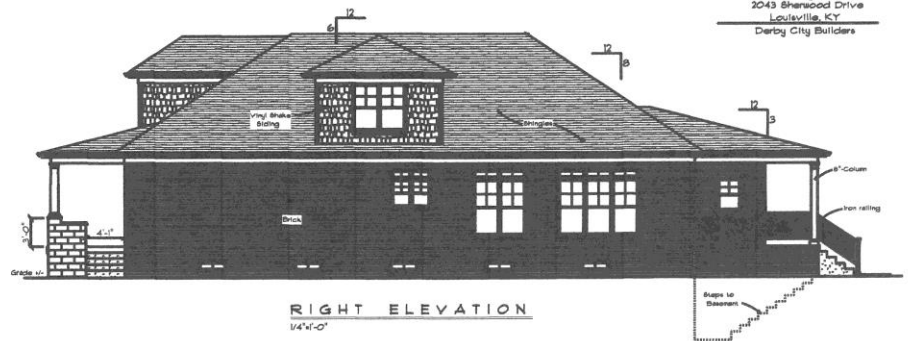
LEFT ELEVATION  
1/4"=1'-0"



FRONT ELEVATION  
1/4"=1'-0" 2840 Sq Ft +/-



REAR ELEVATION  
1/4"=1'-0"



RIGHT ELEVATION  
1/4"=1'-0"

Kim & Steve Rogers Residence  
2043 Shenswood Drive  
Louisville, KY  
Derby City Builders

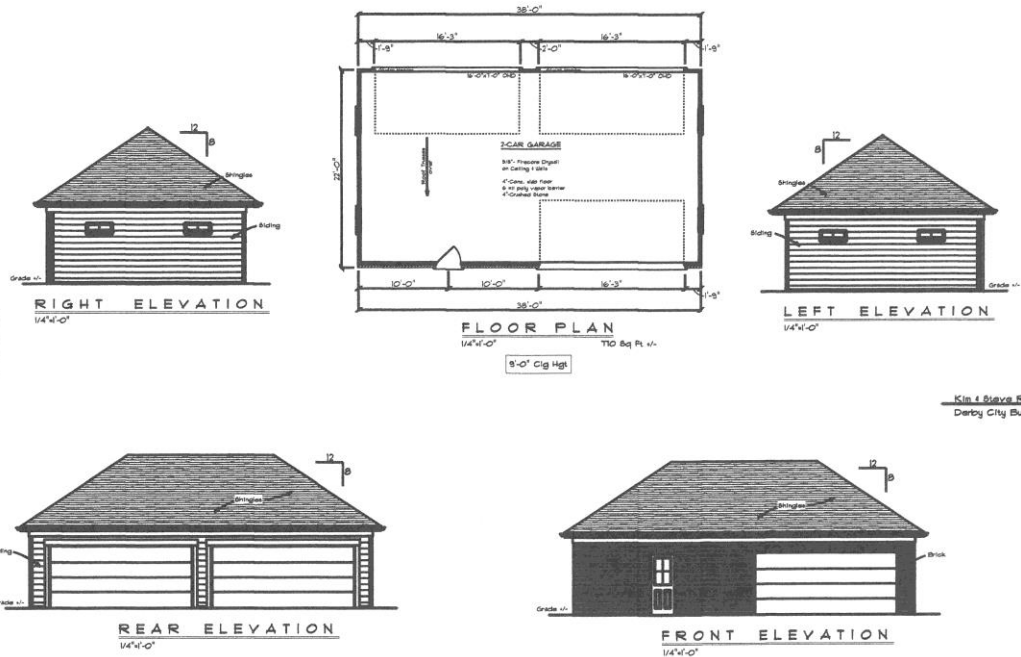
17 Variance 1109



DESIGN SERVICES

DEC 29 2017

RECEIVED



17 Variance 1109

5. **Site Photos**



The front of the subject property.





The property to the right of the subject property.





The property to the left of the subject property.





The properties across Sherwood Avenue.





The proposed location of the private yard area.





The existing alley access.





The existing alley access and proposed location of the garage and private yard area.





The existing curb cut.