

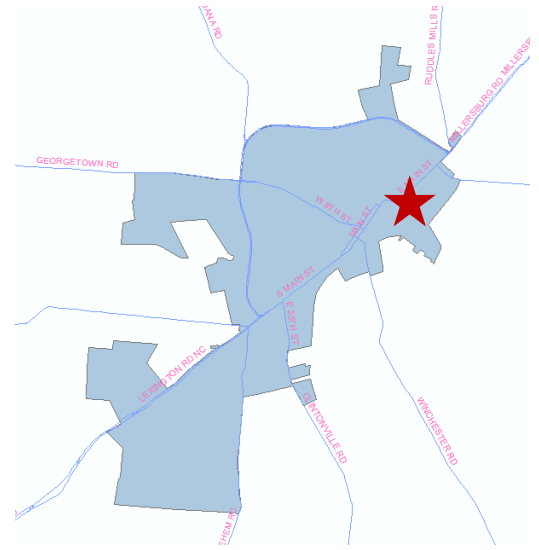
# Staff Report

Bourbon County Joint Planning & Zoning  
City of Paris Board of Adjustments Meeting:  
February 27, 2017

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**Case Number:** VAR 18-02  
**Applicant:** Donald Steven Morgan  
**Location:** 329 Stoner Ave  
**Request:** Rear Setback Variance  
**Zoning:** Residential (R-3)  
**Application Date:** February 16, 2018  
**Legal Advertisement:** February 22, 2018

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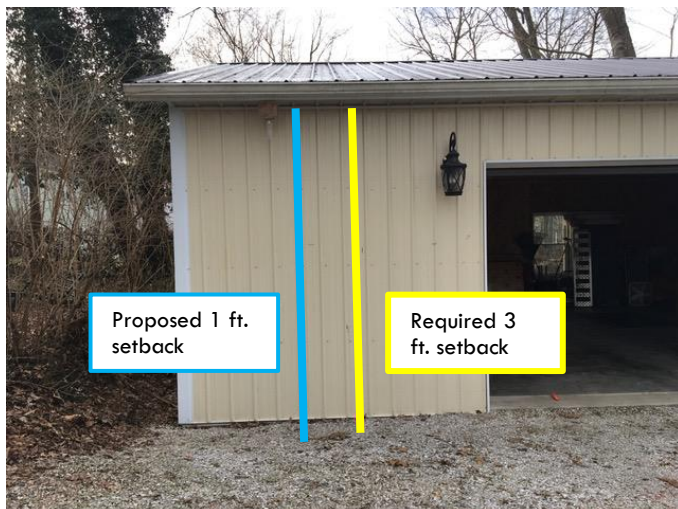
## Proposal:

Applicant requests a rear setback variance of 2 feet for an existing detached garage.

## Background:

Applicant constructed a detached garage on the rear of the property. A building permit was obtained for the garage on August 19, 2015.

Parcel # 026-80-04-005.00  
Owner: Donald & Leigh Morgan  
Parcel Size: .31 acre  
Existing Structures: Single family dwelling and two (2) detached garages.  
Road Frontage: Front 60 ft  
Front Setback: Approx. 60 ft  
Rear Garage Setback: Garage encroaches onto neighboring property by 3 ft.



Imagery shown above for descriptive purposes only. Not to shown to scale.

## Findings:

First, a set back line is the minimum yard distance, required by the City of Paris Zoning Ordinance, to be maintained between a given lot line or right-of-way and any portion of a structure. The setback requirements for a free-standing garage are two (2) feet from the side, and three (3) feet from the rear property line. One reason we use setbacks is to minimize potential nuisances to neighboring properties and provide a buffer for access and maintenance to buildings and other structures.

*Before a variance is granted, the Board must find that the granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the vicinity, will not cause a hazardous nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the Board shall consider:*

### **Does the requested variance arise from special circumstances?**

No. This lot is typical of the surrounding residential development. Even if the slope of the property in front of the main structure were flat, any detached garage is required to have at least the minimum front yard setback as the main structure.

### **Would the strict application have deprived the applicant of the reasonable use of land or create unnecessary hardship?**

No. There already exists a detached garage adjacent to the second (two car) garage. However, the based on the applicant's argument, the Board will have to decide on an interpretation of "reasonable use of land" and whether reducing the size of the garage to adhere to the requirements would create an unnecessary hardship on the applicant. It is the staff's opinion that the cost for reducing the size of the garage should not be taken into account in the Board's deliberation as a hardship, as the applicant violated the zoning ordinance prior to approaching the Board of Adjustments for review.

### **Are the circumstances the result of actions of the applicant taken subsequent to the adoption of the zoning regulation for which relief is sought?**

Yes. The actions of the applicant were taken after adoption of the ordinance.

### ***The Board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulations by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.***

Applicant claims this was not a willful violation of the rear setback requirement of the zoning regulations. However, one should not assume the location of a property boundary without having surveyed the land. At the time of the most recent survey (2-8-18), new pins were placed at the rear corners of the property which didn't exist before. When the building permit was issued in 2015, the setback requirements were communicated to the applicant (see original application below).

## Recommendation:

Staff recommends disapproval of the two (2) ft. rear setback variance request. Constructing any building without knowing the true property boundaries is negligent. Due to the existence of not one but two accessory structures, staff does not share the same conclusion that the strict application of the ordinance would deprive the applicant of a reasonable use of the land. Lastly, reducing the setback from three (3) ft to one (1) ft would not provide a sufficient buffer for (building or yard) maintenance between properties.

**IF** the Board choses to approve the requested setback variance, staff recommends a statement of support be obtained from the rear property owner.

Any violation of the provisions of the Zoning Ordinance regulations for which no other penalty is provided shall be fined not less than ten dollars (\$10) but no more than five hundred (\$500) dollars. Regardless of the decision, staff recommends a fee in an amount no less than \$350 for the staff time, legal advertisement, and other associated costs with convening the BOA.



City of Paris Residential Building Permit Application

9) 987-6169 Fax: (859) 987-4640

Permit Number: 15022

Location: 329 Stoner Ave Construction Type: New Construction  Addition

Demolition: Remodel: Other:

Description of Proposed Work: DETACHED GARAGE

Contractor: STEVE MORGAN Contractor: TPI-COUNTY POLE BARN Electrical Contractor:

Address: 329 Stoner Ave Address: 1570 Hwy 19

City/State/Zip: PARIS, KY 40364 City/State/Zip: KY 41031

Phone Number: 812-620-3173 Phone Number: 606-724-5505

City Business License?: Current City Business License?:

Plumbing Contractor: \*See City Clerk for Business License Application The fee is \$25.

Address:

City/State/Zip:

City Business License?: Current City Business License?:

Classification of Property: R-3

Setbacks for Structure: Front NA Side 2' Rear 3' Proposed Setbacks for Structure: Front ~~2'~~ Side 5' Rear 4'

Percentage of living area on all finished floors including finished basements, attached and basement garages, covered porches, breezeways and decks:

Estimated cost of construction: \$14,500 Floodplain status where structure is proposed:

Foundation Type: Crawl: Slab: Basement:

Has a utility tap been granted on this property?: NA Will a new utility tap be required?: Water: Sewer:

Location of Project: State: Local: Permit Fee: \$50.00

I hereby certify that this application for a building permit, applicant states that the information given is, to the best of his/her knowledge, true and correct. It is understood and agreed by applicant that any error, misstatement or misrepresentation of fact, either with or without intent on his/her part, such as might, if known, cause a refusal of this application. Any alteration or change in plans made without the approval of the City of Paris building official subsequent to the issuance of the building permit shall constitute grounds for the revocation of this permit. Failure of this office to note all violations in the review of plans and specifications does not relieve the contractors of the responsibility of complying with applicable codes and regulations. The building official reserves the right to enter the construction site at will during reasonable working hours.

Applicant Signature: Date: 5/1/2015

Permit Issued: Date: 5/1/15 City of Paris Building Official

For inspections call: Ron Vanover @ 987-2110, x3110