

**Board of Adjustment
Variance Staff Report
Hearing Date: August 19, 2021**



ITEM 2 The Workman Company requests a rear-yard variance to extend, to the north, an existing garage that was built to the property line, located at 4772 N 420 W in the R1.10 zone. Riverbottoms neighborhood. Robert Mills (801) 852-6407
rmills@provo.org PLVAR20210161

Applicant: The Workman Company

Staff Coordinator: Robert Mills

Property Owners: Jay and Nancy Rollins

Parcel ID#: 552030002

Acreage: 13,939 square feet

Number of Properties: 1

Number of Lots: 1

ALTERNATIVE ACTIONS

1. **Approve** the requested variance. *This action would not be consistent with the recommendations of the Staff Report. The Board of Adjustment should state new findings.*

2. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is September 16, 5:00 P.M.*

Current Legal Use: Single family residence

Relevant History: The property contains a single family detached dwelling with a detached garage. The garage is nonconforming because it is constructed within 1.5 feet of the rear property line. The request is to extend the existing structure approximately 22 feet along the rear property line. The property is bordered by residential dwellings on the sides and a church parking lot at the rear.

Neighborhood Issues: The neighborhood chair sent an email to over 350 residents and received 5 responses. All supported the variance request because the property backed to a church parking lot. They would likely not have supported the request if it had backed to a residential property. There was concern about the possible precedent the request might set.

Summary of Key Issues: The R1 zone dwellings be at least 20 feet from the rear property line.

Staff Recommendation: Staff recommends the Board of Adjustment deny the requested variance. However,

	Staff recognizes the Board of Adjustment may find the variance allows for substantial justice to the applicant and the context of the lot may support approval.
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OVERVIEW

The applicant requests a variance to the R1 zone requirements to allow the expansion of a nonconforming structure along the rear property line of the subject property. Specifically, the applicant requests to enlarge the existing detached, nonconforming garage to allow for additional living space and new garage space. The expansion will increase the nonconforming garage 22 along the rear property line.

FINDINGS OF FACT

- The existing detached garage is constructed 1.5 feet from the rear property line.

ANALYSIS

1. Section 14.05.030(9), Variances, paragraph (b) of the Provo Municipal Code states that the Board of Adjustment may grant variances if the following criteria are met:
 - (i) Literal enforcement of this Title would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this Title;

Literal enforcement of this Title would not cause unreasonable hardship for the applicant because the applicant already has a garage. If expansion of the garage is desired, the applicant has sufficient buildable area on the lot to expand the garage in conformity with the provisions of this Title.
 - (ii) There are special circumstances attached to the property that do not generally apply to other properties in the same district;

The property is very similar to others in the same neighborhood and is large enough to accommodate the desired expansion without the need for a variance.

- (iii) Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district;

Granting the variance is not essential to the enjoyment of a substantial property right. The applicant already enjoys the use of a large, detached garage, which is typical of other properties in the neighborhood. The property can support the addition of another detached structure within the setbacks required by the R1 zone, and so, a variance to expand the structure along the existing 1.5-foot setback line seems convenient, but unnecessary.

- (iv) The variance will not substantially affect the general plan and will not be contrary to the public interest; and

This variance would not substantially affect the general plan and has not been shown to be against the public interest.

- (v) The spirit of this Title is observed and substantial justice done.

The granting of the variance is not required to observe the spirit of this Title; however, if the Board of Adjustment were to grant the variance, it would allow substantial justice for the applicant.

APPLICABLE ZONING CODES

14.10.080 (5) Accessory Buildings Within the Buildable area. Accessory buildings meeting all setback requirements (within the buildable area) for the main dwelling shall:

- (a) Have a building footprint and height less than the main dwelling.
- (b) Comply with all lot coverage requirements.
- (c) Comply with the latest adopted edition of the International Building code.
- (d) Only be used for those accessory uses allowed in the respective zone.

- (e) Maintain architecturally similar material and colors with main building.

14.10.080 (6) Accessory Building Outside the Buildable Area. Accessory buildings that do not meet the setback requirements (outside the buildable area) for the main dwelling shall meet the conditions in Subsection (5) of this Section and the following:

- (a) Be no closer to the front property line than the main building.

CONCLUSIONS

This variance request does not meet most of the criteria established by Section 14.05.030(9). Denial would mean the applicant would be required to expand the existing garage in conformity with the requirements of this Title. The lot has sufficient buildable area to accommodate the expansion. However, staff recognizes that the Board of Adjustment may find that the requested variance is reasonable and would allow for substantial justice to the applicant if granted. Given the context of the site, that may be an important and supportable conclusion to make. Additionally, the variance will not substantially negatively affect the general plan nor are neighboring property owners opposed to the home addition.

JUDICIAL APPEAL OF BOARD OF ADJUSTMENT ACTION

Chapter 14.05 provides a process for appeal of a determination by the Board of Adjustment (quoted in part):

04.05.050. Judicial Appeal.

- (i) Any person aggrieved by or affected by any decision of the Board of Adjustment may have and maintain a plenary action for relief from the District Court of competent jurisdiction, provided petition for such relief is presented to the court within thirty (30) days after the filing of such decision in the office of the Board of Adjustment or with the City Recorder.

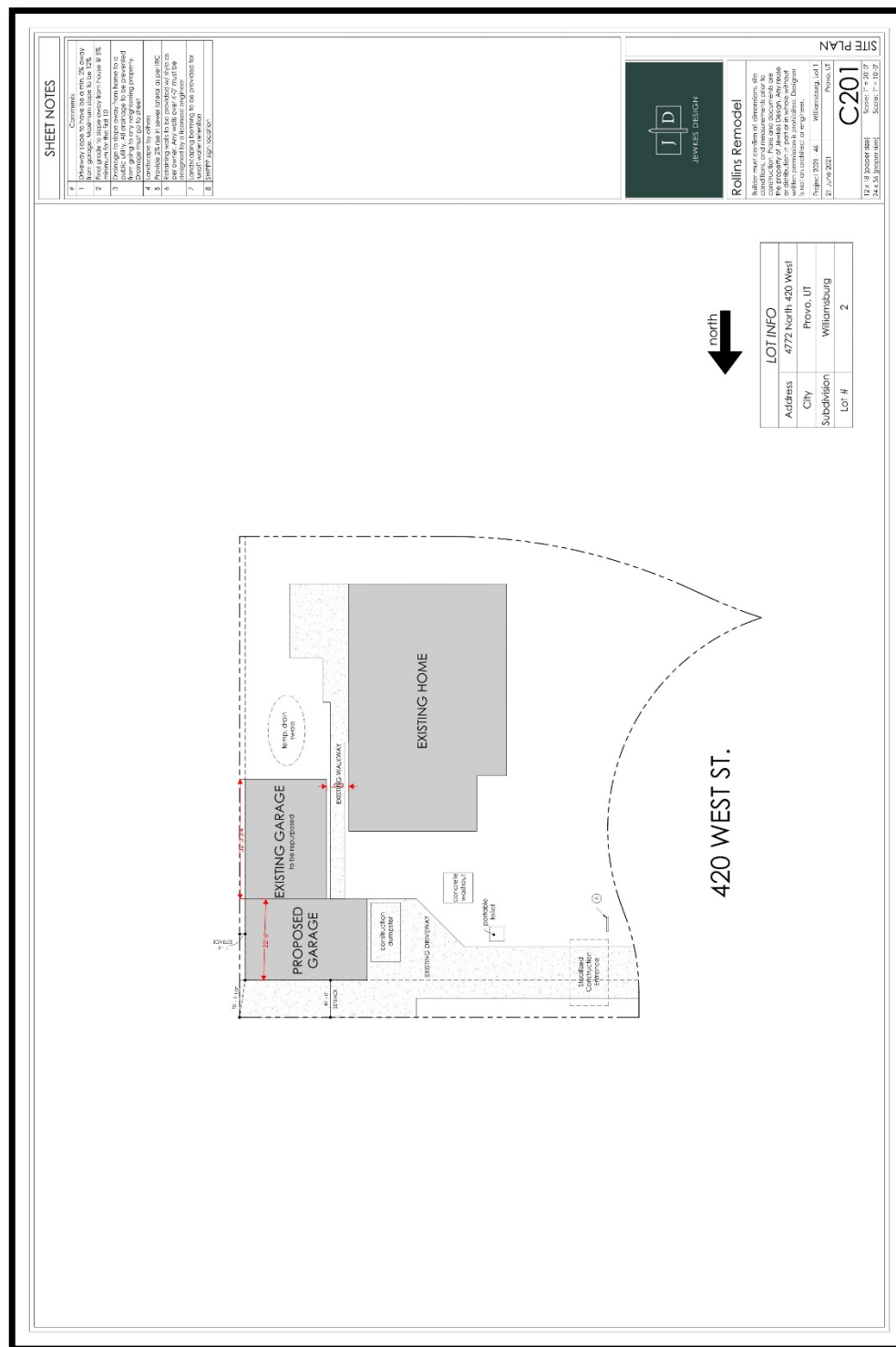
ATTACHMENTS

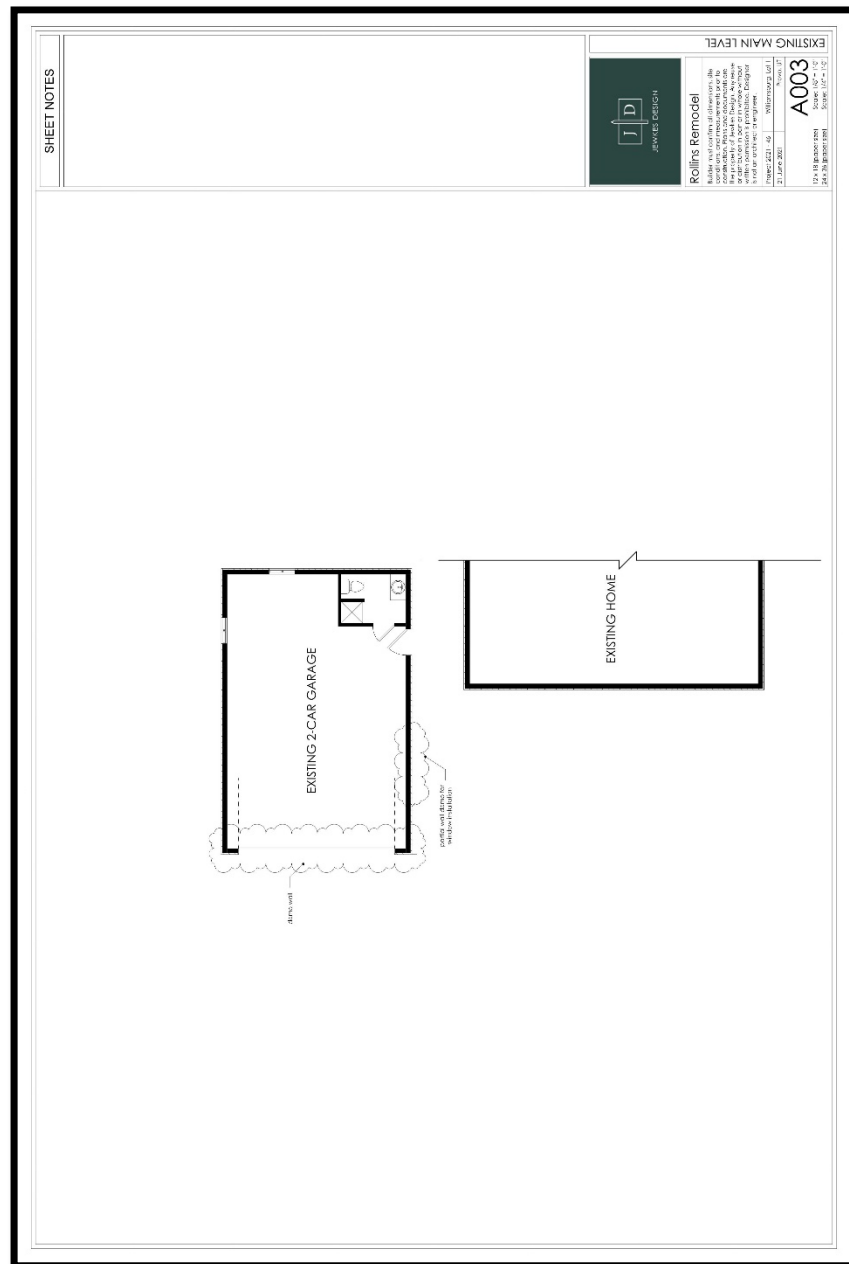
- 1. Location Map**
- 2. Proposed Site Plan**
- 3. Materials Submitted by Applicant**

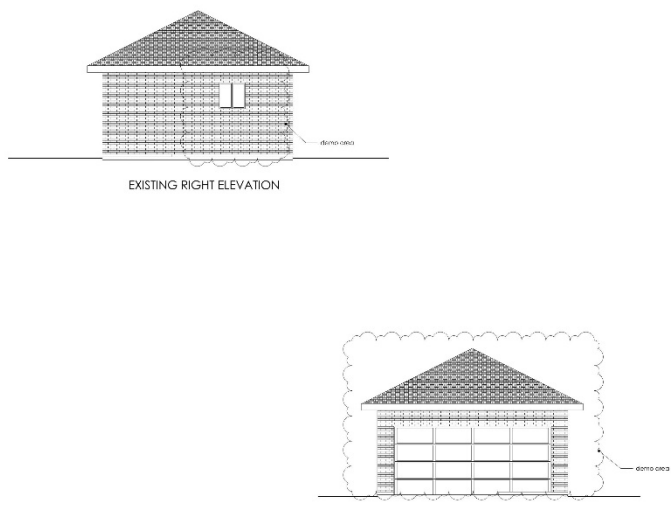
Attachment 1: Location Map

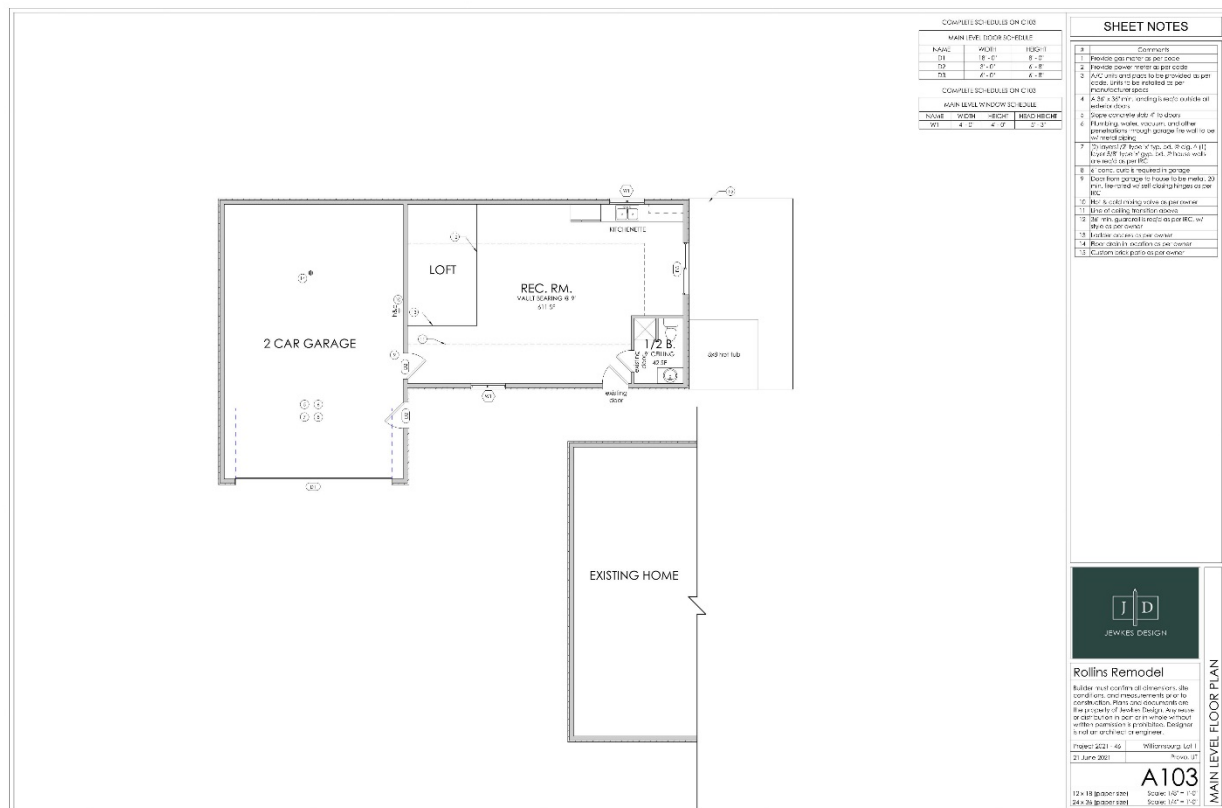


Attachment 2: Proposed Site Plan

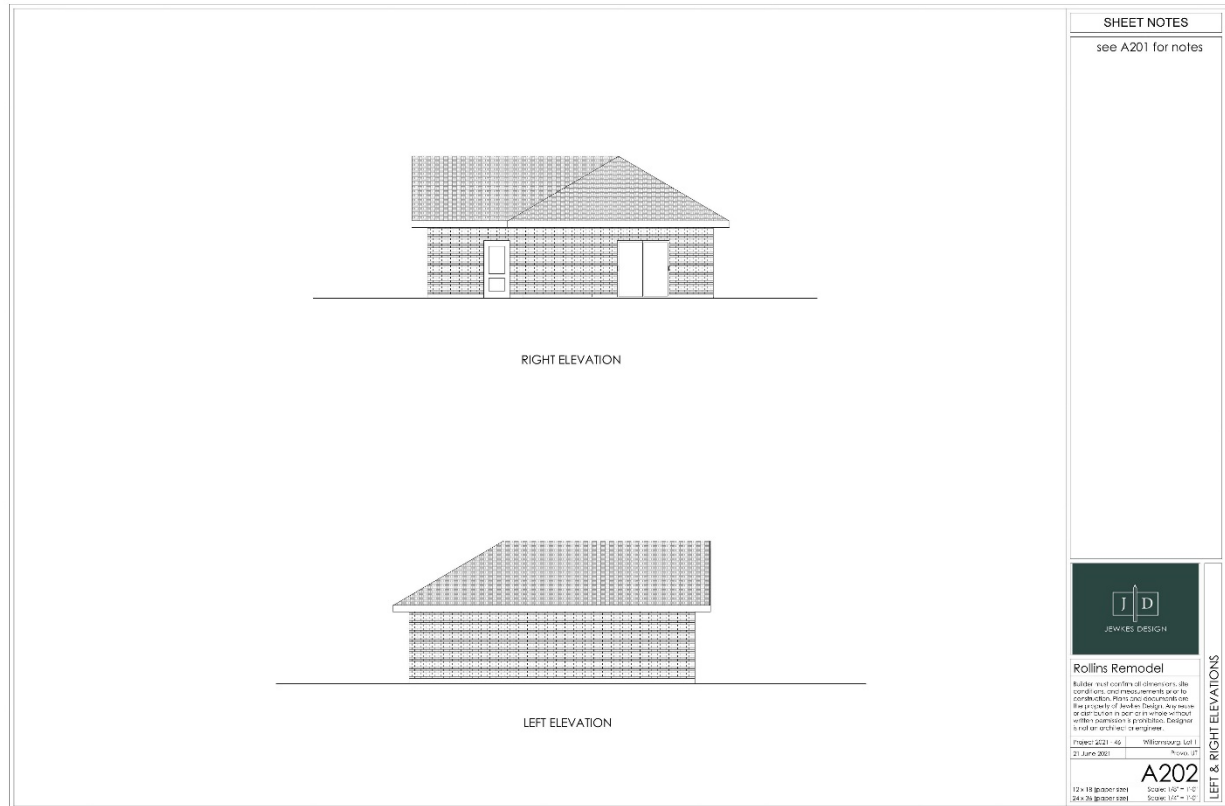




 EXISTING RIGHT ELEVATION EXISTING LEFT ELEVATION	<table border="1"><tr><th data-bbox="1250 344 1421 378">SHEET NOTES</th></tr><tr><td data-bbox="1250 378 1421 882"></td></tr><tr><td data-bbox="1250 882 1421 1144"> Rollins Remodel Builder will confirm all dimensions, site conditions, and measurements prior to construction. Plans and documentation are the property of Jewel Design. Any reuse or reproduction without written permission is prohibited. Design is not for construction without written permission. Project: 2021-05 10/10/2020 1/1/21 21 June 2021 21 June 2021 A005 12 x 18 quarter sheet Scale: 1/4" = 1'-0" 24 x 36 quarter sheet Scale: 1/8" = 1'-0" </td></tr></table>	SHEET NOTES		 Rollins Remodel Builder will confirm all dimensions, site conditions, and measurements prior to construction. Plans and documentation are the property of Jewel Design. Any reuse or reproduction without written permission is prohibited. Design is not for construction without written permission. Project: 2021-05 10/10/2020 1/1/21 21 June 2021 21 June 2021 A005 12 x 18 quarter sheet Scale: 1/4" = 1'-0" 24 x 36 quarter sheet Scale: 1/8" = 1'-0"
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Attachment 3: Materials Submitted by the Applicant

Statement of Applicant

April 12, 2021

Board of Adjustment Variance
Provo City Community Development

Please consider this application for a variance to the Provo City Zoning Ordinance regarding our residential property at 4772 N. 420 W. We would like to construct a new garage that would be located about 1½ feet of the property line in our backyard. This would be a variance from the current zoning ordinance requiring a setback of at least 20 feet. Following are the reasons for our request:

- 1) The planned new garage would be an extension onto an existing unattached garage that was originally built in 1990 about 1½ feet from the eastern property line in our backyard. The east side of that old garage has a brick exterior that is 33 feet long and parallels a wooden fence that runs along our backyard property line. The new garage would extend that existing brick exterior another 22 feet. After building a new garage, we hope to repurpose the old garage into a family room to provide additional living space for our family. It already has necessary utility improvements, including plumbing, electricity, and gas lines.
- 2) On the east side of our entire backyard property is a large parking lot belonging to an LDS meetinghouse. The meetinghouse is located more than 50 yards away from our property and the parking spaces nearest to our property are at the back of the lot and are rarely if ever used. Extending the structure of our old garage to accommodate a new garage would not impact the church's parking area and there are no neighbors immediately behind us to be inconvenienced or disadvantaged by construction of our new garage.
- 3) The northern side of our new garage would maintain the required 10 feet setback from our side-neighbor's property and it would be well within similar requirements on the west and south sides of our property.

We ask that you grant this variance to allow us to construct a new garage and repurpose our old garage. Attached are drawings and photographs to help illustrate the details of our request mentioned above.

Jay & Nancy Rollins

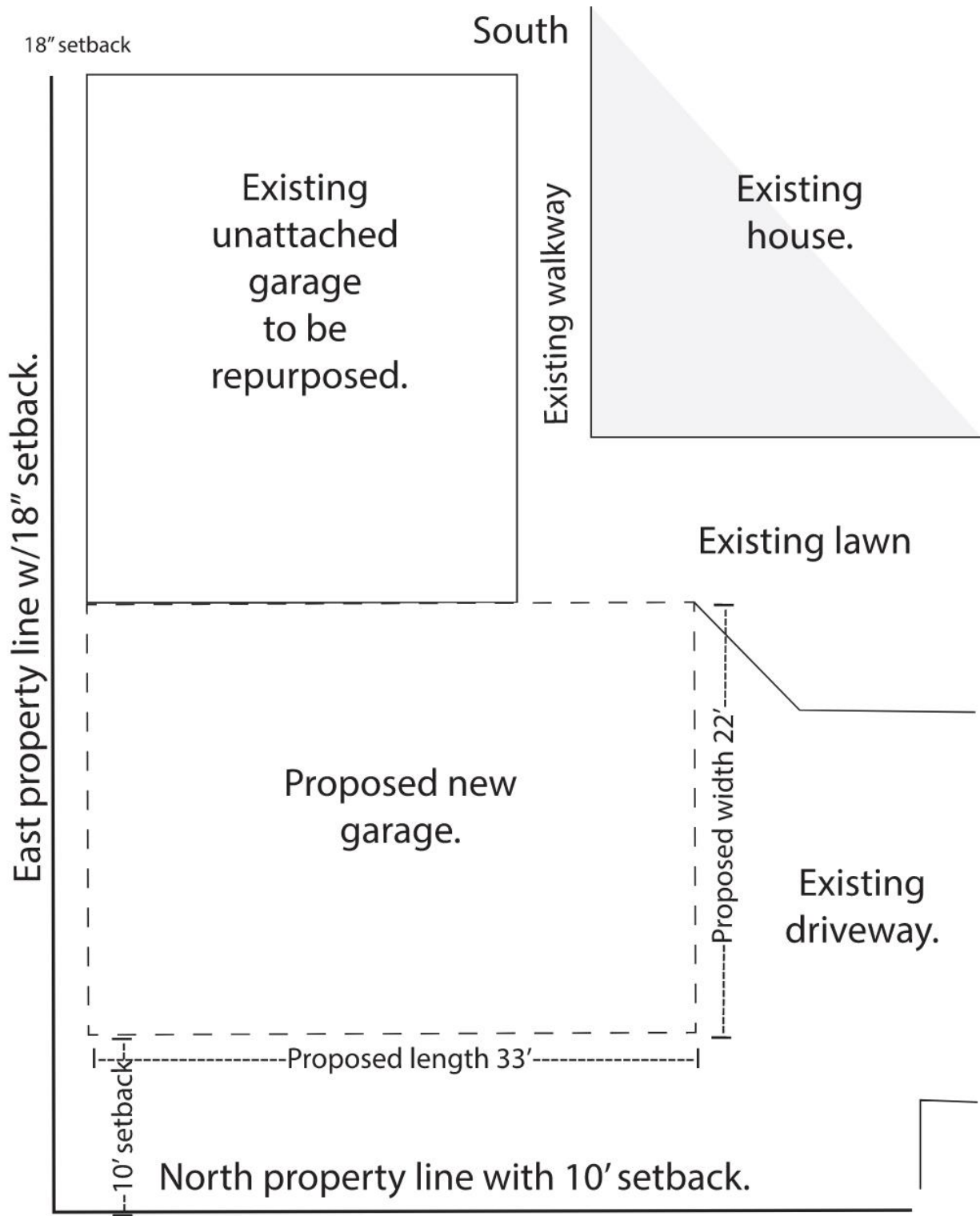




Photo #1: Looking northward at the south end of the existing garage showing the 18" setback from the fence and property line on the east side of our property.



Photo #2: View northeastward from our backyard showing the church and parking lot on the east side of our property.



Photo #3: View looking eastward showing the driveway that will lead to the proposed new garage. Existing house and unattached garage are on the (right) south side of the driveway with the retaining wall which marks our property line on the (left) north side.



Photo #4: Eastward view from driveway showing the proposed location of the new garage. (Grey shed is portable and will be moved to accommodate new construction.)



Photo #5: Westward view of our fence and house from the church parking lot.



Photo #6: Northern view from the east side of our property line showing the outside of our fence and the church parking lot immediately east of our existing garage.



Photo #7: Northward view from site of proposed new garage showing retaining wall (north property line) and neighbor's garage. Our new garage will have 10' setback from the wall.



Photo #8: Southward view from site of proposed new garage showing existing house on the right and the walkway separating house from unattached existing garage which we hope to repurpose.