

Board of Zoning Adjustment

Staff Report

August 15, 2022



Case No: 22-VARIANCE-0085
Project Name: 216 N. 22nd Street Variance
Location: 216 N. 22nd Street
Owner/Applicant: Elite Home Investments, LLC
Representative: Garron Board
Jurisdiction: Louisville Metro
Council District: 5- Donna Purvis
Case Manager: Heather Pollock, Planner I

REQUEST:

Variance from the Land Development Code Table 5.2.2 to allow an addition to the primary structure to encroach into the street side yard setback and a **Variance** from Land Development Code section 5.4.1.D.2 to allow a private yard area to be less than the required 20% of the area of the lot.

Location	Requirement	Request	Variance
Private Yard Area	972.92 sq. ft.	0 sq. ft.	972.92 sq. ft.
Street Side Yard Setback	2.5 ft.	0 ft.	2.5 ft.

CASE SUMMARY/BACKGROUND

The subject site is zoned UN Single Family Residential in the Traditional Neighborhood Form District. The property is located on the west side of the 200 block of N. 22nd St. in the Portland neighborhood. The subject property has a one-story single-family home and a detached garage. The applicant is proposing to add a 244 sq. ft. addition the rear of the primary structure that will encroach into the street side yard setback along Columbia St. and reduce the private yard area to be less than the required 20% of the area of the lot.

STAFF FINDINGS

Staff finds that the request variance meets standards (a), (b), and (d), but has concerns that it does not meet standard (c) because the proposed addition may be encroaching into the public right of way.

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.

TECHNICAL REVIEW

No outstanding technical comments.

INTERESTED PARTY COMMENTS

No interested party comments were received by staff.

RELATED CASES

No related cases.

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, because the structure must be constructed to comply with all applicable building codes, including fire codes, and the Land Development Code, except where relief is requested.

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

STAFF: The proposed addition will not alter the essential character of the general vicinity as it is going to be built with material that will be in character with the existing residence and surrounding residential neighborhood.

- (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 because the structure must be constructed to comply with all building codes.

- (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 there is additional open space behind the accessory structure that cannot be counted towards the private yard calculation.

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 does arise from special circumstances which do generally apply to the land in the general vicinity or the same zone as the lot is dissimilar in size and shape to the surrounding properties. This lot has additional open space behind the accessory structure that can not be counted towards the private yard area.

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 as there is additional open space behind the garage that cannot be counted toward the private yard area.

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 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 VARIANCE FROM TABLE 5.2.2

- (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, because the proposed addition must be constructed to comply with all building codes, including fire codes, and land development code regulations, except where relief is requested.

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

STAFF: The proposed addition will not alter the essential character of the general vicinity as it is going to be built with material that will be in character with the existing residence and surrounding residential neighborhood.

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

STAFF: The requested variance may cause nuisance to the public because we do not have a survey and cannot confirm that the proposed addition will not encroach in the public right of way.

- (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 existing home is already encroaching into the street side yard setback and the proposed addition will encroach the same amount.

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 does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as portion of the lot where the encroachment is taking place is similar in shape to the surrounding properties.

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 as this portion of the lot is only 25 ft. in width and the existing house is already encroaching into the street side yard setback.

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 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 has not started construction and is requesting the variance.

VARIANCE PLAN REQUIREMENT

In accordance with LDC Section 11.5B.1.C (Requirement to Follow Approved Plan), a variance shall be approved only on the basis of the plan approved by the Board and shall be valid only for the location and area shown on the approved plan. All construction and operations must be conducted in accordance with the approved plan and conditions attached to the variance.

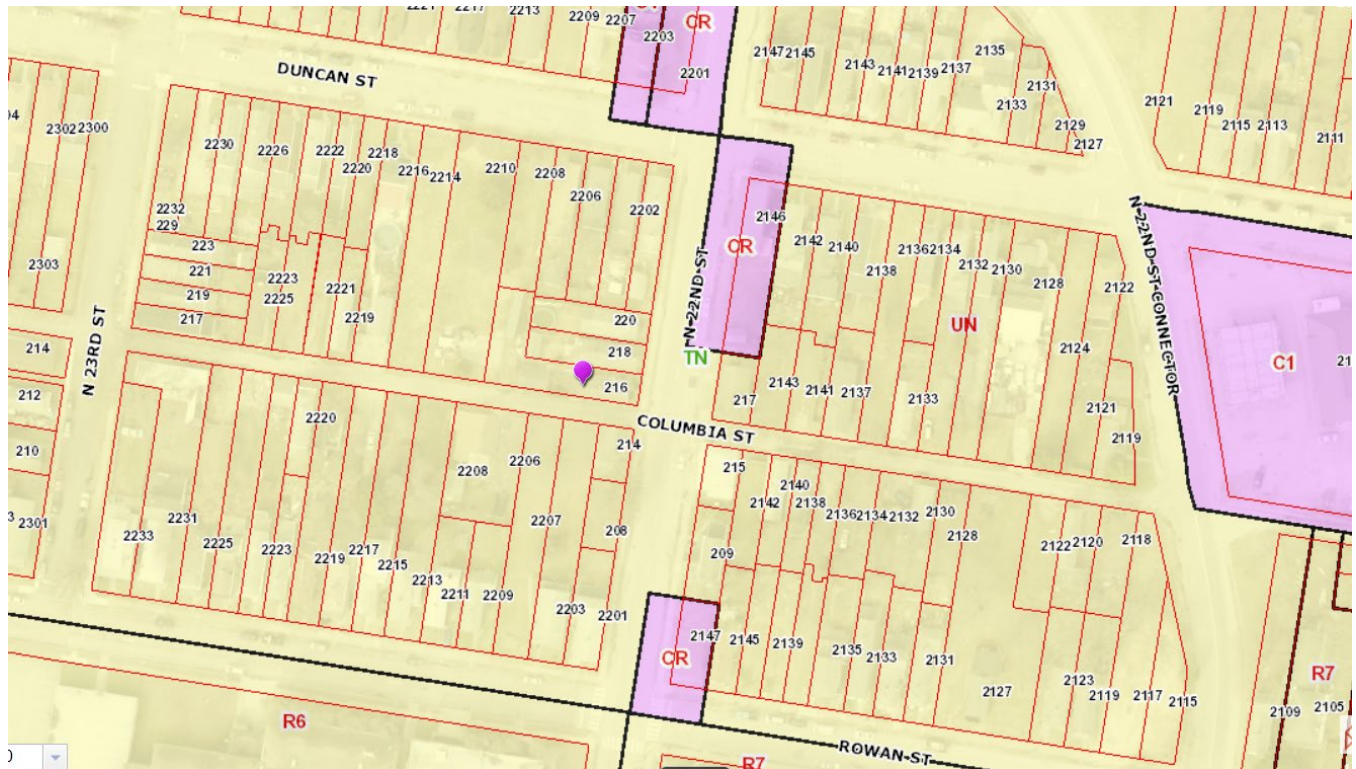
NOTIFICATION

Date	Purpose of Notice	Recipients
07/28/2022	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 5
07/29/2022	Hearing before BOZA	Notice posted on property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Elevations
5. Conditions of Approval
6. Site Photos

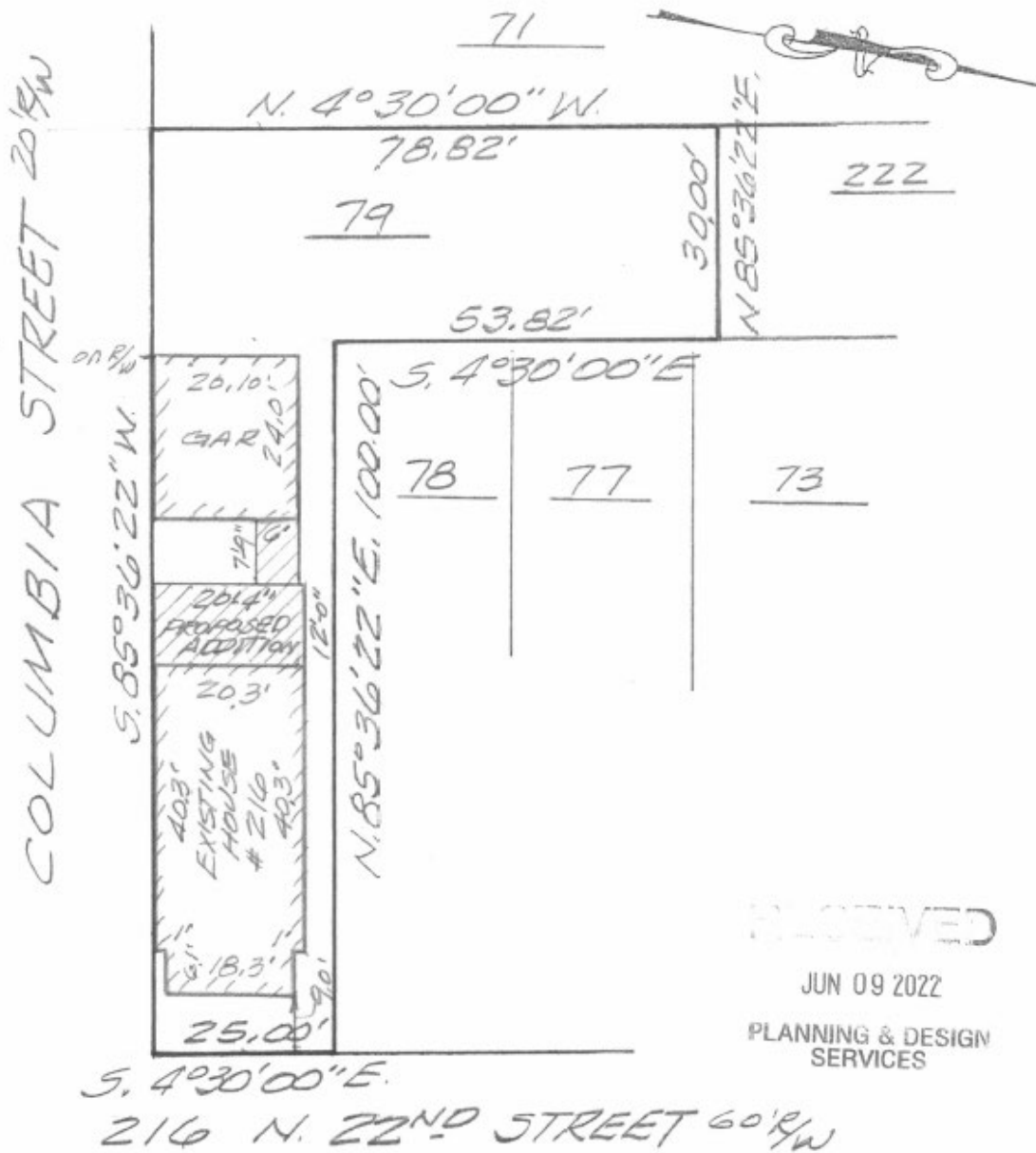
1. Zoning Map



2. Aerial Photograph



3. Site Plan



RECEIVED
JUN 09 2022
PLANNING & DESIGN
SERVICES

PLOT PLAN ONLY
DO NOT SCALE

Survey For ELITE HOME INV. LLC.
Location 216 N. 22ND ST.
D.B. 12345, Pg. 422
BLK 3F Lot #79 Jeff. Co.
Scale: 1" = 20' Date: 6-6-22
20' 0 20' 40'

C.R.P. & ASSOC., INC.

7321 New LaGrange Road, Suite 111
Louisville, KY 40222

(502) 423-8747 • Fax (502) 429-0602

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5. Conditions of Approval

1) A survey of the south property line shall be completed prior to the commencement of construction activity and shall be staked in the field. No projections from the façade or building foundation shall cross the property line; any such projections shall be accommodated by stepping back the proposed structure from the property line.

6. Site Photos



Front of subject property.



Left of subject property, Columbia St. Google, 2022.



Right of subject property.



Across street.



Rear yard and variance area.



Additional open space to rear of neighboring properties, Google 2022.