

Board of Zoning Adjustment

Staff Report

August 15, 2022



Case No: 22-VARIANCE-0081
Project Name: Michael Edward Drive Variance
Location: 9300 Michael Edward Drive
Owner/Applicant: Kevin Reid
Jurisdiction: Louisville Metro
Council District: 22- Robin Engel
Case Manager: Heather Pollock, Planner I

REQUEST:

Variance from the Land Development Code Table 5.3.1 to allow an accessory structure to encroach into the rear yard setback.

Location	Requirement	Request	Variance
Rear Yard Setback	25 ft.	1.1 ft.	23.9 ft.

CASE SUMMARY/BACKGROUND

The subject site is zoned R-4 Single Family Residential in the Neighborhood Form District. The property is located on the southeast corner of Michael Edward Dr. and Trenta Ln. in the Fern Creek neighborhood. The subject property has a single-family home. The applicant has begun construction on a 720 sq. ft. garage that will encroach into the rear yard setback.

Chapter 1 Part 2 of the Land Development Code defines the front property line on corner lots as the part of the building lot having the narrowest frontage on any street. Therefore, the front yard for the subject property shall be the property line abutting Trenta Ln and the property line abutting Michael Edward Dr. shall be the street side yard.

STAFF FINDINGS

Staff finds that the requested variance meets standards (b), (c), and (d), but staff is concerned that the variance request does not meet standard (a) because construction and maintenance of the structure may have an adverse impact on the adjoining property owner.

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 review comments.

INTERESTED PARTY COMMENTS

No interested party comments were received by staff.

RELATED CASES

RES-NEW-22-00457: Building permit for a 24x30 ft. one story detached garage, issued on April 18, 2022.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM TABLE 5.3.1

- (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 and the Land Development Code, except where relief is requested. However, staff is concerned that the variance could adversely affect the adjacent property owner because construction and maintenance of the structure may require encroachment onto the adjacent property.

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

STAFF: The structure will not alter the essential character of the general vicinity as it will be built with material that is in character with the surrounding residential neighborhood. There are other detached garages that appear to encroach into the rear yard setbacks in the area.

- (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 and will not hinder the safe movement of vehicles or pedestrians.

- (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 location of the detached garage is similar to other properties in the area.

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 generally apply to the land in the general vicinity or the same zone as the lot is similar in size and 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 the building permit was issued for this structure and the encroachment was discovered afterwards.

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 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 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.

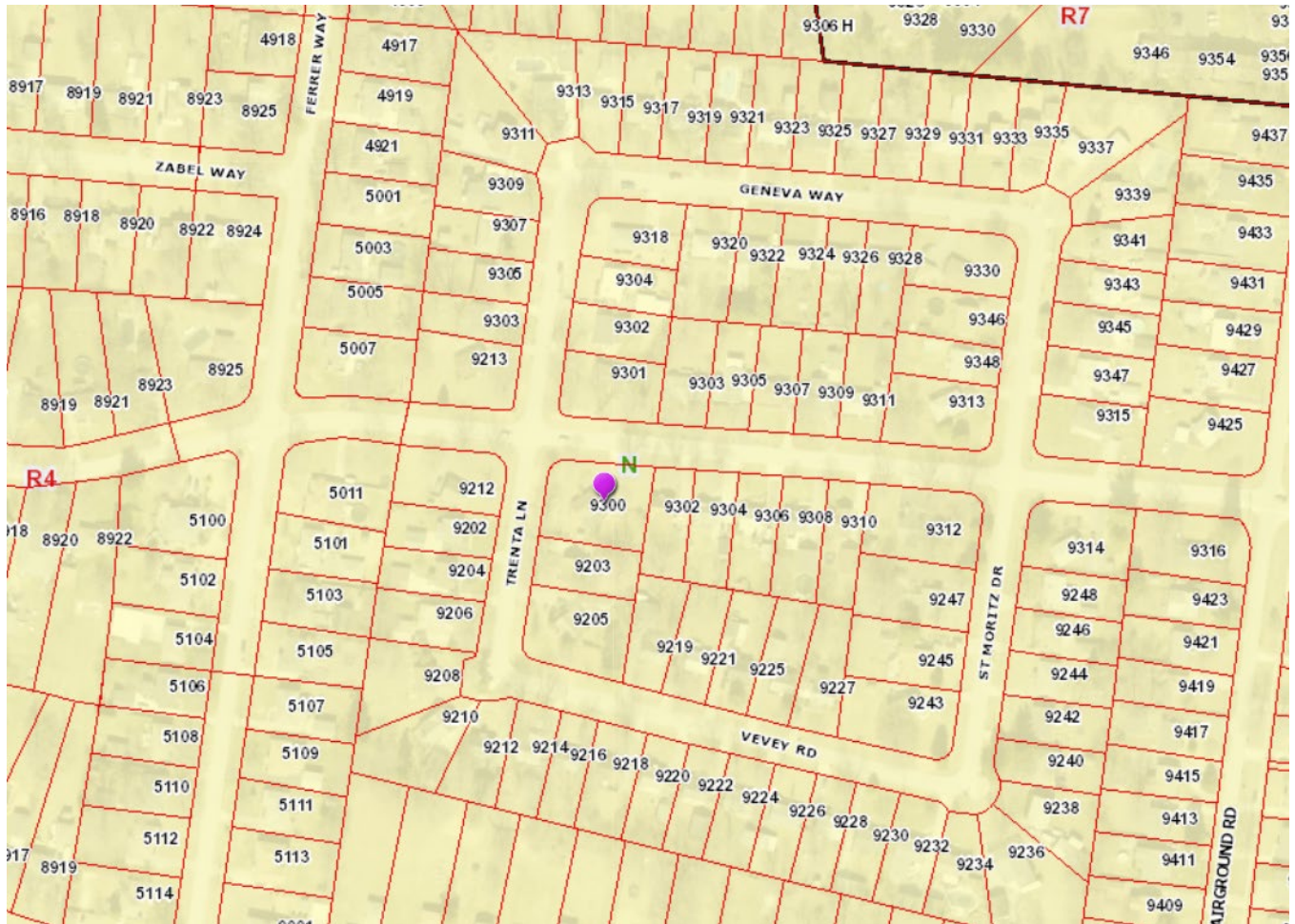
NOTIFICATION

Date	Purpose of Notice	Recipients
08/01/2022	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 22
07/21/2022	Hearing before BOZA	Notice posted on property

ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph

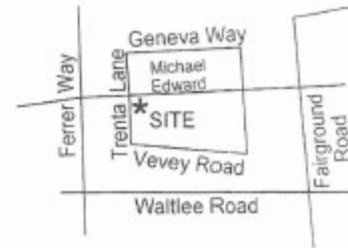


3. Site Plan

NOTES:

1. Site is subject to all right-of-ways, easements and restrictions of record or implied.
2. The surveyor did not make a search for easements, encumbrances, restrictions, ownership title evidence or other records that a complete and accurate title search may disclose.
3. The certification of this survey is made of this date and is subject to any future facts that more accurately describe or establish the boundary shown herein.
4. Surrounding owner information is shown per PVA records.
5. The basis of bearing was taken from the record plat.
6. Unless otherwise shown, structures shown are the footprint only.
7. This site is located in Zone X per Firm Map 21111C0080 F dated February 25, 2021 and is not located within a 100 year flood plain (0.1% chance). Flood Plain Certification is restricted to a review of the firm and shall not be construed as a confirmation or denial of flooding potential.

Being Lot 78
Geneva Village Subdivision
Plat Book 12, Page 33



LOCATION MAP
No Scale

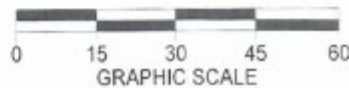
MICHAEL EDWARD DRIVE 60' R/W
(P.B. 12 Pg. 33)



RECEIVED

JUN 02 2022

PLANNING & DESIGN
SERVICES



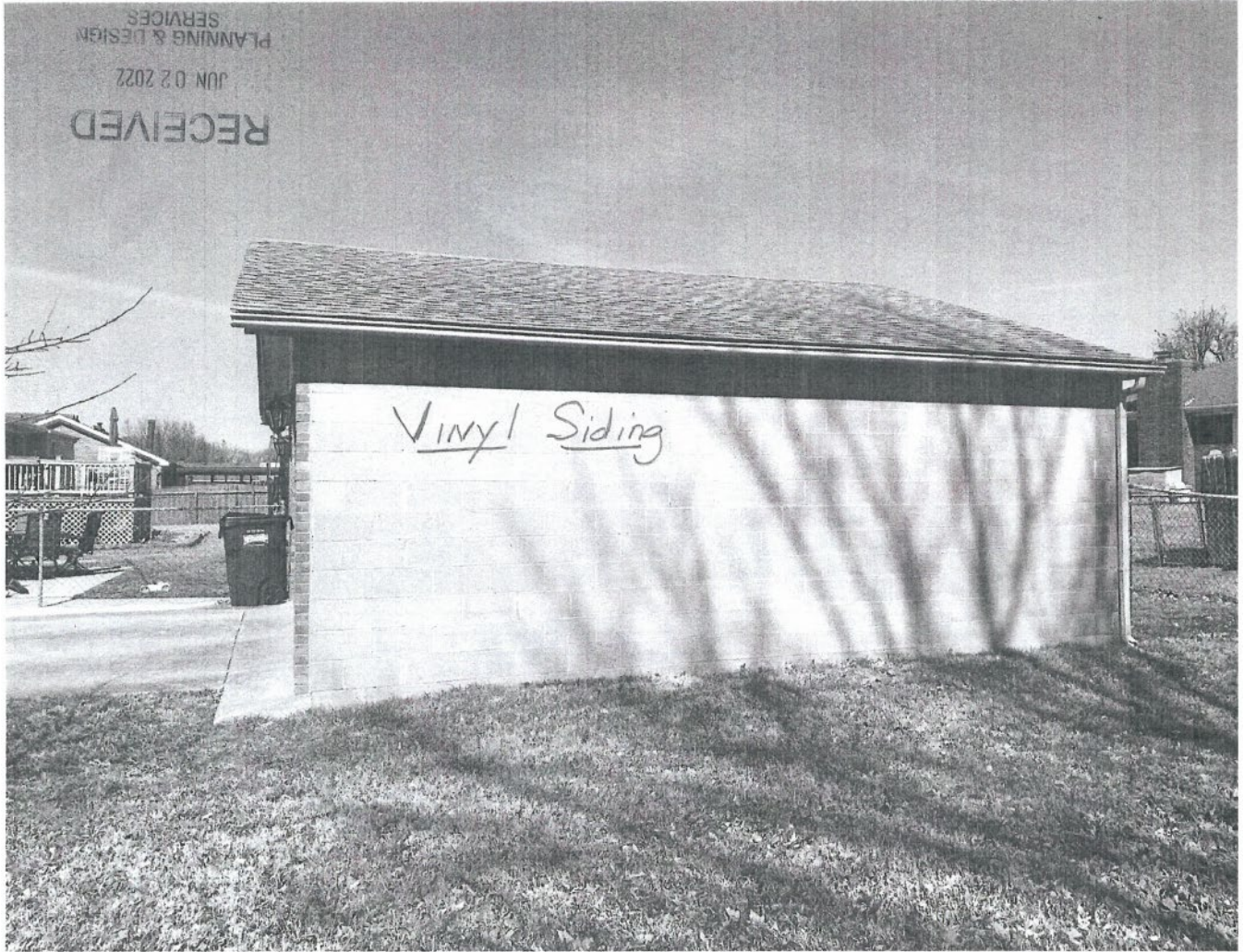
LEGEND
● = Found 1-1/2" Iron Rod

BOUNDARY SURVEY
This Survey complies with KAR 18:150

Survey of: 9300 Michael Edward Drive

4. Elevations





5. Site Photos



Front of subject property.



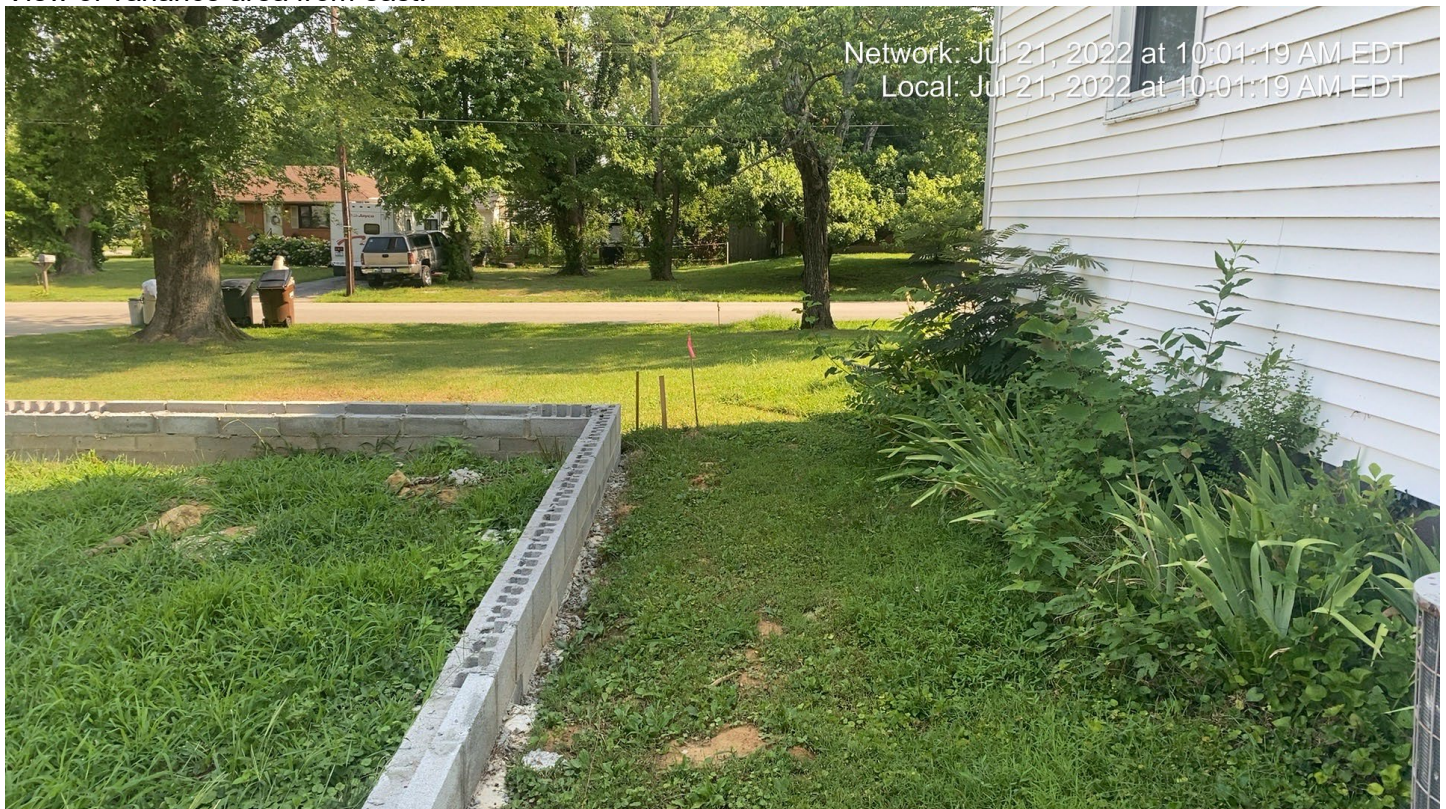
Properties to the right and intersection of Michael Edward Dr. and Trenta Ln.



View of variance area from Michael Edward Dr.



View of variance area from east.



Across Michael Edward Dr. from variance area.



Variance area and yard.