

Board of Zoning Adjustment
Staff Report
 October 7, 2019



Case No:	19-VARIANCE-0031
Project Name:	Arboro Place Variance
Location:	1905 Arboro Place
Owner:	James & Lynn Grzelak
Applicant:	James Smallwood – Precise Remodeling LLC
Jurisdiction:	Louisville Metro
Council District:	18 – Marilyn Parker

REQUEST

- **Variance** from Land Development Code table 5.3.1 to allow a structure to encroach into the required side yard setback.

Location	Requirement	Request	Variance
Side Yard	6 ft. (18 ft. total)	1 ft. (11 ft. total)	5 ft. (7 ft. total)

CASE SUMMARY/BACKGROUND

The subject property is zoned R-4 and is in the Neighborhood Form District. It is located in the Arboro Place subdivision on the south side of Arboro Place and contains a one-story single-family residence. The applicant is requesting a variance for an existing deck to encroach into the eastern side yard setback.

STAFF FINDING

Staff finds that the requested variance is adequately justified and meets 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 standard of granting a variance established in the Land Development Code from table 5.3.1 to allow an addition to encroach into the required eastern side yard setback.

CONDITION OF APPROVAL

#1) A survey of the eastern 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.

RELATED CASES

SR-ZONI-19-35458 – Zoning concern regarding the existing deck.

INTERESTED PARTY COMMENTS

Staff has received phone calls and emails from the adjoining property owner in opposition to the existing deck.

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 as the structure will need to be constructed to comply with all building codes, including fire codes.

- (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 deck is not visible from public right-of-way.

- (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 the deck will need to meet building and fire 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 the encroachment is the same as the existing concrete pad.

ADDITIONAL CONSIDERATIONS:

1. The requested variance does 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 generally apply to land in the general vicinity or the same zone as the subject property is similar in size and shape to 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 not create an unnecessary hardship on the applicant as they could construct a deck that met the setback requirements.

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 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 after the construction of the deck.

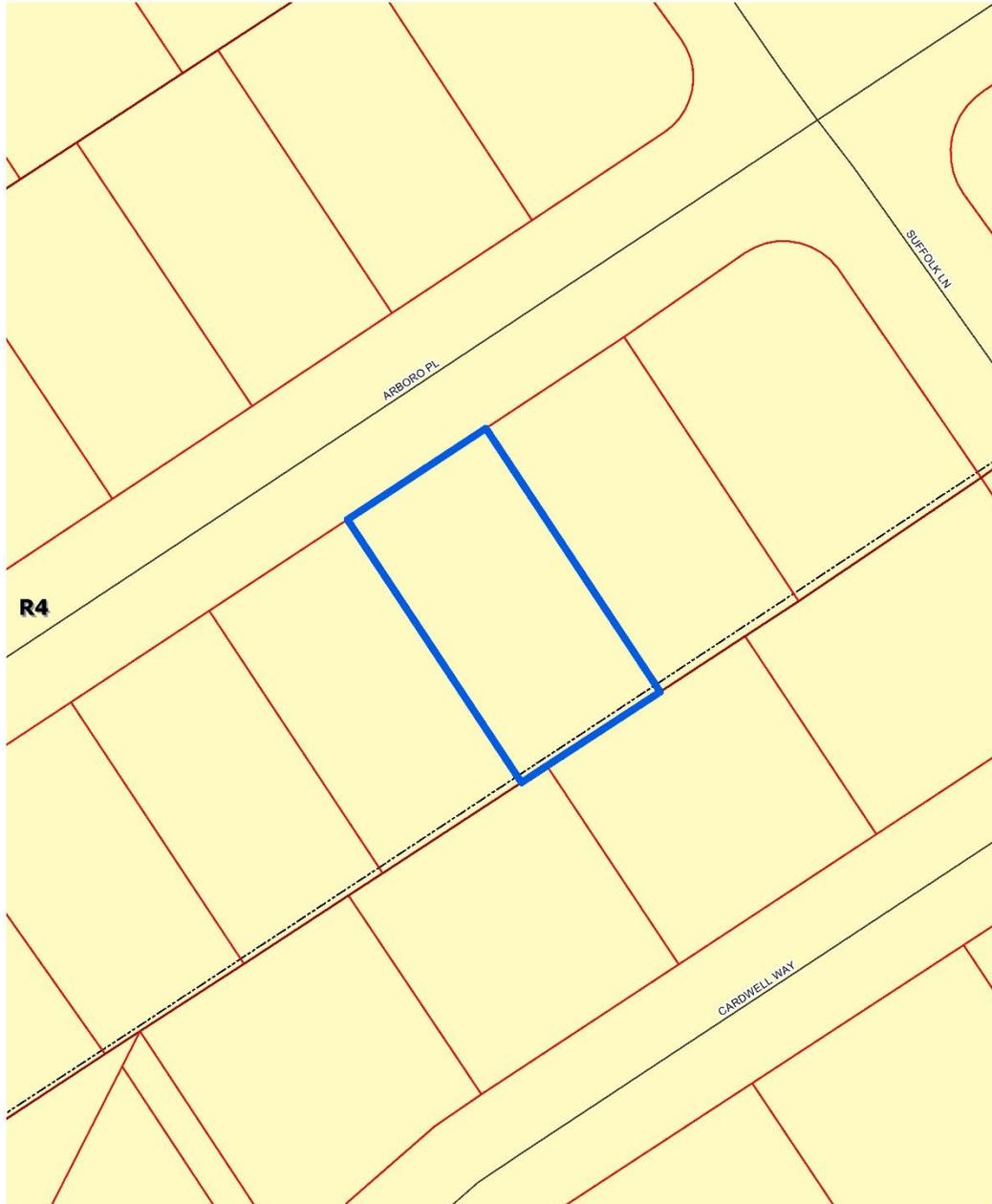
NOTIFICATION

Date	Purpose of Notice	Recipients
09/13/2019	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 18
09/20/2019	Hearing before BOZA	Notice posted on property

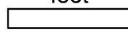
ATTACHMENTS

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

1. Zoning Map



1905 Arboro Place
feet



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Map Created: 10/2/2019

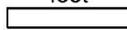


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2. Aerial Photograph



1905 Arboro Place
feet



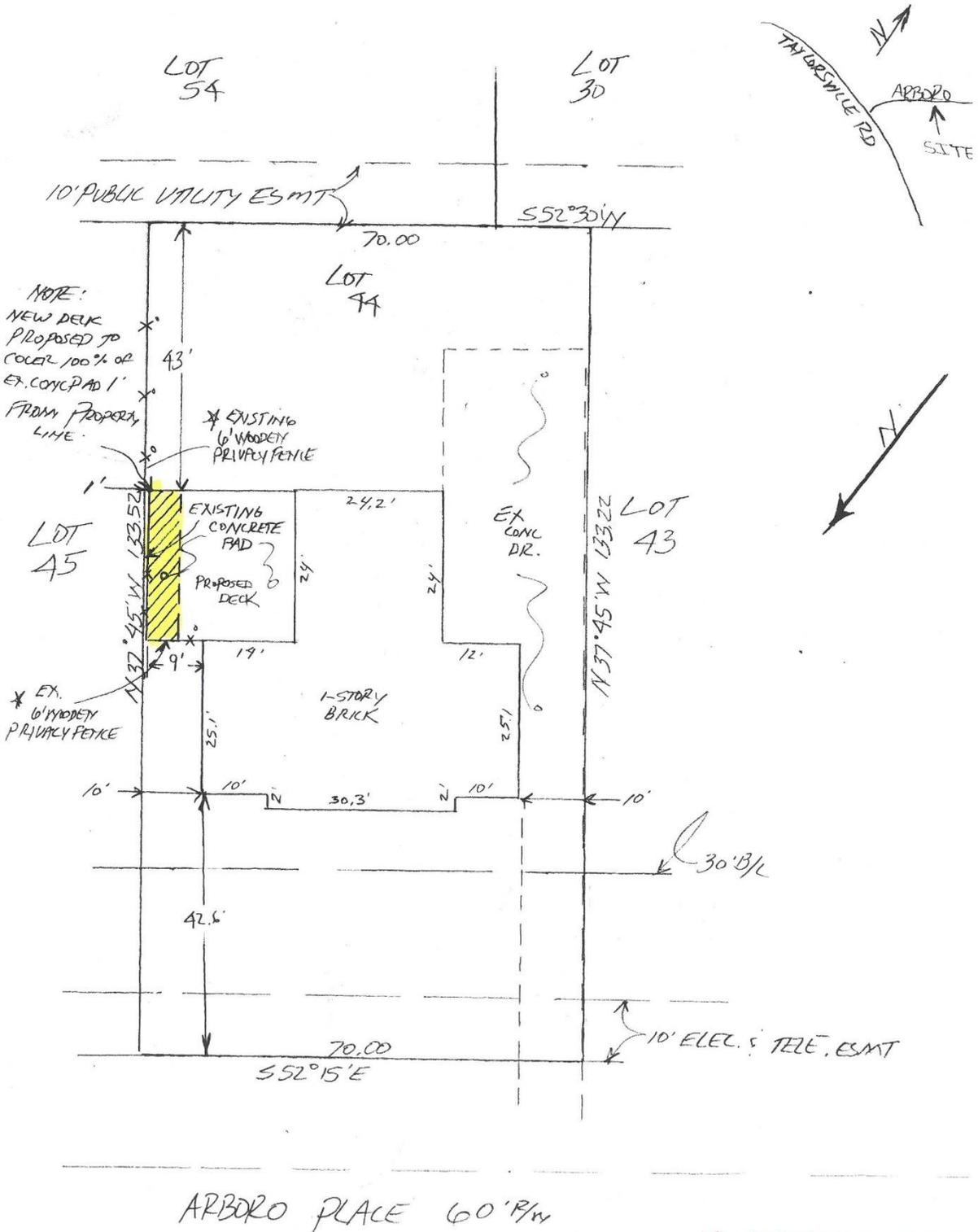
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3. Site Plan

1"=20'



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4. Site Photos



The front of the subject property.



The property to the right.



Existing deck.



Variance area.



View of the deck area from adjoining property driveway.