

**Board of Zoning Adjustment**  
**Staff Report**  
 March 1, 2021



<b>Case No:</b>	21-VARIANCE-0012
<b>Project Name:</b>	Deerwood Avenue Variance
<b>Location:</b>	1936 Deerwood Avenue
<b>Owner:</b>	Monica Schroeder
<b>Applicant:</b>	Charles Podgursky – C.R.P. and Assoc. Inc.
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	8 – Cassie Chambers Armstrong
<b>Case Manager:</b>	Zach Schwager, Planner I

**REQUESTS:**

**Variance** from Land Development Code table 5.2.2 to allow an addition to an existing principal structure to encroach into the required side yard setback

Location	Requirement	Request	Variance
Side Yard	3 ft.	0.21 ft.	2.79 ft.

**CASE SUMMARY/BACKGROUND**

The subject property is zoned R-5 Residential Single-Family in the Traditional Neighborhood Form District. It is a single-family structure located in the Deer Park neighborhood on the south side of Deerwood Avenue in between Fernwood Avenue and Bardstown Road. The applicant is proposing to construct an addition on the rear of the principal structure that will encroach the same distance into the side yard setback as the existing structure.

The applicant has provided staff with the signature from the affected property owner allowing access for construction and maintenance of the proposed structure.

**STAFF FINDINGS**

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 standards for granting a variance established in the Land Development Code from table 5.2.2 to allow an addition to an existing principal structure to encroach into the required side yard setback.

**TECHNICAL REVIEW**

No technical review required.

## **INTERESTED PARTY COMMENTS**

No interested party comments were received by staff.

## **RELATED CASES**

None.

## **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.

- (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 proposed addition will have the same setback as the existing structure.

- (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 the proposed addition will be the same distance from the side property line as the existing structure.

## **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 generally vicinity or the same zone as the lot is similar in size and shape as 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 proposed addition would be the same distance from the side property line as the existing structure.

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.

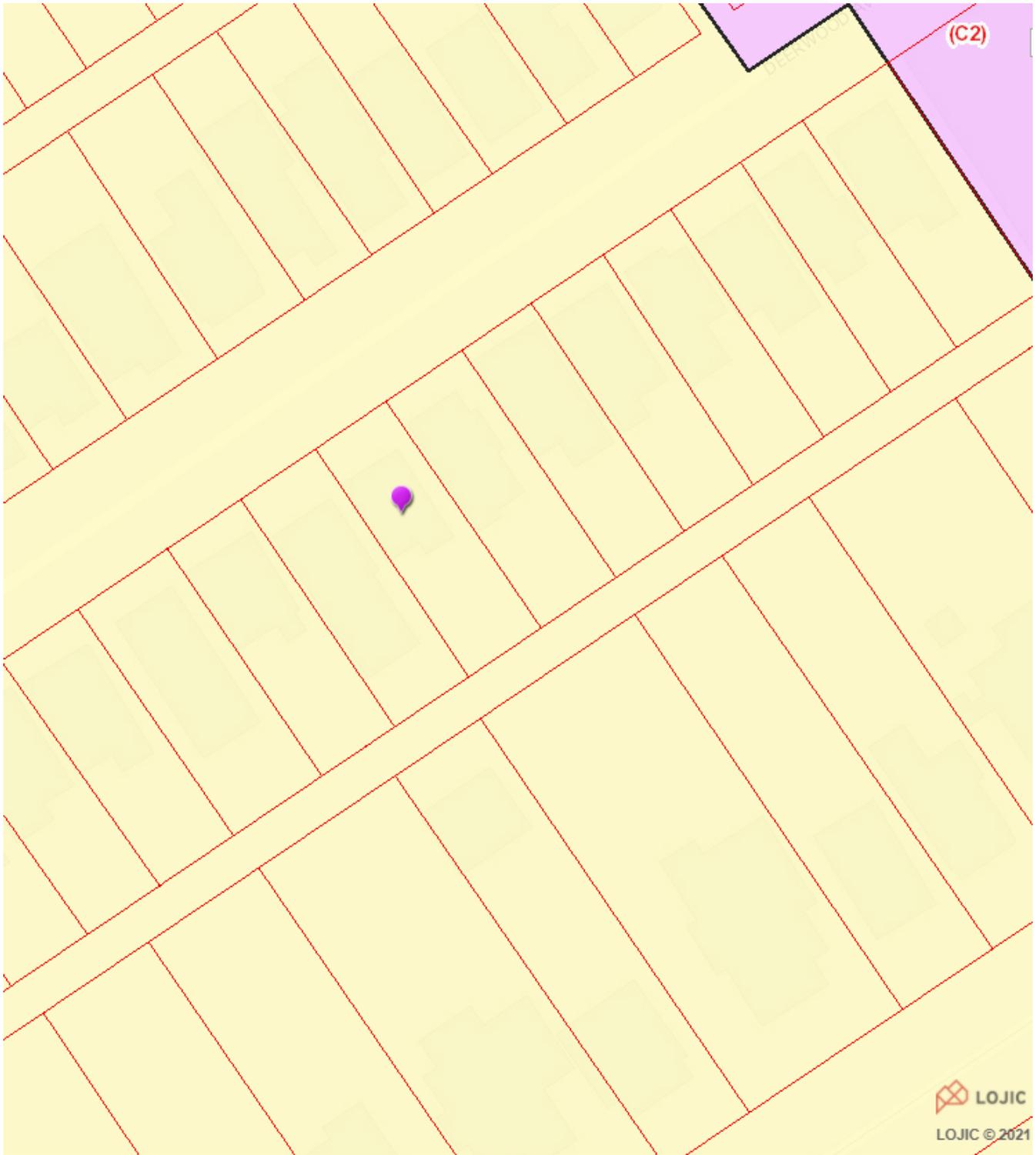
**NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
<b>2/9/2021</b>	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 8
<b>2/17/2021</b>	Hearing before BOZA	Notice posted on property

**ATTACHMENTS**

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

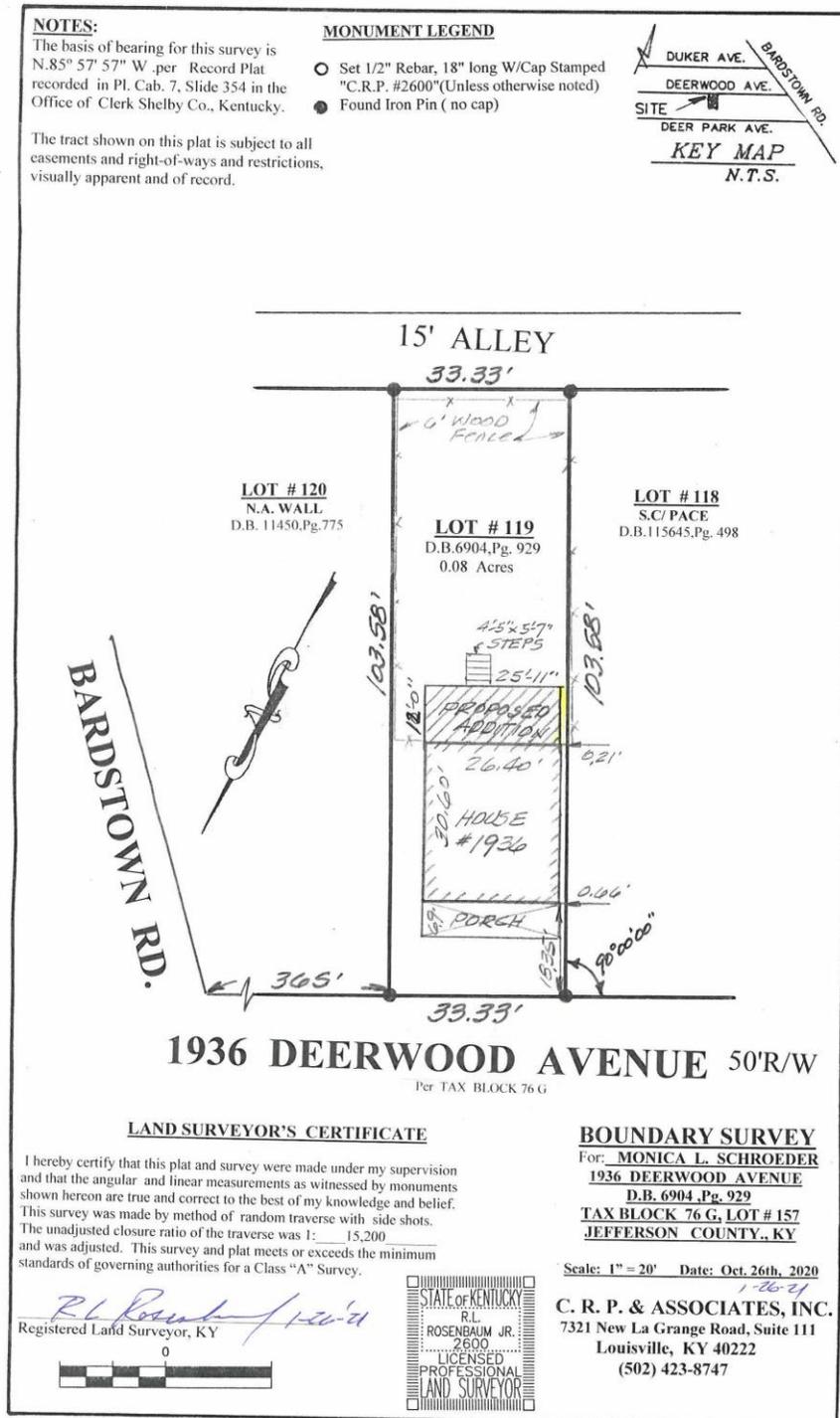
1. Zoning Map



2. Aerial Photograph



3. Site Plan



4. Site Photos



Front of subject property.

February 17, 2021 at 1:28:19 PM



Property to the left.

February 17, 2021 at 1:28:22 PM



Property to the right.

February 17, 2021 at 1:28:32 PM



Properties across Deerwood Avenue.



Existing side yard setback.



Location of proposed addition and variance area.