

Board of Zoning Adjustment

Staff Report

August 7, 2023



Case No:	23-VARIANCE-0050
Project Name:	Shawnee Terrace Variance
Location:	239 S. Shawnee Terrace
Owner/Applicant:	Tiara Thomas
Jurisdiction:	Louisville Metro
Council District:	5-Donna Purvis
Case Manager:	Amy Brooks, Planner I

REQUEST:

Variance from the Land Development Code Table 5.2.2 to allow a primary structure to encroach into the side yard setbacks.

Location	Requirement	Request	Variance
Side Yard Setback	3.0 ft	2.7 ft.	0.3 ft.

CASE SUMMARY/BACKGROUND

The subject site is zoned R-5 Single-family residential in the Traditional Neighborhood Form District. The property is located on South Shawnee Terrace in the Shawnee neighborhood. The applicant is proposing to enclose the back porch to construct a bathroom onto the rear of the home. Since the current home encroaches into the side yard setback on the southern property line, this construction proposal has triggered the need for a dimensional variance.

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 addition 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

The applicant is required to obtain a building permit and the structure may require alterations to the proposed building plans in order to meet building code requirements.

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 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 neighboring property.

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

STAFF: The addition will be built in an area where minimal setbacks from side property lines are commonplace because of the compacted urban lots. In fact, the addition will not be visible from the public street as the addition will follow the line of the current home.

- (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 since the proposed request seems compatible with the established pattern of setbacks within the surrounding neighborhood. Neighborhood examples that seemingly encroach into side yard setback include 241, 243, and 245 South Shawnee Terrace. The aerial photography of these examples has been included in the staff report's site photos.

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 existing house is within the required side yard setback line.

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.

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.

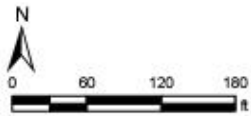
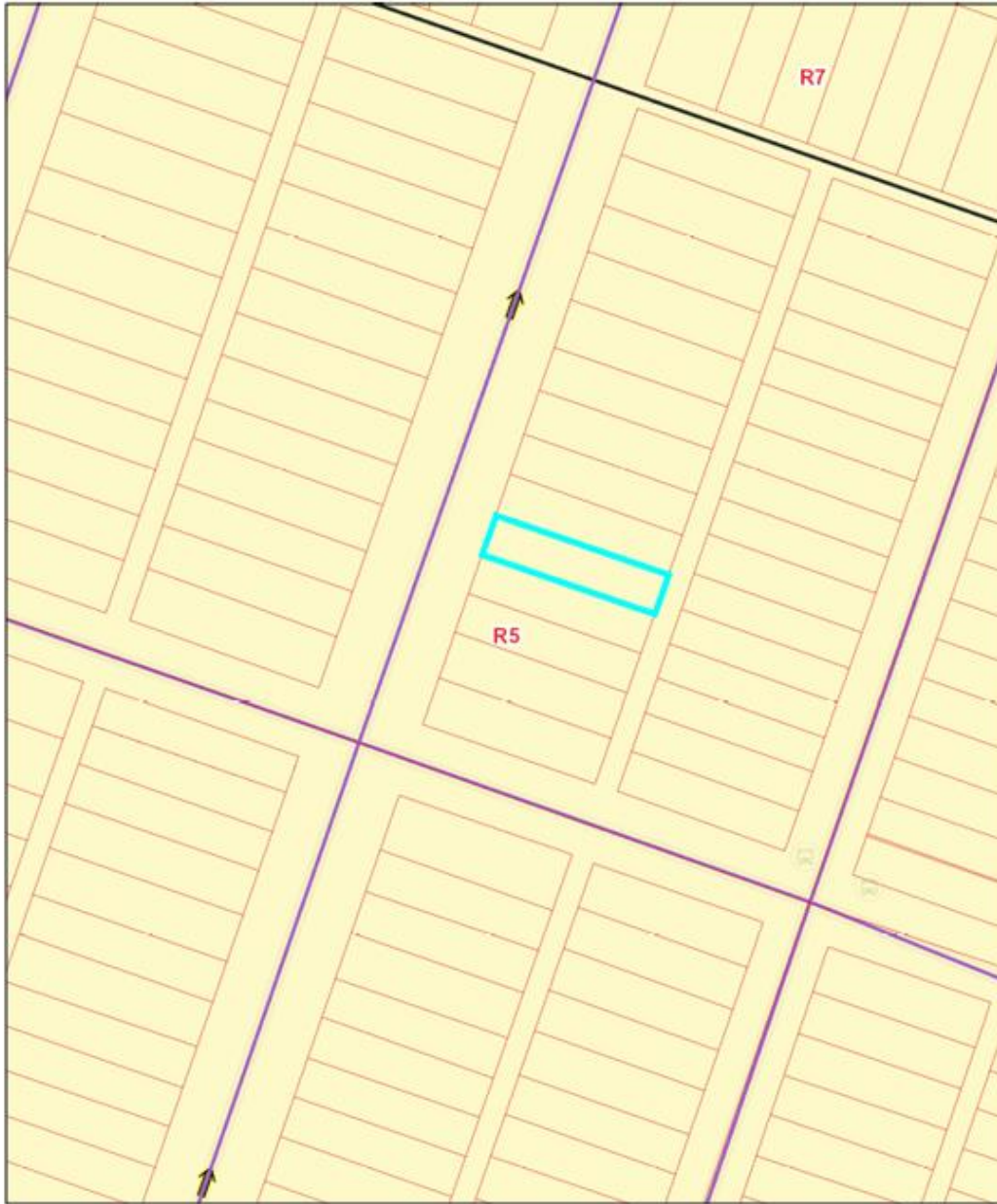
NOTIFICATION

Date	Purpose of Notice	Recipients
07-24-2023	Hearing before BOZA	1 st tier adjoining property owners
07-24-2023		Registered Neighborhood Groups in Council District 5
07-26-2023	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



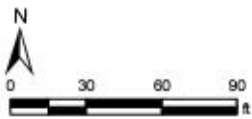
Wednesday, July 26, 2023 | 12:20:49 PM



LOJIC © 2023

This map is not a legal document and should only be used for general reference and identification

2. Aerial Photograph



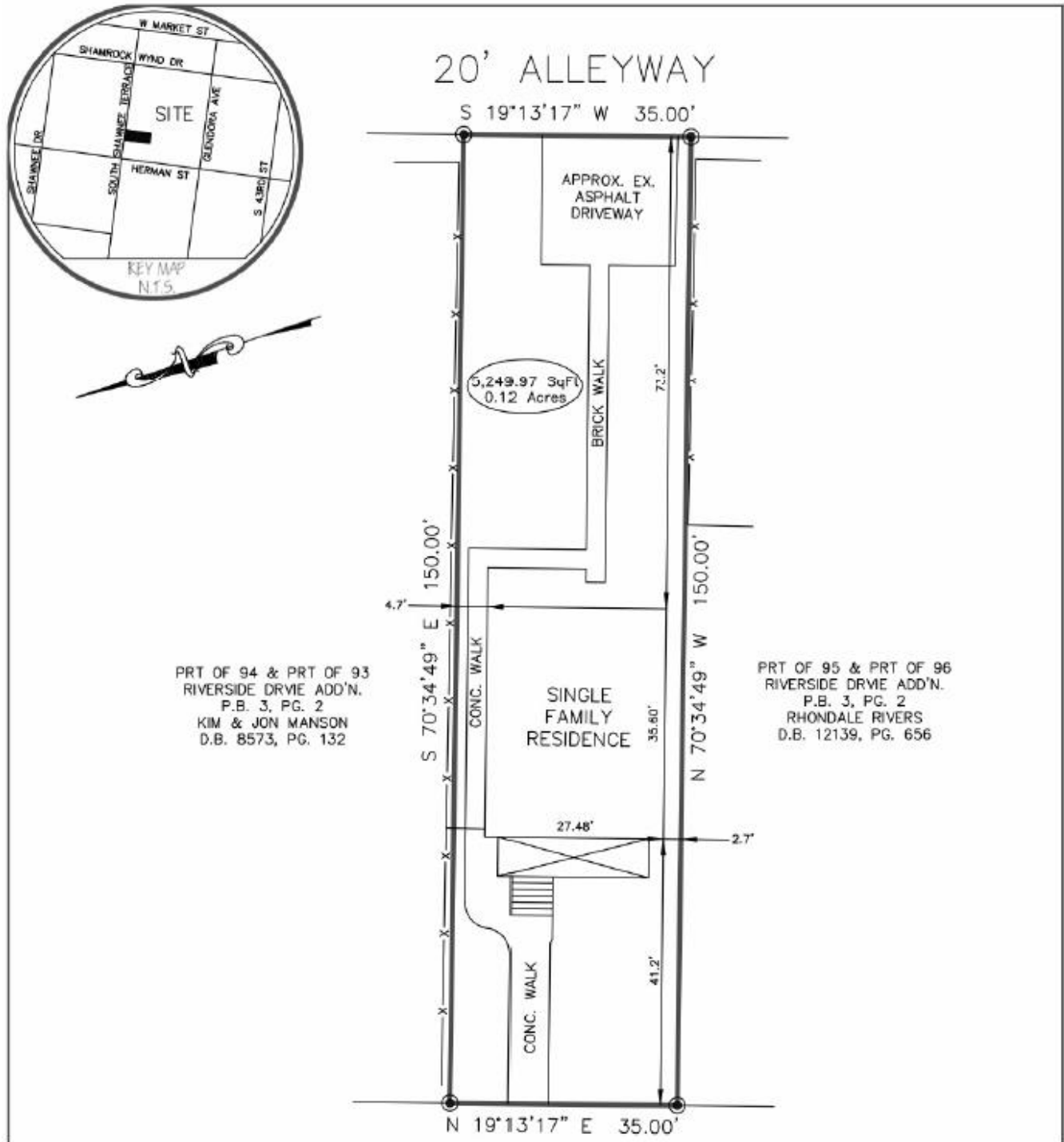
Wednesday, July 26, 2023 | 12:18:52 PM



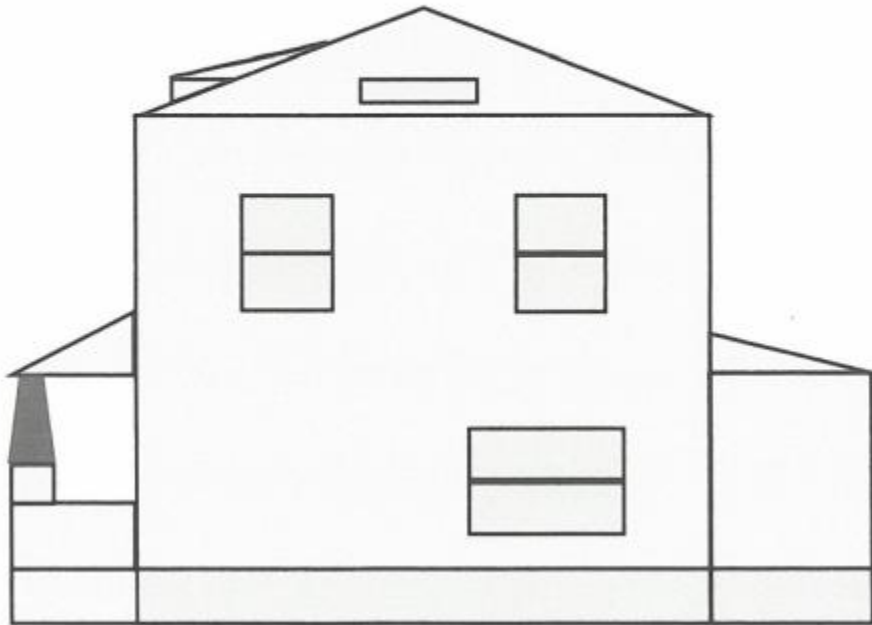
LOJIC © 2023

This map is not a legal document and should only be used for general reference and identification.

3. Site Plan



4. Elevations



5. Site Photos



Front of subject property.



To the left of the subject property.



To the right of the subject property.



Across the street from the subject property.



View of variance area View of variance area from S. Shawnee Terrace.



Examples of homes that appear to encroach into the side setback are heightened in green. The subject site is indicated with the purple pin.