

Board of Zoning Adjustment

Staff Report

July 10, 2023



Case No: 23-VARIANCE-0034
Project Name: Garland Avenue Variance
Location: 2532 Garland Avenue
Owner/Applicant: Jezrel Gordon
Jurisdiction: Louisville Metro
Council District: 4- Jecorey Arthur
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 setback.

Location	Requirement	Request	Variance
Side Yard Setback	3 ft.	0 ft	3 ft.

CASE SUMMARY/BACKGROUND

The subject site is zoned R-6 Multi- Family Residential in the Traditional Neighborhood Form District. Located in the California neighborhood, the subject property is currently developed with a 1.5 story structure. The applicant has constructed a second-floor addition that is setback several inches from the original line of the house. As the current home is located on the western property line, the newly- built addition 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 second-story 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 adjacent property along the western property line.

- (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. This an area where minimal setbacks from the side property lines are common. These neighborhood examples include several of the adjoining. The aerial photography of these examples has been included in this report's site photos.

- (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. The addition is located within the footprint of the existing principal structure which was constructed prior to current LDC regulations.

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 located on property 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 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.

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.

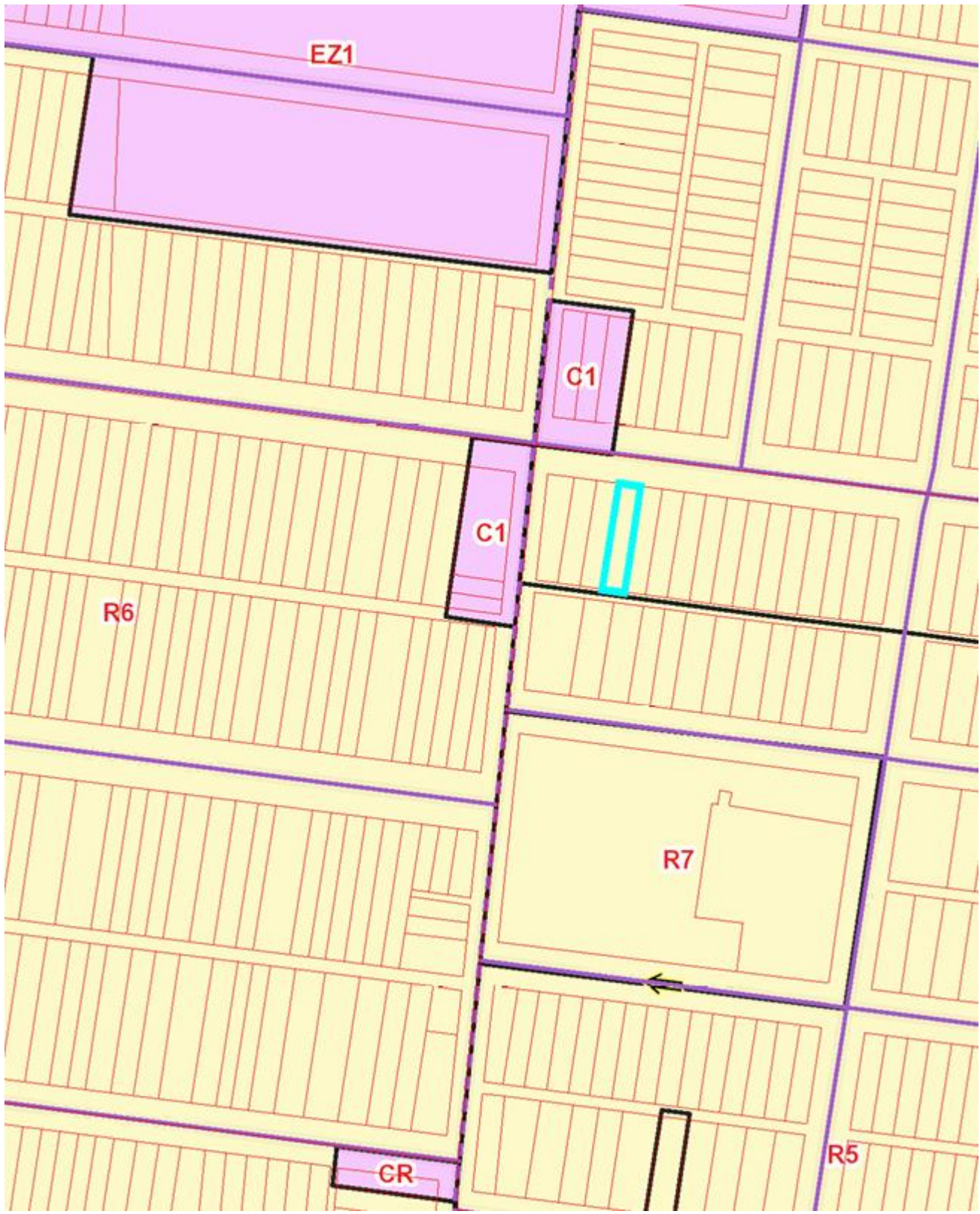
NOTIFICATION

Date	Purpose of Notice	Recipients
06/26/2023	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 4
06/28/2023	Hearing before BOZA	Notice posted on property

ATTACHMENTS

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

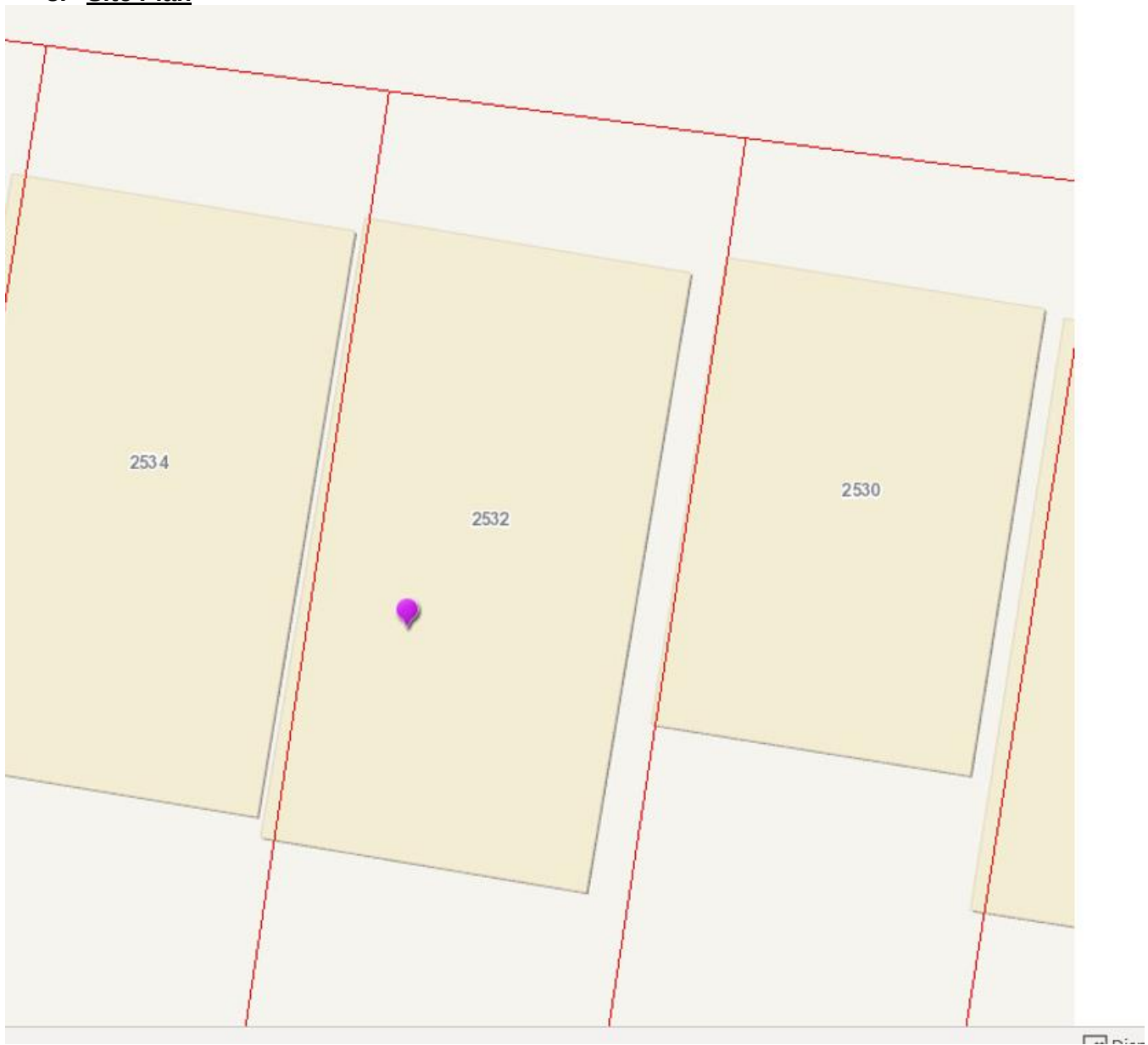
1. Zoning Map



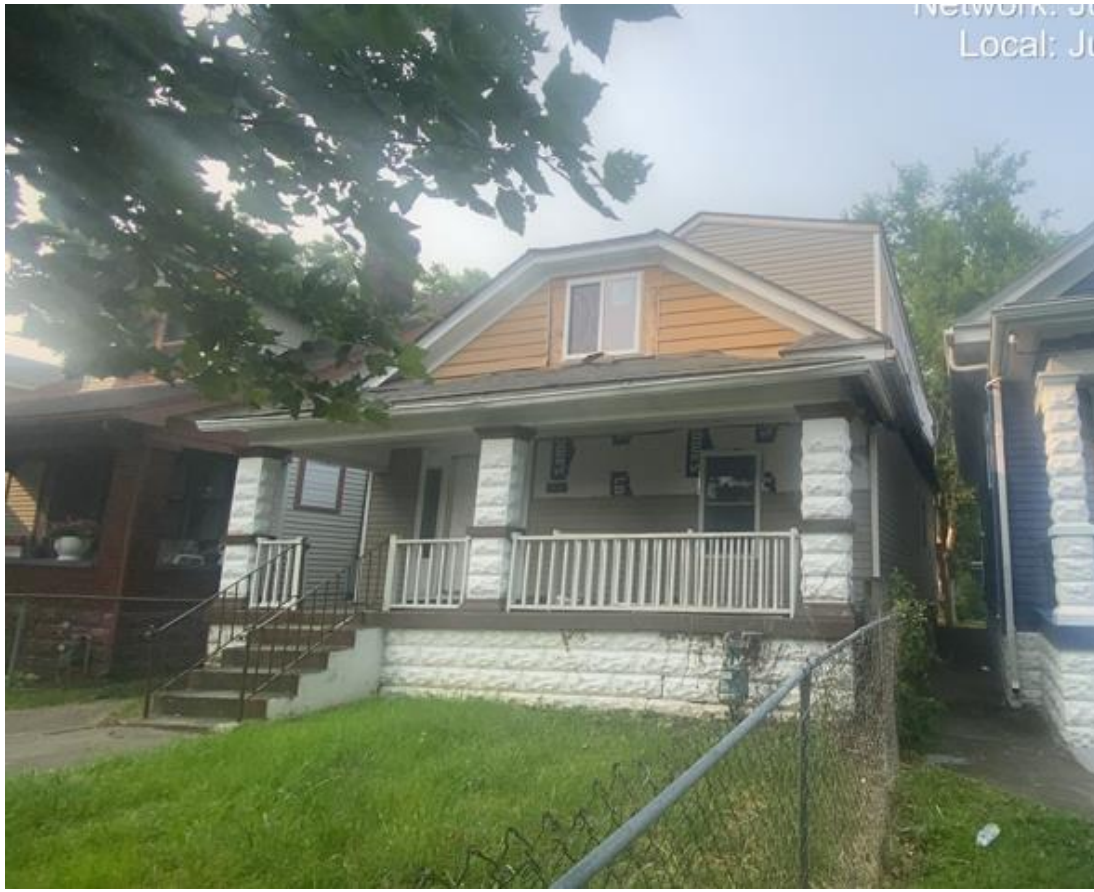
2. Aerial Photograph



3. Site Plan



4. Site Photos



Front of subject property.



Left of subject site.



Right of subject site.



Across the street from subject property.



View of variance area.



Examples of other principal structures that encroach within the required yards.