

Board of Zoning Adjustment
Staff Report
 December 16, 2019



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|--------------------------|----------------------------------|
| Case No: | 19-VARIANCE-0061 |
| Project Name: | S. Shelby Street Variance |
| Location: | 1455 S. Shelby Street |
| Owner: | David Tobias |
| Applicant: | Michael Marks – Wetterer & Clare |
| Jurisdiction: | Louisville Metro |
| Council District: | 10 – Pat Mulvihill |
| Case Manager: | Zach Schwager, Planner I |

REQUEST

- **Variance** from Land Development Code table 5.2.2 to allow a structure to encroach into the required street side yard setback.

| Location | Requirement | Request | Variance |
|-------------------------|--------------------|----------------|-----------------|
| Street Side Yard | 3 ft. | 0 ft. | 3 ft. |

CASE SUMMARY/BACKGROUND

The subject property is zoned R-6 Residential Multi-Family and is in the Traditional Neighborhood Form District. It is located in the Schnitzelburg neighborhood on the east side of S. Shelby Street and contains a two-story commercial structure. The applicant is proposing to construct a garage at the rear of the property that will encroach into the required street 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 5.2.2 to allow a structure to encroach into the required street side yard setback.

TECHNICAL REVIEW

Transportation Planning has approved the proposed garage.

INTERESTED PARTY COMMENTS

No interested party comments were received.

RELATED CASES

No related cases.

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 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 proposed garage would be setback a similar distance as other accessory structures 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 as the proposed garage will not interfere with vision clearance.

- (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 similar to other accessory structures in Traditional Neighborhoods.

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 may create an unnecessary hardship on the applicant as the lot is narrow and meeting the setback requirement would be difficult.

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 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.

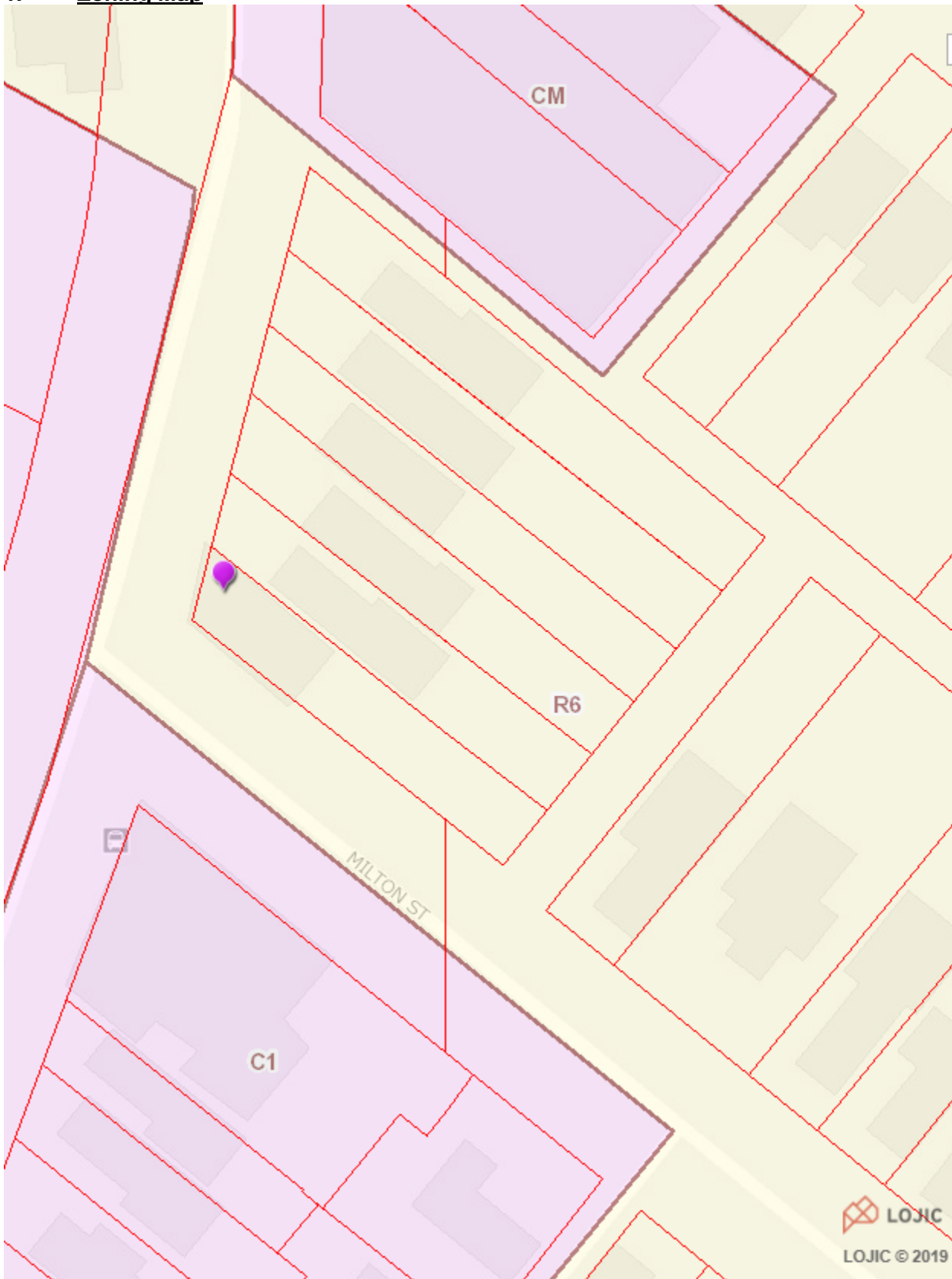
NOTIFICATION

| Date | Purpose of Notice | Recipients |
|-------------------|--------------------------|---------------------------------------------------------------------------------------------------------|
| 11/22/2019 | Hearing before BOZA | 1 st tier adjoining property owners Registered Neighborhood Groups in Council District 10 |
| 12/5/2019 | Hearing before BOZA | Notice posted on property |

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Site Photos
5. Condition of Approval

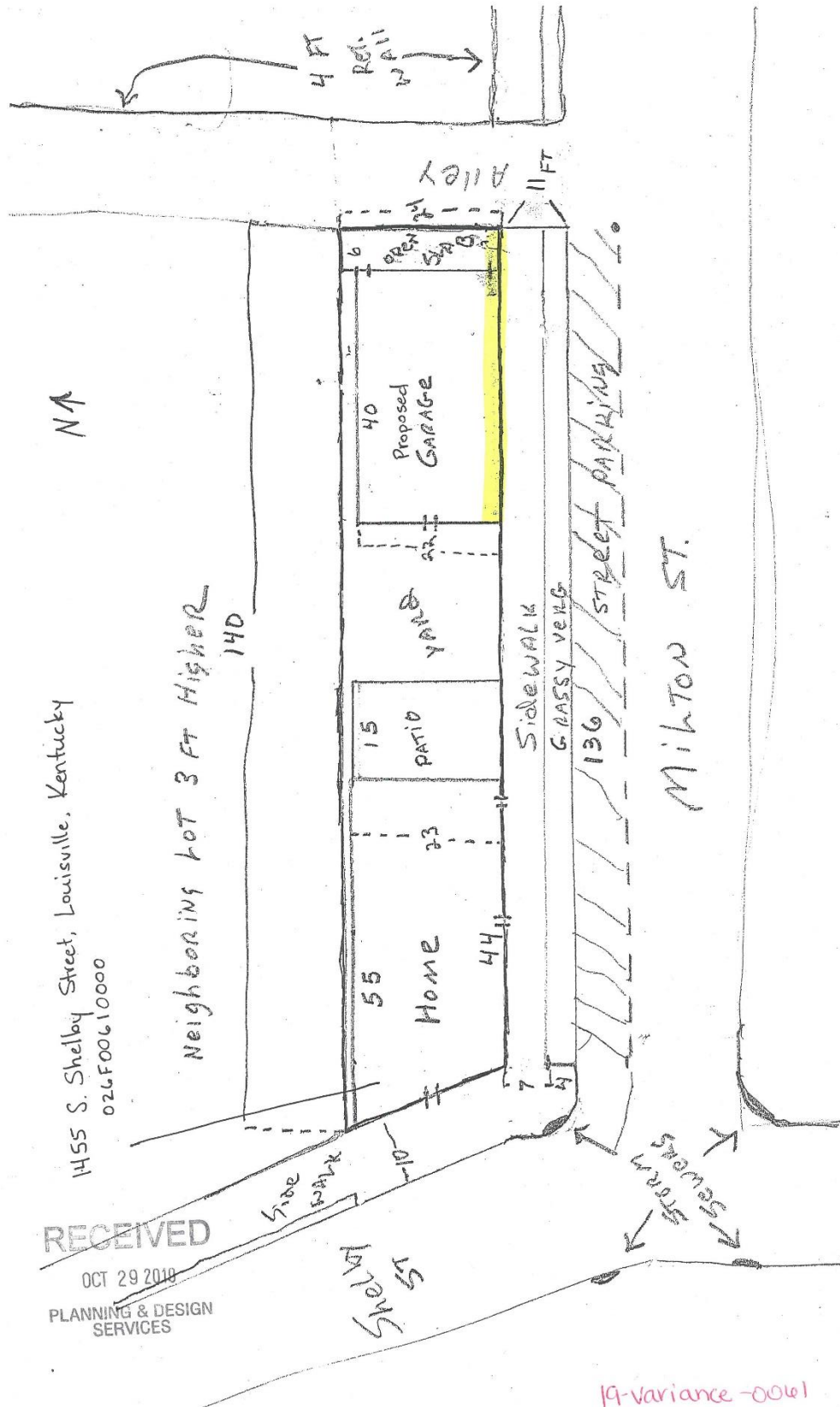
1. **Zoning Map**



2. Aerial Photograph



3. Site Plan



4. Site Photos



The front of the subject property.



Property to the left.



Property across S Shelby Street.



Variance location.

5. Condition of Approval

#1) The southern property line 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.