

# Board of Zoning Adjustment

## Staff Report

June 26, 2023



**Case No:** 23-VARIANCE-0048  
**Project Name:** Plane Tree Drive Variance  
**Location:** 4606 Plane Tree Drive  
**Owner/Applicant:** Michael Schubert  
**Jurisdiction:** Louisville Metro  
**Council District:** 2- Barbara Shanklin  
**Case Manager:** Amy Brooks, Planner I

### **REQUEST:**

**Variance** from the Land Development Code, section 5.4.2.C.3 to allow an accessory structure to encroach into the side yard setback.

Location	Requirement	Request	Variance
Side Yard Setback	2 ft.	1 ft.	1 ft.

### **CASE SUMMARY/BACKGROUND**

The subject site is zoned R-5 Single Family Residential in the Neighborhood Form District. The property is located on the southern side of Plane Tree Drive. The subject property is developed with a single-family home. The applicant has constructed a 380 sq. ft. garage that encroaches into the side yard setback.

### **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 structure 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**

No outstanding technical review comments.

### **INTERESTED PARTY COMMENTS**

No interested party comments were received by staff.

## **RELATED CASES**

ENF-ZON-21-00288

ENF-BLD-22-06733

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM 5.4.2.C.3**

- (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.

- (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. Moreover, there are other detached garages in the general vicinity that appear to encroach into the side yard setbacks. These examples are located at 4610, 4612, and 4602 Plane Tree Drive. An aerial photograph of these properties is provided in the staff report under 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 as the location of the detached garage is similar to other properties located in this block.

## **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 not create an unnecessary hardship on the applicant because an accessory structure meeting the requirements is capable of being built.

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 taken by the applicant subsequent to the adoption of the zoning regulations from which relief is sought.

### **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.

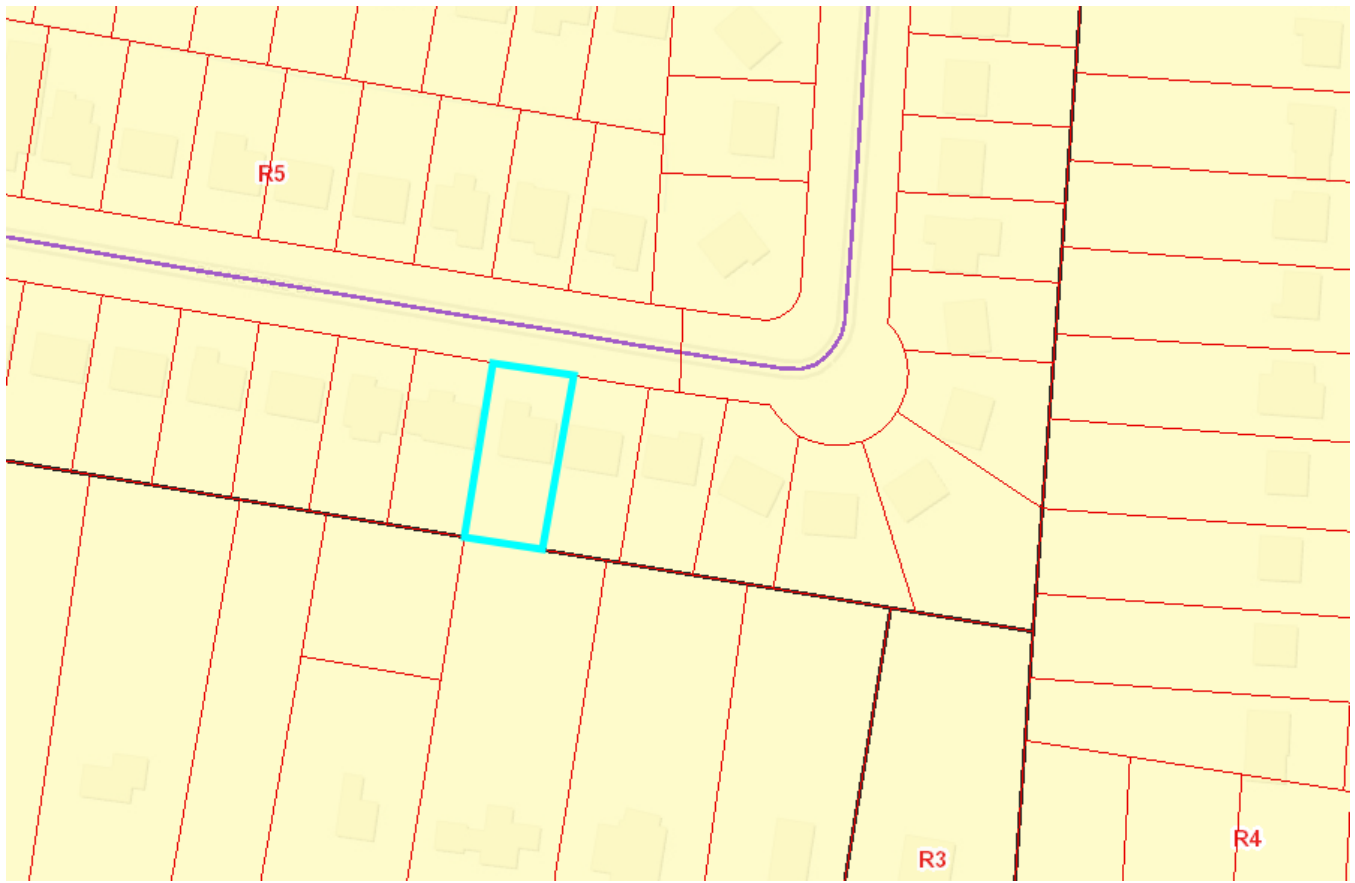
### **NOTIFICATION**

Date	Purpose of Notice	Recipients
<b>06/07/2023</b>	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners
<b>06/12/2023</b>		Registered Neighborhood Groups in Council District 2
<b>06/12/2023</b>	Hearing before BOZA	Notice posted on property

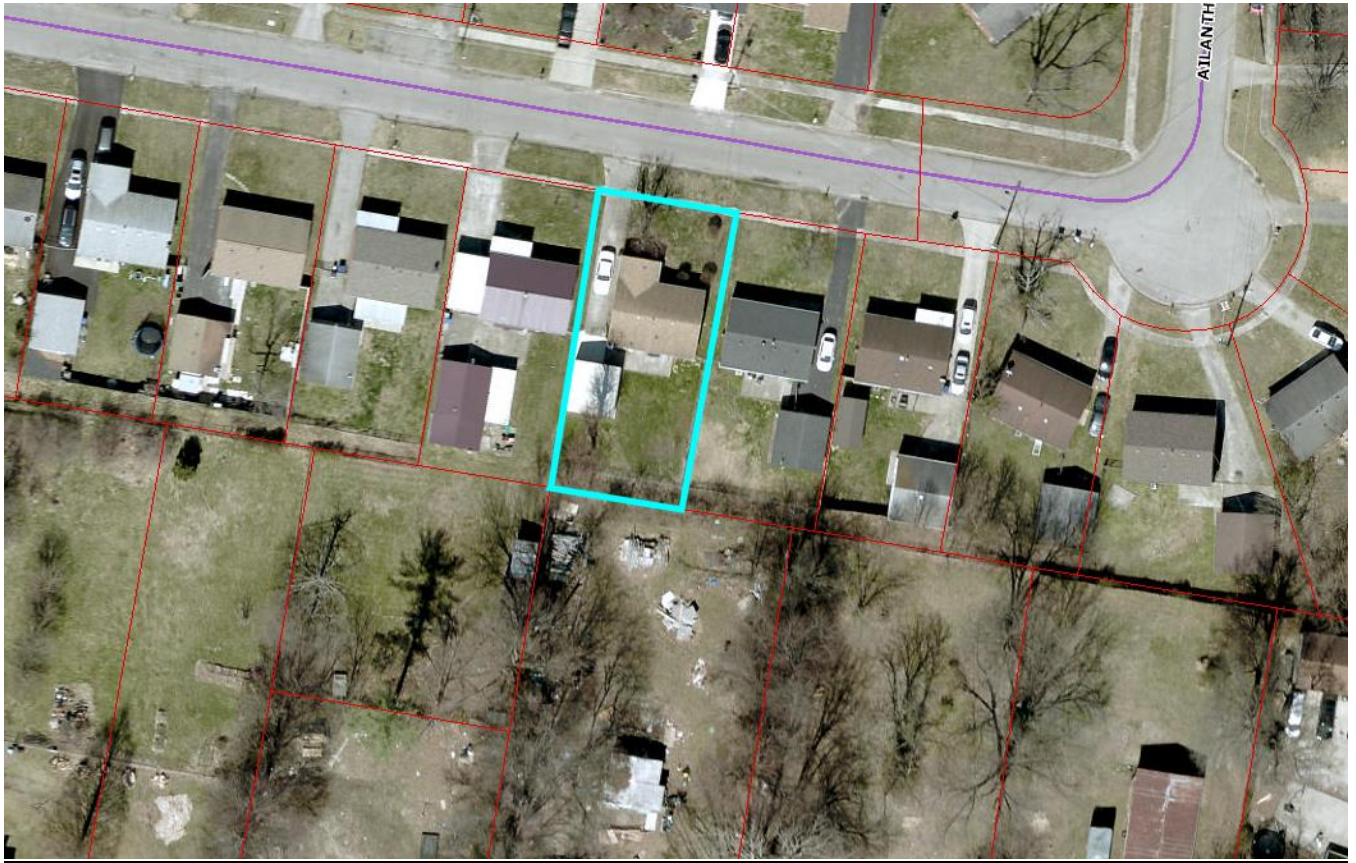
### **ATTACHMENTS**

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

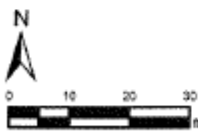
## 1. Zoning Map



## 2. Aerial Photograph



### 3. Site Plan



**4606 Plane Tree Drive**

Thursday, June 15, 2023 | 7:58:21 AM



#### 4. Site Photos



Front of subject property.



Property to the right.





Property to the left.



Property across the street.





View of variance area and location relative to neighbor's property.



View of variance area.





Example of garages along Plane Tree that seemingly encroach into the side yard setback.