

Board of Zoning Adjustment

Staff Report

February 17, 2020



Case No: 20-VARIANCE-0005
Project Name: Rainbow Variance
Location: 2950 Rainbow Drive
Owner(s): Michael & Hilary Dix
Applicant: Beverly Baker
Jurisdiction: Louisville Metro
Council District: 9 – Bill Hollander
Case Manager: Nia Holt, Planner I

REQUESTS:

Variance from Land Development Code table 5.3.1 to allow a principle structure to encroach into the required side yard setback.

Location	Requirement	Request	Variance
South Side Yard	5 ft.	1 ft.	4 ft.
South Side Yard	5 ft.	2.3 ft.	2.7 ft.

CASE SUMMARY/BACKGROUND

The subject site is zoned R-5 Single-Family Residential in the Neighborhood Form District. It is a single-family structure located in the Loretto Subdivision which is a part of the Cherokee Gardens Neighborhood. The applicant is proposing to construct a one-story covered porch addition on the rear of the existing structure. The porch will encroach 2'4" into the side yard for much of its length. However, there is a 7 ft long fireplace that will be one foot from the property line.

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 5.3.1 to allow a principal structure to encroach into the required side yard setback.

TECHNICAL REVIEW

No technical review required.

INTERESTED PARTY COMMENTS

Staff has received one call from the adjacent property owner in opposition.

RELATED CASES

There are 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 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 structure be constructed in the rear and keep in character with other covered porches in the general vicinity.

- (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 it is an existing structure and the addition will be constructed to comply with all building codes, including fire 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 unique shape of this lot make this a variance necessary for an addition on this portion of the property.

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: There are special circumstances associated with this variance. The subject site is the not typical shape of a corner lot. The unique shape of the lot has created a curved street side yard. The front and rear yards are very narrow leaving the side yard as the only option for porch addition.

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 permit the property owner to construct the addition in the most reasonable place on the property.

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.

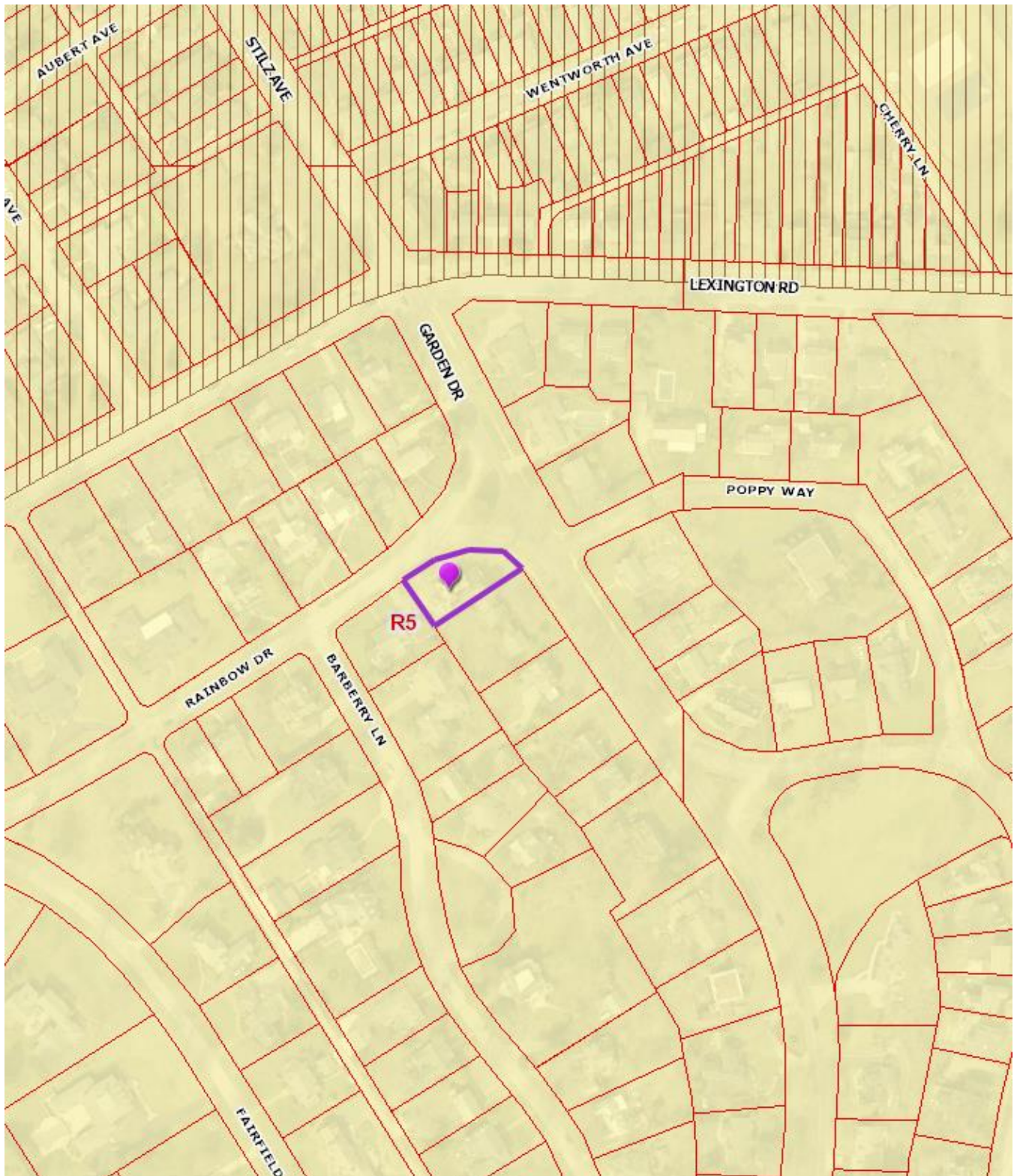
NOTIFICATION

Date	Purpose of Notice	Recipients
1/30/2020	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 4
2/7/2020	Hearing before BOZA	Notice posted on property

ATTACHMENTS

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

1. **Zoning Map**



2. Aerial Photograph



3. Site Plan

