

**Board of Zoning Adjustment**  
**Staff Report**  
 August 15, 2022



<b>Case No:</b>	22-VARIANCE-0086
<b>Project Name:</b>	218 N. 22 <sup>nd</sup> Street Variance
<b>Location:</b>	218 N. 22 <sup>nd</sup> Street
<b>Owner/Applicant:</b>	Elite Home Investments, LLC
<b>Representative:</b>	Garron Board
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	5- Donna Purvis
<b>Case Manager:</b>	Heather Pollock, Planner I

**REQUEST:**

**Variance** from the Land Development Code Table 5.2.2 to allow an addition to the primary structure to encroach into the side yard setback.

<b>Location</b>	<b>Requirement</b>	<b>Request</b>	<b>Variance</b>
Side Yard Setback	2.5 ft.	0 ft.	2.5 ft.

**CASE SUMMARY/BACKGROUND**

The subject site is zoned UN Single Family Residential in the Traditional Neighborhood Form District. The property is located on the west side of the 200 block of N. 22<sup>nd</sup> St. in the Portland neighborhood. The subject property has a one-story single-family home and a detached garage. The applicant is proposing to add a 244 sq. ft. addition the rear of the primary structure that will encroach into the side yard setback along Columbia St. and reduce the private yard area to be less than the required 20% of the area of the lot.

The subject property is 25 feet in width. Land Development Code section 5.1.10.F allows for a lot less than 50 feet in width to have a side yard setback requirement of 10% of the width of the lot. The required side yard setback is therefore 2.5 feet.

**STAFF FINDINGS**

Staff finds that the request variance meets standards (a), (b), and (d), but has concerns that it does not meet standard (c) because the proposed addition may be encroaching over the property line.

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 comments.

**INTERESTED PARTY COMMENTS**

No interested party comments were received by staff.

**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, because the proposed addition must be constructed to comply with all building codes, including fire codes, and land development code regulations, except where relief is requested.

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

STAFF: The proposed addition will not alter the essential character of the general vicinity as it is going to be built with material that will be in character with the existing residence and surrounding residential neighborhood.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance may cause nuisance to the public because we do not have a survey and cannot confirm that the proposed addition will not encroach over the property line.

- (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 property is only 25 ft. in width and the existing home is already encroaching into the side yard setback and the proposed addition will encroach the same amount.

**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 not generally apply to land in the general vicinity or the same zone as the lot is similar in 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 this portion of the lot is only 25 ft. in width and the existing house is already encroaching into the side yard setback.

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 has not started construction and is requesting the variance.

**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.

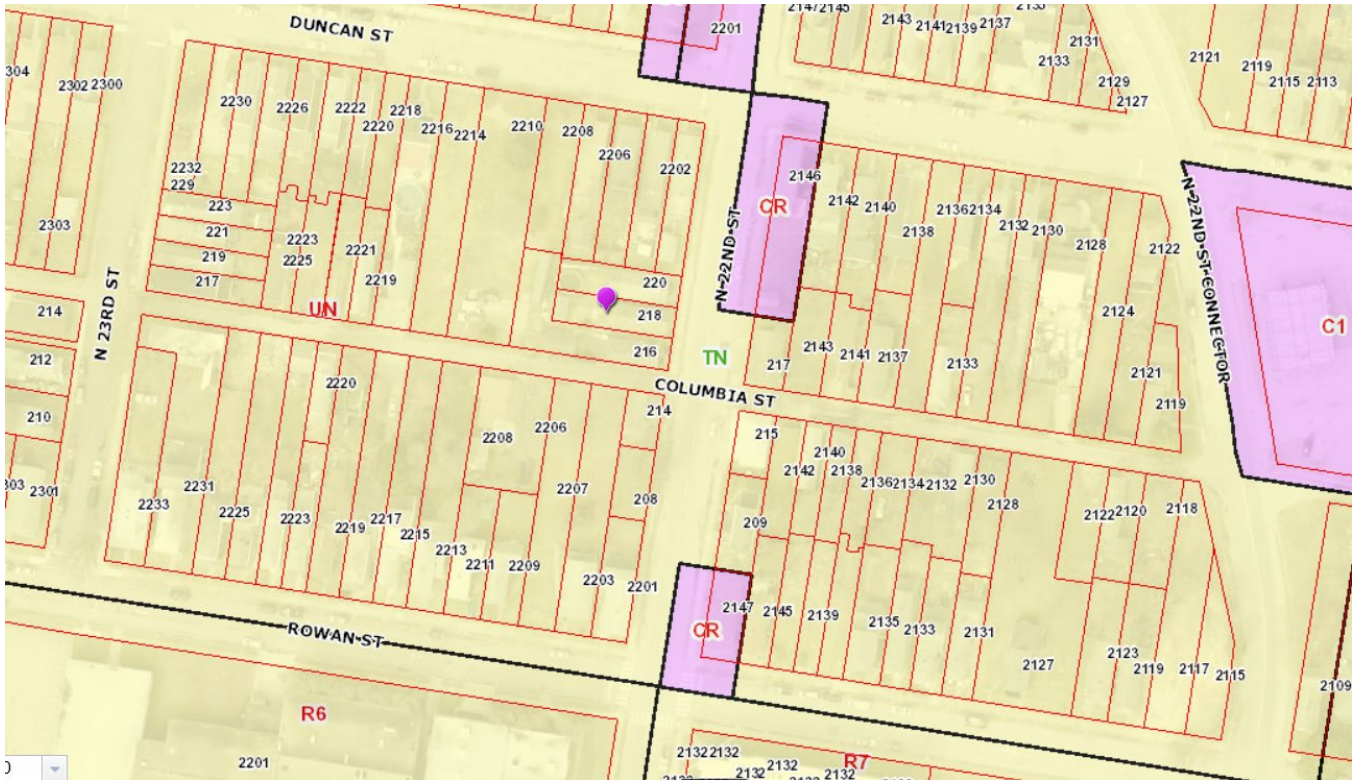
**NOTIFICATION**

Date	Purpose of Notice	Recipients
07/28/2022	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 5
07/29/2022	Hearing before BOZA	Notice posted on property

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Elevations
5. Conditions of Approval
6. Site Photos

# 1. Zoning Map

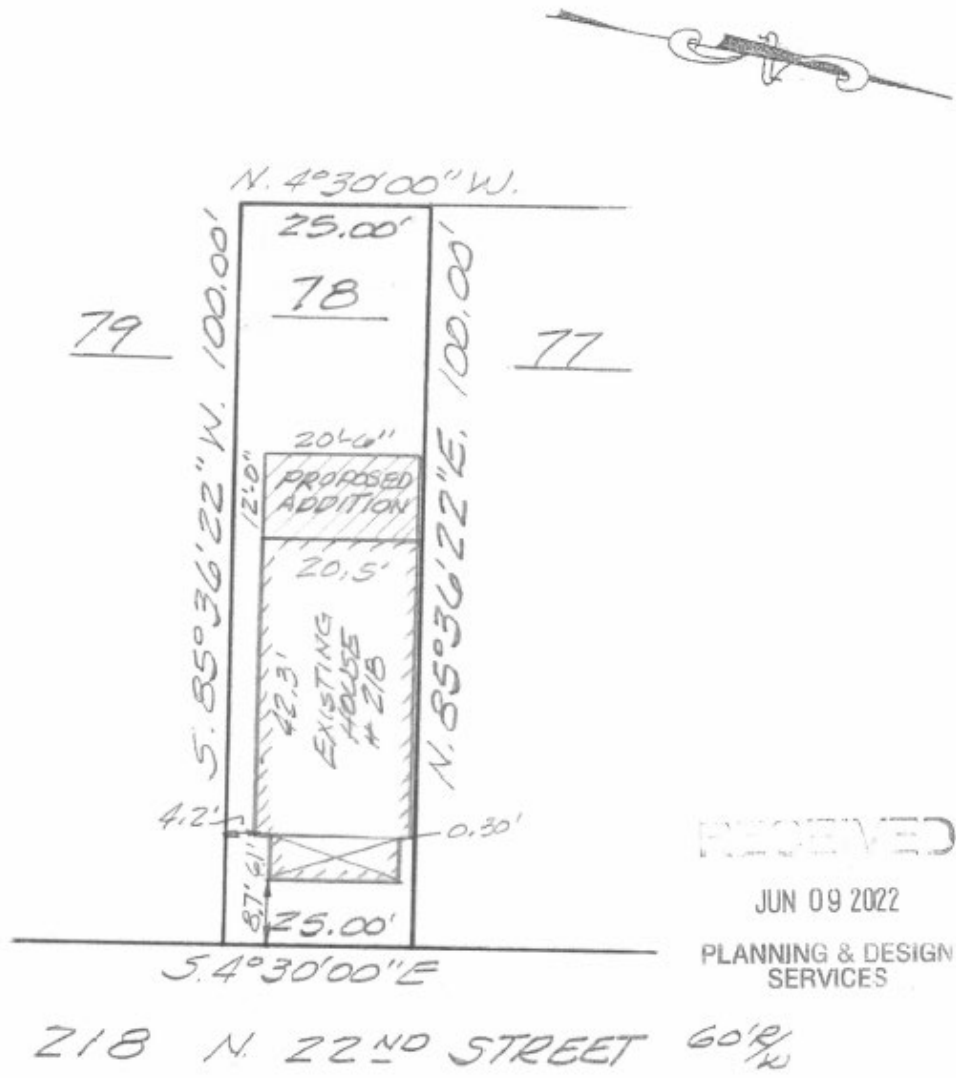


## 2. Aerial Photograph





3. Site Plan



RECEIVED  
 JUN 09 2022  
 PLANNING & DESIGN SERVICES

218 N. 22ND STREET 60' R/W

**PLOT PLAN ONLY**  
DO NOT SCALE

Survey For ELITE HOME INV. LLC  
 Location 218 N. 22ND ST.  
D.B. 12345, P. 422  
Blk 3F Lot #78 JCH, Co.  
 Scale: 1" = 20' Date: 6-6-22

**C.R.P. & ASSOC., INC.**  
 7321 New LaGrange Road, Suite 111  
 Louisville, KY 40222  
 (502) 423-8747 • Fax (502) 429-0602

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## 5. Conditions of Approval

1) A survey of the north property line shall be completed prior to the commencement of construction activity and 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.

## 6. Site Photos



Front of subject property.





Left of subject property.





Right of subject property, Google 2022.





Across street.





Rear yard and variance area.