

Board of Zoning Adjustment

Staff Report

June 5, 2023



Case No:	23-VARIANCE-0045_23-VARIANCE-0046
Project Name:	Bassett Avenue Garage and Guesthouse
Location:	1229 Bassett Avenue
Owner/Applicant:	Jennifer Geier
Jurisdiction:	Louisville Metro
Council District:	8-Benjamin Reno-Weber
Case Manager:	Amy Brooks, Planner I

REQUEST:

Variance from the Land Development Code section 5.4.1.E.2 to allow an accessory structure to encroach into the rear yard setback.

Variance from Land Development Code section 5.4.1.D.3 to allow a private yard area to be less than the required 20% of the area of the lot.

Location	Requirement	Request	Variance
Rear Yard Setback	5.0 ft.	2.0 ft.	3.0 ft.
Private Yard Area	692 sq. ft.	400 sq. ft	292 sq. ft.

CASE SUMMARY/BACKGROUND

The subject site is zoned R-5 Single Family Residential in the Traditional Neighborhood Form District. The site is in the Cherokee Triangle Historic Preservation District on the eastern side of Bassett Avenue. The property is currently developed with a 1.5- story home and a two-story carriage house located in the rear yard. The applicant is proposing to demolish the existing carriage house which has structural integrity issues. The new building will be a 24 ft. by 24 ft. structure with a two-car garage on the ground level and a studio apartment located above. As proposed, the structure will encroach into the required rear yard and will reduce the private yard area requirement beyond what the LDC regulations allow.

STAFF FINDINGS

Staff finds that the Rear Yard Setback and Private Yard Area variance are adequately justified and meet the standards 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.

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

Staff has not received any interested party comments

RELATED CASES:

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION (Rear Yard Setback)

- (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, including fire codes, and the Land Development Code, except where relief is requested. In addition, the owner of the adjoining property that would be most affected by the reduction in the required rear yard stated to the Architectural Review Committee meeting on March 15, 2023, that they have no issue with the proposed encroachment.

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

STAFF: The proposed 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. The applicant has already received a certificate of appropriateness attesting that the proposed garage/carriage house generally meets the Cherokee Triangle Preservation District design guidelines for new construction.

- (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 because the proposed carriage house is to be located in an area where minimal setbacks from the rear property lines are common. Examples of accessory structures that seem to encroach into the required rear yard are common along the alleyway that runs adjacent to the subject property. Please see site photos for examples.

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 arise from special circumstances which do not generally apply to the land in the general vicinity or the same zone as the lot is not similar in size and shape to the surrounding properties. This parcel is shallower than most of the properties on the surrounding tracts.

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 because if the carriage house is required to be five feet from the rear property line, the applicant would be unable to use the existing foundation and would reduce required private yard area even further.

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 begun construction.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.4.1.D.2 (Private Yard Area)

- (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, including fire codes, and the Land Development Code, except where relief is requested.

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

STAFF: The proposed private yard area reduction will not alter the essential character of the general vicinity as many properties in the area seemingly have reduced private yard areas.

- (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 proposed accessory structure will comply will all other regulations, except where relief is requested, and there are other properties within the block that have seemingly reduced open space between the principal and accessory use areas. In addition, the applicant is proposing to provide more open space by requesting to move the accessory structure closer to the rear property line allowing for an expansion of the private yard area.

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 arise from special circumstances which do not generally apply to the land in the general vicinity or the same zone as the lot is not similar in size and shape to the surrounding properties. This property has a limited amount of open space between the principal structure and the required rear yard; therefore, any building of an accessory structure would likely require a variance for a reduced private yard area.

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 there is limited open space on the parcel.

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. The applicant has not started construction on the garage and has requested a 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.

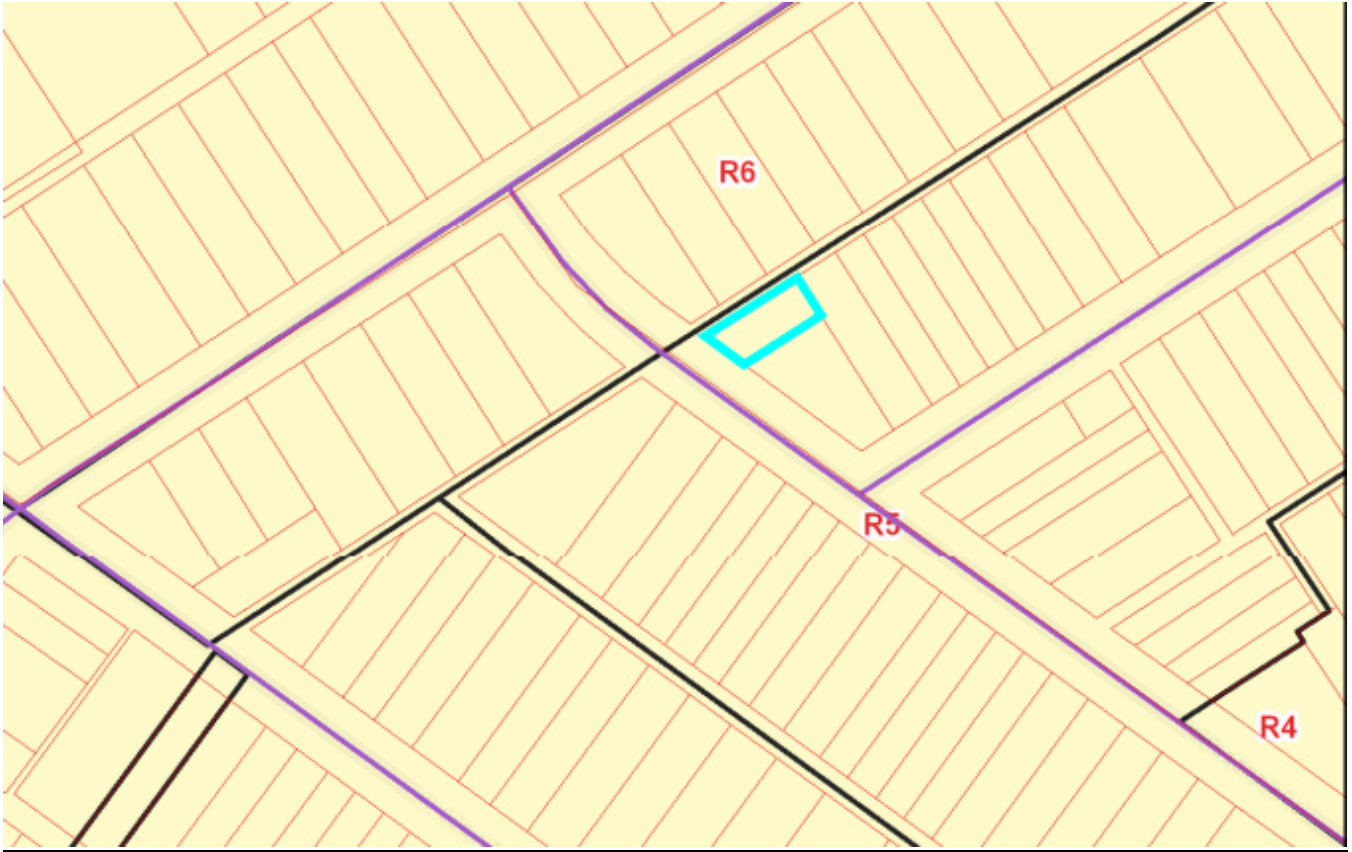
NOTIFICATION

Date	Purpose of Notice	Recipients
05/18/2023	Hearing before BOZA	1 st tier adjoining property owners
05/22/2023		Registered Neighborhood Groups in Council District 8
05/22/2023	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

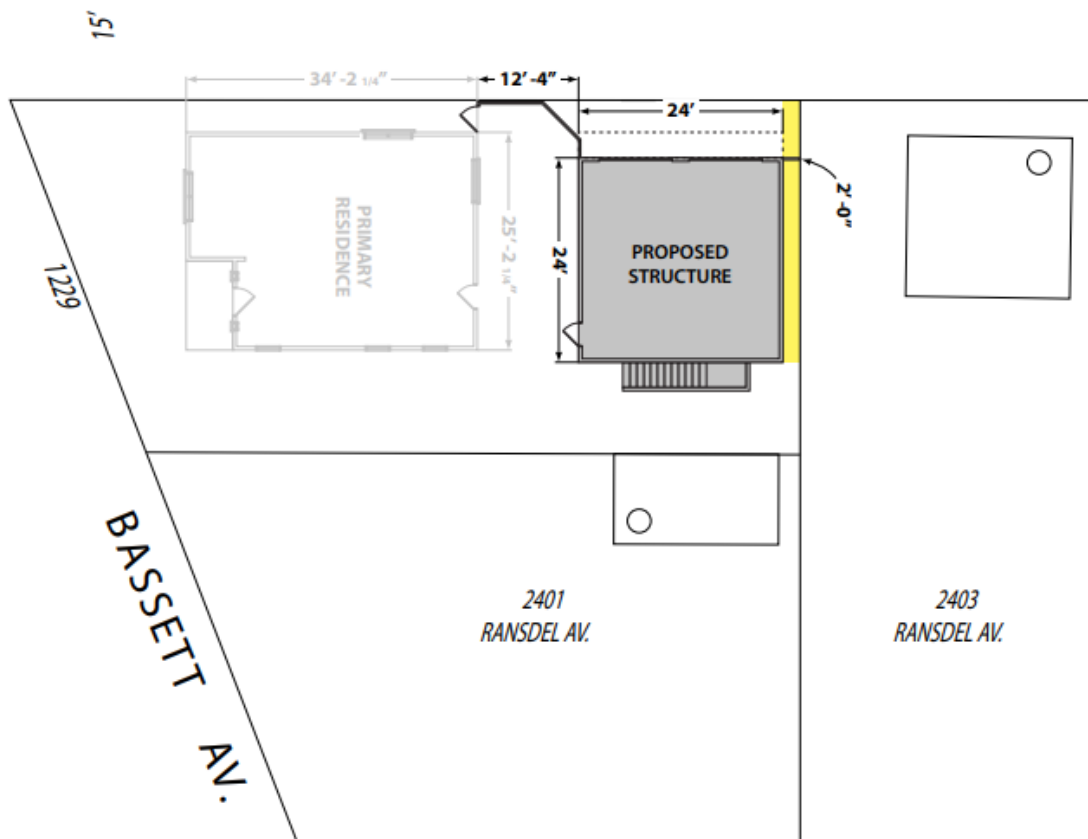
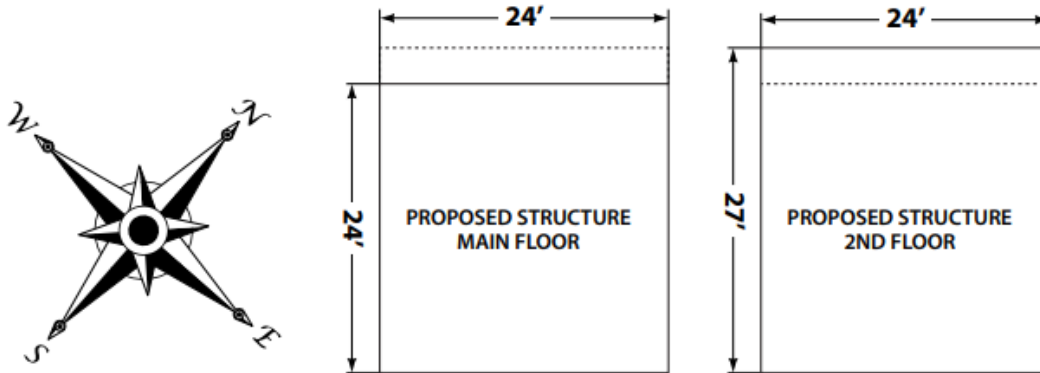


2. Aerial Photograph



3. Site Plan

1229 BASSETT AVE.
PROPOSED STRUCTURE



4. Elevations



5. Site Photos



Front of subject property.



Property to the left



To the right of subject property. Google street view, May 2019.



View of rear yard variance.



Across the street from subject property.



View of Private Yard Area variance.



Examples of homes in the neighborhood that seemingly have reduced private yard areas and encroach into the rear yard.