

Board of Zoning Adjustment

Staff Report

February 6, 2017



Case No:	16VARIANCE1101
Project Name:	11903 Lilac Way
Location:	11903 Lilac Way
Owner(s):	Lee Pennington
Applicant(s):	Allen Construction and Cabinetry – Tony Sweazy
Representative(s):	Allen Construction and Cabinetry – Tony Sweazy
Project Area/Size:	0.44 acres
Existing Zoning District:	R-5, Single-Family
Existing Form District:	N, Neighborhood
Jurisdiction:	City of Middletown
Council District:	19 – Julie Denton
Case Manager:	Joel P. Dock, Planner I

REQUEST

- **Variance** from the Land Development Code (City of Middletown – March 2006), section 5.4.2.C.1 to exceed the infill established maximum front setback range

CASE SUMMARY

The applicant is requesting a variance to allow a proposed single-family home to be constructed in excess of the maximum setback permitted by the infill standards of Land Development Code (LDC), section 5.4.2.C.1. A front setback of 92.81 feet from the Lilac Way property line is being requested. The setback required for new primary structures on lots in an infill context provides that these structures shall fall within the range of the two nearest principle residential structures. In this case, the range is established by the only two properties along Lilac Way and on the same side of the street. The range of the setbacks is roughly 30-35 feet from the property line of the respective homes on Lilac Way; thus, a variance of 58 feet will be needed for the proposed home.

The residence proposed will be constructed as a *Net-Zero Ready Home*; meaning that the location of the home on the lot, design of the home, and materials chosen are essential in harnessing enough natural/renewable energy from the environment to offset energy consumption. As a result of the proposed setback, trees along Lilac Way will be preserved. A closer setback would result in the removal of trees in order to achieve energy independence.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Vacant	R-5	N
Proposed	Single-family	R-5	N
Surrounding Properties			
North	Commercial Office	C-1	TC
South	Single-family	R-5	N
East	Single-family	R-5	N
West	Single-family	R-5	N

PREVIOUS CASES ON SITE

Staff found no associated case on site.

INTERESTED PARTY COMMENTS

Staff has not received any inquiries or comments on this proposal.

APPLICABLE PLANS AND POLICIES

Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

- (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 proposed structure is for a single-family residential use. The preservation of trees and the intent to harness renewable energy sources from the environment surrounding the proposed home will benefit the public health and welfare of the surrounding properties and community by allowing the tree canopy to remain; thus, helping to reduce the impact of urban heat island effects and reduce energy consumption, as well as preserving the residential beauty provided by tree stands in residential neighborhoods.

- (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 trees will be preserved along the frontage of Lilac Way to serve as an established buffer between the home and the right-of-way. Additionally, the home will have an entrance and windows facing Daisy Lane that will have the appearance of a primary façade.

- (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 for a single-family residential structure having no apparent nuisances or hazards caused by light, sound, bulk, setback, access, or odor.

- (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 setback allows for the preservation of trees in this residential community and does not impact the overall pattern of the neighborhood as one moves South from Shelbyville Road.

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 variance arises from special circumstances that do not generally apply to the land in the general vicinity as the proposed structure is intended to be a *Net-Zero Ready Home*; meaning that the location of the home on the lot, design of the home, and materials chosen are essential in harnessing enough natural/renewable energy from the environment to offset energy consumption. Standard construction of single-family homes within the guidelines of the zoning standards for setback do not consider natural environment to the extent that it is being considered in this particular case.

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 deprive the applicant of the reasonable use of the land as trees would need to be removed to the detriment of the community and environmental consciousness of the property owner.

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.

TECHNICAL REVIEW

The proposed driveway will need to be relocated to the rear of the home as parking for single-family residential uses is permitted in the front or street side yard only on a hard surface or approved semi-pervious driveway that leads to a garage, carport, house or rear yard. The applicant has agreed to relocate the driveway to the rear of the home opposite Lilac Way.

STAFF CONCLUSIONS

The variance request appears to be adequately justified and meets the standard of review. Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standard for granting variances established in the Land Development Code.

Actions

- **APPROVE** or **DENY** the variance from LDC (City of Middletown – March 2006), section 5.4.2.C.1 to exceed the infill established maximum front setback range

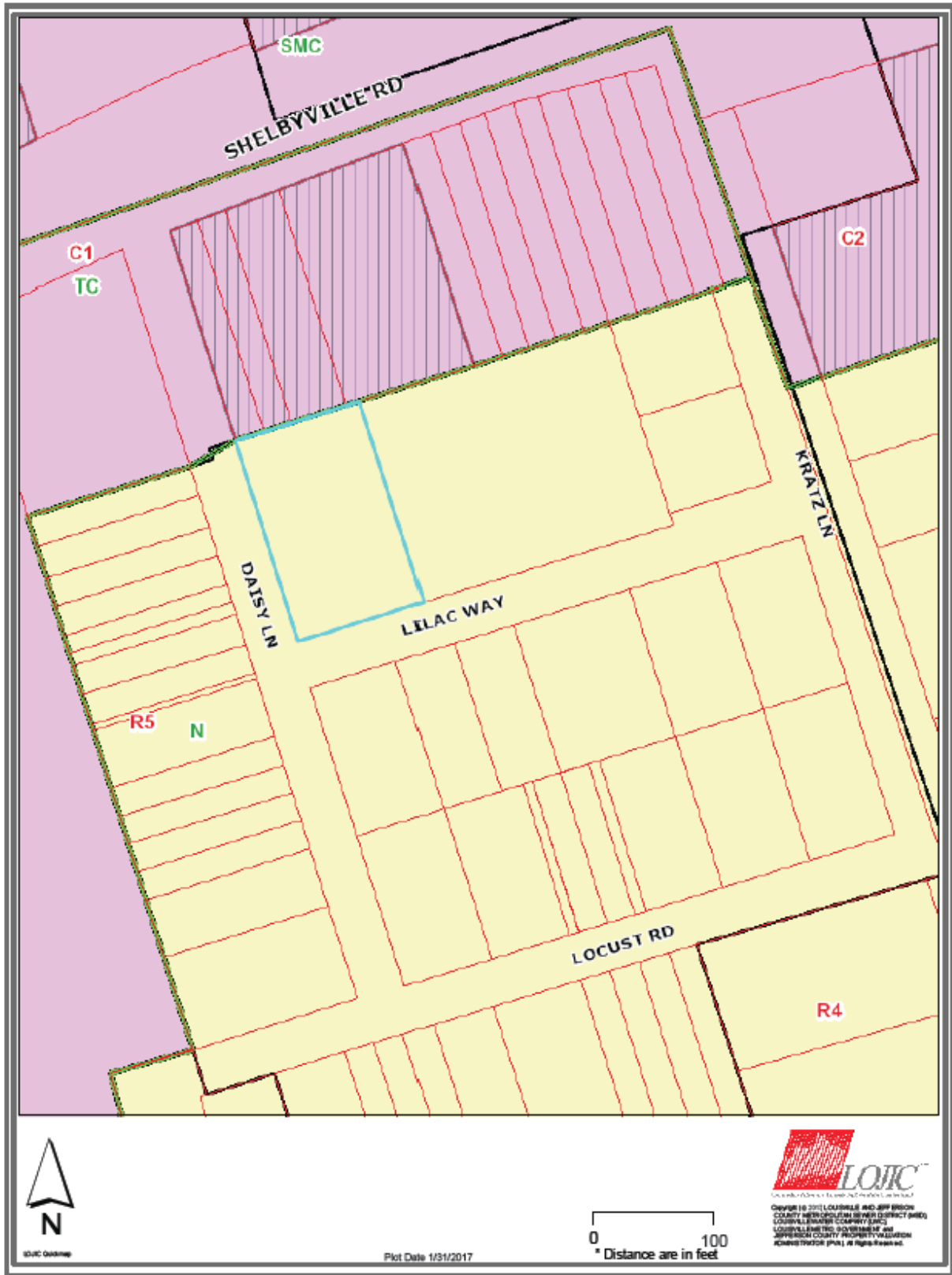
NOTIFICATION

Date	Purpose of Notice	Recipients
1/19/2017	BOZA	Adjoining property owners, applicant, representative, case manager, and registered users of Council District 19.

ATTACHMENTS

1. Zoning and Form District Map
2. Aerial Photograph

1. **Zoning and Form District Map**



2. Aerial Photograph

