

Board of Zoning Adjustment

Staff Report

June 26, 2023



Case No:	23-VARIANCE-0051
Project Name:	Big Bar Variance
Location:	1202 Bardstown Rd
Owner/Applicant:	Kevin Bryan, Bigger is Better LLC
Representative:	Nathan Grimes
Jurisdiction:	Louisville Metro
Council District:	8- Ben Reno-Weber
Case Manager:	Amy Brooks, Planner I

REQUEST:

Variance from the Land Development Code section 5.2.3.D.3.d.ii to allow an addition to encroach into the rear yard setback
Variance from Land Development Code section 5.2.3.D.3.b to allow an addition to encroach into the required side yard setback.

Location	Requirement	Request	Variance
Rear Yard Setback	15 feet	0 feet	15 feet
Side Yard Setback	5 feet	0 feet	5 feet

CASE SUMMARY/BACKGROUND

The subject site is zoned C-2 Commercial within the Traditional Marketplace Corridor. Located on the southwest side of Bardstown Road in the Tyler Park neighborhood, the subject property is developed with a combination one- and two-story building that is operating as the Big Bar. The applicant is proposing to construct a 673 square foot, one-story rear addition that will fill in the L-shaped gap around the rear of the building to the southwest and southeast property lines. The addition will be used for storage, office space, and accessible restroom space.

The proposed encroachment does abut multi-family uses on both property lines. The proposed renovation has received Bardstown Road/ Baxter Avenue Overlay Committee approval under case 23-OVERLAY-0029.

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 maintenance and construction of the addition may have an adverse impact on the adjoining property owners.

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

There are technical issues that will be addressed during the construction review process.

INTERESTED PARTY COMMENTS

Staff has received interested party comments. They are attached to this agenda item.

RELATED CASES

23-OVERLAY-0029
19-PARKWAIVER-0009
19VARIANCE1029
18VARIANCE1058
18VARIANCE1035

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.2.3.D.3.d.i (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; however, staff is concerned that the variance could adversely affect the adjacent property owner because construction and future maintenance of the addition 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. The applicant has gotten approval from the Bardstown Road/Baxter Avenue Corridor Overlay District for the proposed exterior alterations. According to the permit, the proposed changes will have little to no impact on the Corridor because most of the addition will be behind the existing building.

- (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 structure is compatible with other commercially zoned properties along the Corridor that lack alley access and whose properties have limited depth.

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 arise from special circumstances which do generally apply to the land in the generally vicinity or the same zone as the lot is not similar in size and shape to the surrounding properties. This property is shallower and lacks rear alley access.

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 the required rear yard setback for structures on this site is 15 ft which would deprive the applicant of buildable area given the property's unusual size constraints.

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 begun construction and has applied for a variance.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.2.3.D.3.b (Side 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. however, staff is concerned that the variance could adversely affect the adjacent property owner because construction and future maintenance of the addition may require encroachment onto the adjacent property

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

STAFF: The encroachment into the side yard alter the essential character of the general vicinity. The applicant has gotten an overlay permit from the Bardstown Road/Baxter Avenue Corridor Overlay District for the proposed addition. According to Overlay report findings, the proposed changes will have little to no impact.

- (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 lot is rather narrow. Additionally, there are examples of other buildings encroaching into the side yard setback.

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 generally 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 deprive the applicant of reasonable use of the land given the property's size constraints.

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 begun construction and has applied for 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.

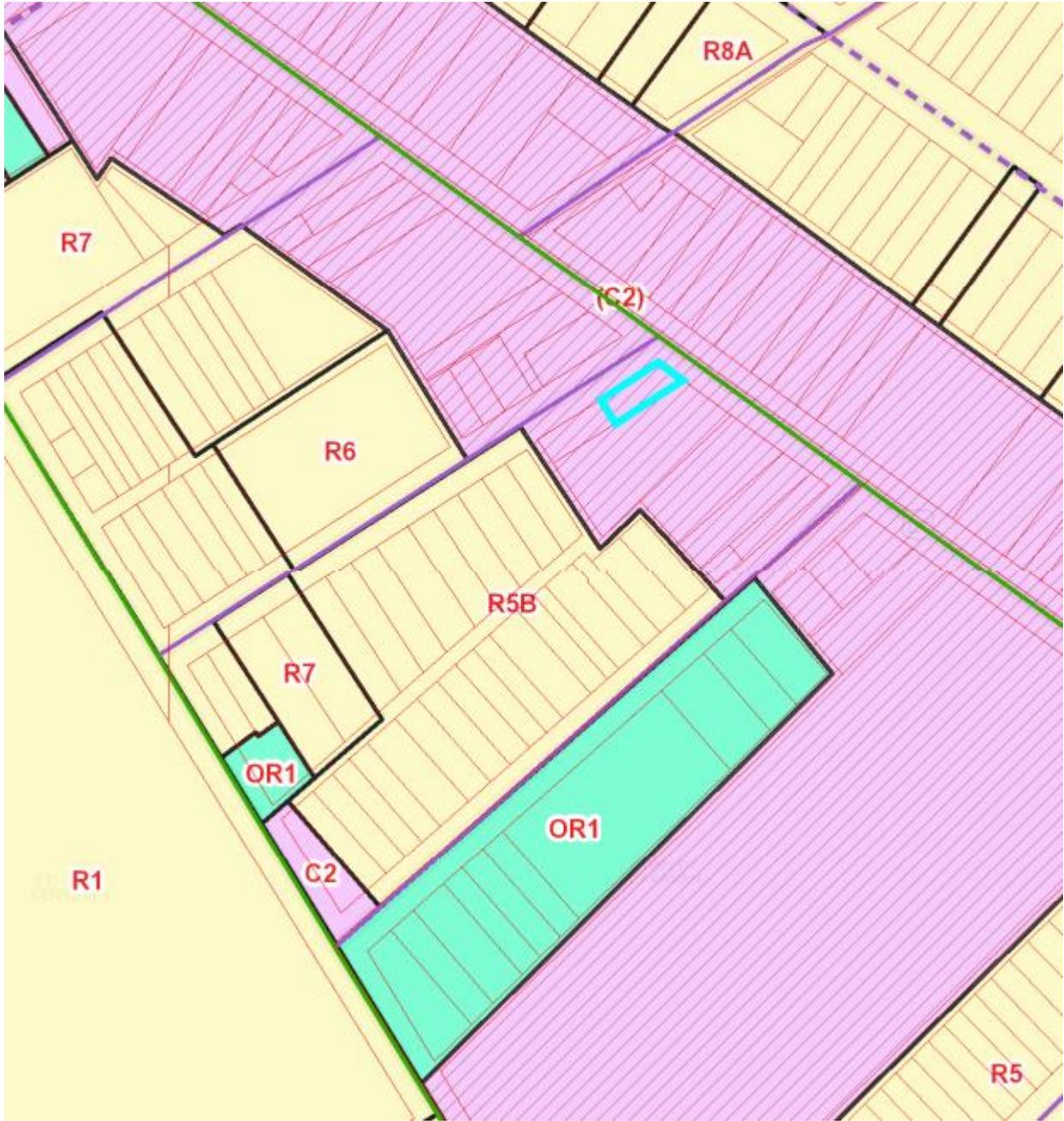
NOTIFICATION

Date	Purpose of Notice	Recipients
06/9/2023	Hearing before BOZA	1 st tier adjoining property owners
06/12/2023		Registered Neighborhood Groups in Council District 8
0/2023	Hearing before BOZA	Notice posted on property

ATTACHMENTS

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

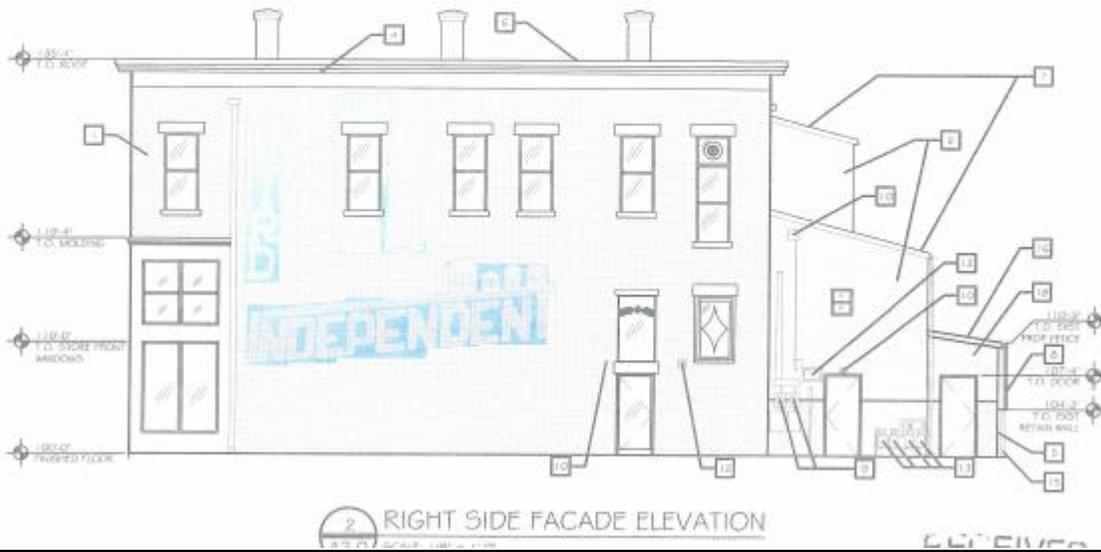
1. Zoning Map



2. Aerial Photograph



4. Elevations

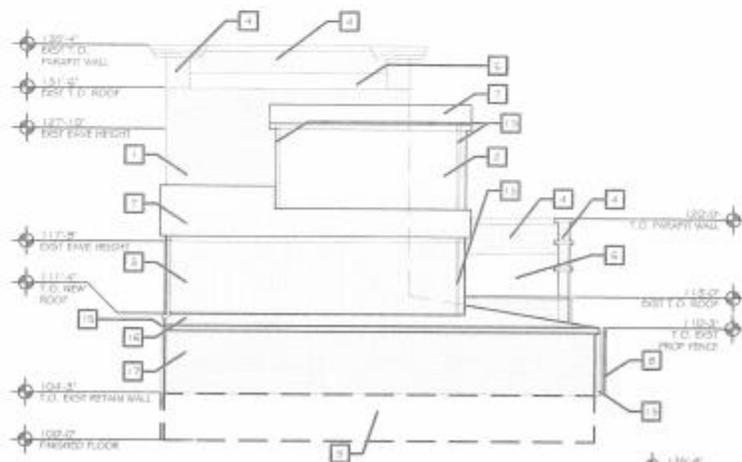




NOTE:
 1. ALL MATERIALS TO BE MATCHED TO EXISTING UNLESS NOTED OTHERWISE.
 2. ALL NEW MATERIALS TO BE MATCHED TO EXISTING UNLESS NOTED OTHERWISE.
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 18. ALL NEW MATERIALS TO BE MATCHED TO EXISTING UNLESS NOTED OTHERWISE.
 19. ALL NEW MATERIALS TO BE MATCHED TO EXISTING UNLESS NOTED OTHERWISE.

1 LEFT SIDE FACADE ELEVATION
 A2.2 SCALE: 1/8" = 1'-0" (WITH FENCE)

NOT FOR CONSTRUCTION



2 REAR FACADE ELEVATION
 A2.1 SCALE: 1/8" = 1'-0"

RECEIVED
 APR 10 2024
 PLANNING &
 DESIGN SERVICES

- NOTE
- 1 EXISTING
 - 2 EXISTING
 - 3 EXISTING
 - 4 EXISTING
 - 5 EXISTING BRICK (TO BE RE-SCAFF)
 - 6 EXISTING
 - 7 EXISTING
 - 8 EXISTING FENCE (CONC)
 - 9 EXISTING 4 INCH
 - 10 EXISTING
 - 11 EXISTING
 - 12 EXISTING
 - 13 EXISTING
 - 14 EXISTING
 - 15 GUTTER
 - 16 NEW SH

6. Site Photos



Front of subject property.



Local: Jun 12, 2023 at 1:

Right of the subject property.



Local: Jun 12, 2023 at 1:11:45 PM EDT

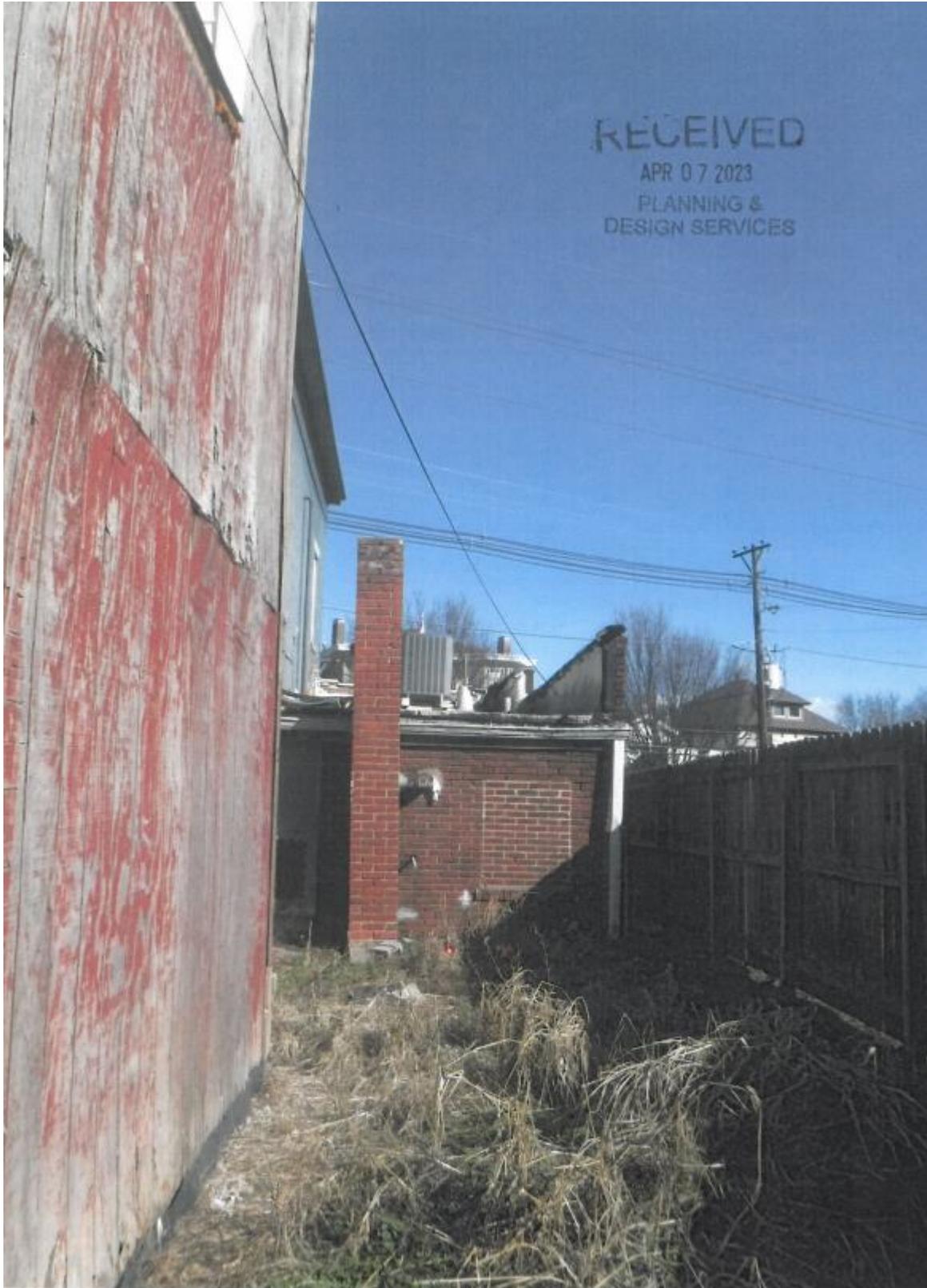
Left of subject property.



Across the street from subject property.



View of variance area.



Rear setback variance area.



Side setback variance area.