

**Board of Zoning Adjustment**  
**Staff Report**  
 August 31, 2020



<b>Case No:</b>	20-VARIANCE-0069
<b>Project Name:</b>	Wiltshire Avenue Variance
<b>Location:</b>	145 Wiltshire Avenue
<b>Owner(s):</b>	DHR Properties, LLC
<b>Applicant:</b>	Clay Wallace
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	9 – Bill Hollander
<b>Case Manager:</b>	Zach Schwager, 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
Side Yard	5 ft.	0 ft.	5 ft.

**CASE SUMMARY/BACKGROUND**

The subject site is zoned R-5 Residential Single-Family in the Neighborhood Form District. It is a single-family structure located in the Breckenridge Villa subdivision. The existing structure is one-story and the applicant proposes to add a second story. The proposed second story addition will encroach into the side yard setback on the north side. The proposed addition will have overhangs that are the same distance from the property line as the existing overhangs.

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

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**

No interested party comments were received by staff.

## RELATED CASES

None.

## STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM TABLE 5.3.1

- (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; however, staff is concerned that the variance could adversely affect the adjacent property owner because construction and maintenance of the structure may require encroachment onto the neighboring property.

- (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 structure will be similar in size and scale compared to surrounding structures.

- (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 addition 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 addition will be the same distance from the side property lines as the existing footprint. The proposed addition will have overhangs that are the same distance from the property line as the existing overhangs.

## 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 the land in the generally vicinity or the same zone as the lot is similar in size and shape as 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 not create an unnecessary hardship on the applicant as they could construct an addition that would not require such a significant departure from the dimensional requirement.

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.

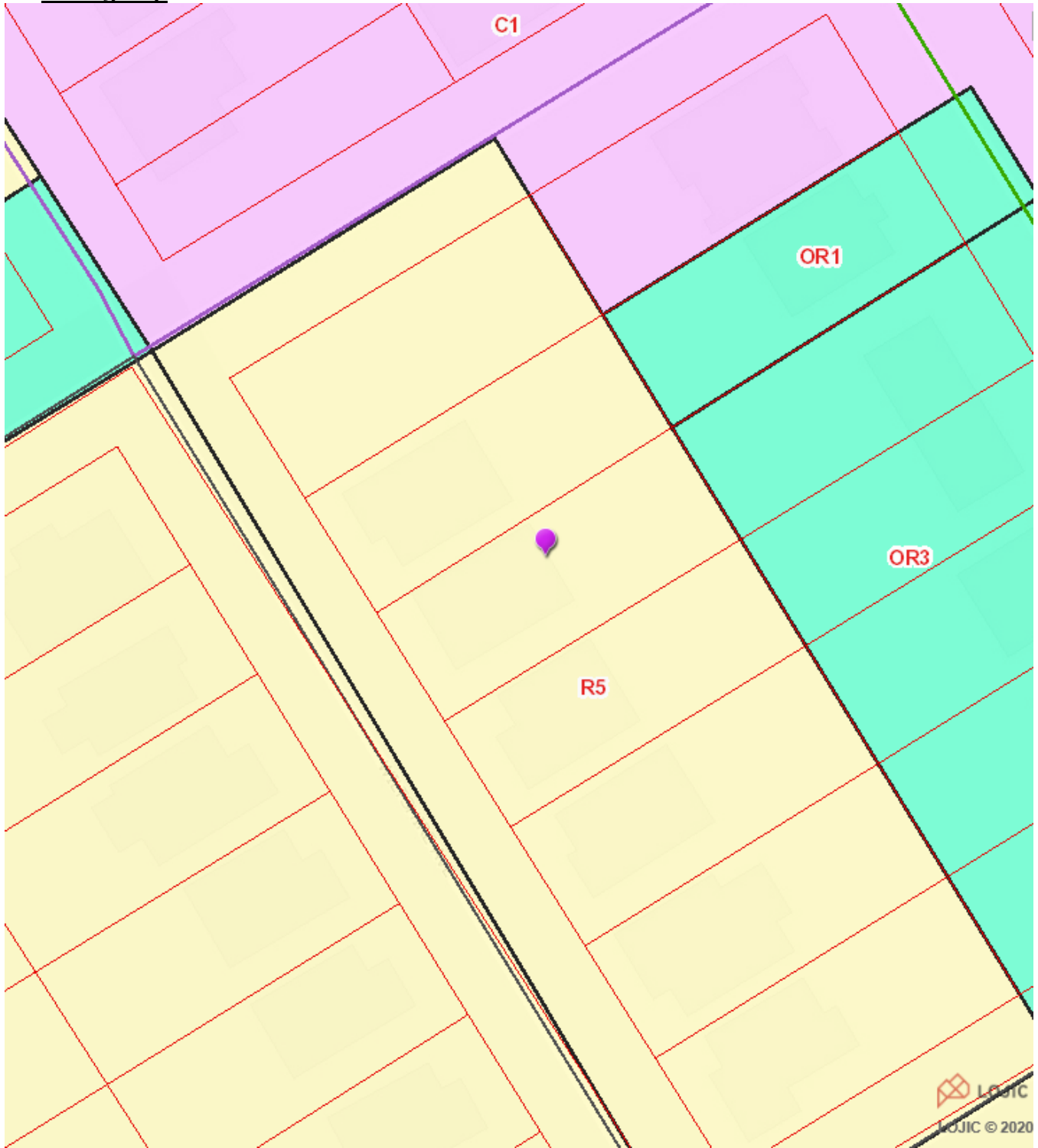
**NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
<b>08/13/2020</b>	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 9
<b>08/18/2020</b>	Hearing before BOZA	Notice posted on property

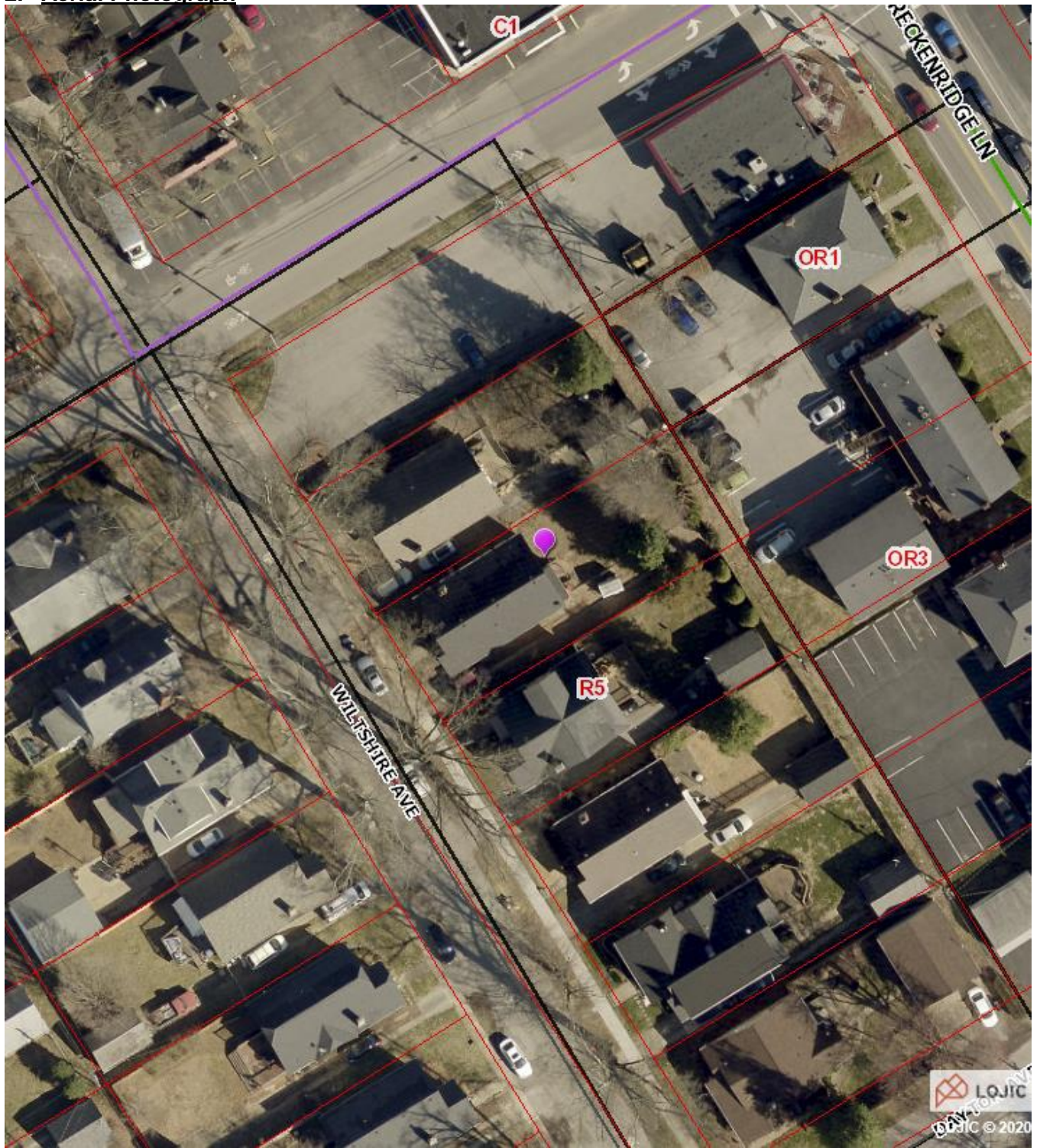
**ATTACHMENTS**

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

1. Zoning Map



2. Aerial Photograph





### 3. Site Plan

LOJIC Maps Data Services News About Search

Search Addresses

SAVE WILTSHIRE AVE

50.82 ft 33.41 ft 33.24 ft 51.63 ft

RECEIVED  
JUN 25 2020  
PLANNING & DESIGN SERVICES

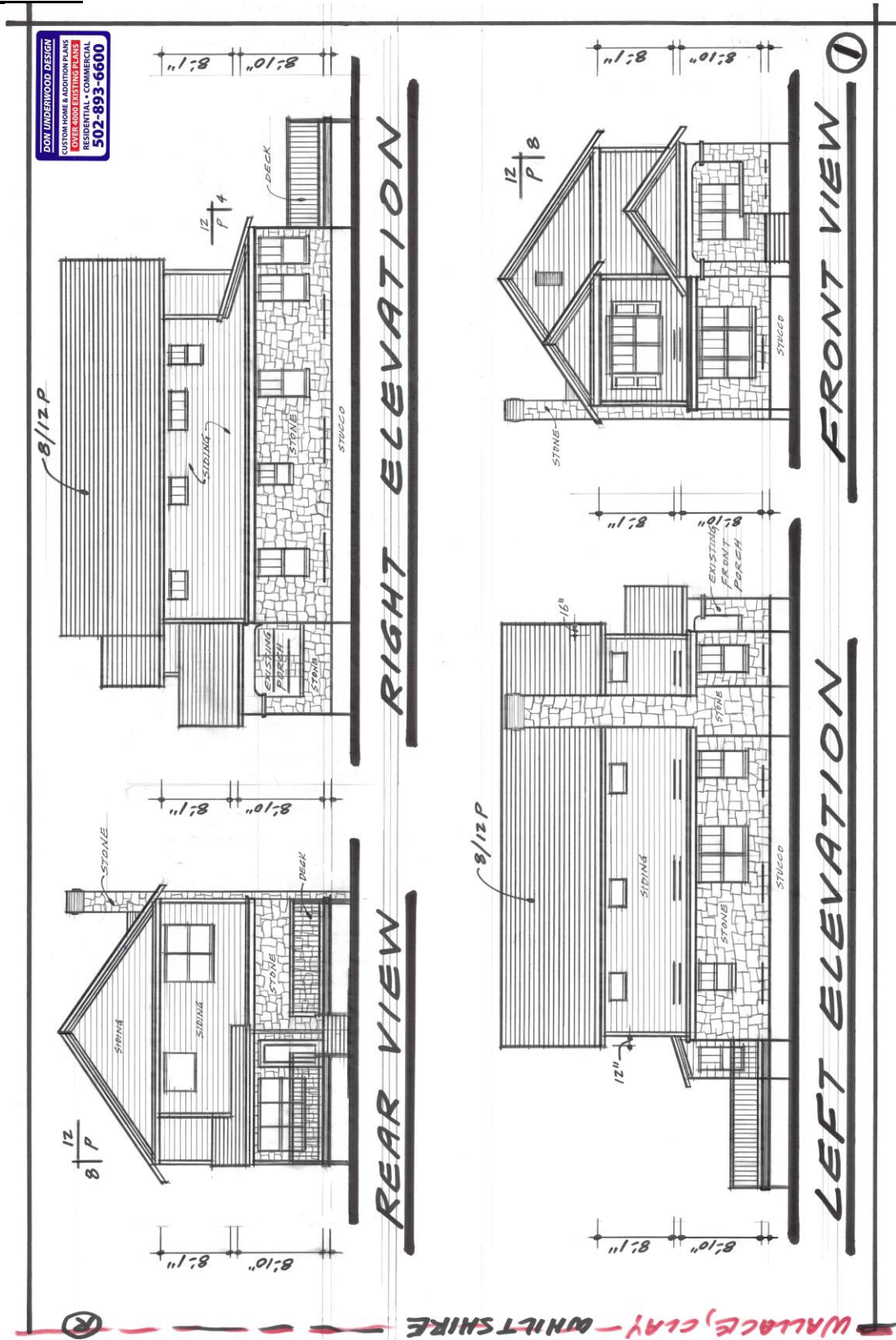
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<https://www.lojic.org/lojic-online>

1/2

An aerial photograph of a property with red lines indicating lot boundaries. A central rectangular area is highlighted in dark grey with a blue border. The dimensions of this area are labeled: 50.82 ft on the top side, 33.41 ft on the right side, 33.24 ft on the left side, and 51.63 ft on the bottom side. The map includes a search bar at the top with the text 'Search Addresses', a home button, and a scale bar at the bottom left showing 0 to 30 feet. A 'RECEIVED' stamp is located at the bottom right, dated JUN 25 2020, from PLANNING & DESIGN SERVICES. Below the stamp is the text '20 - VARIANCE - 0069' in red. The URL 'https://www.lojic.org/lojic-online' is at the bottom left, and '1/2' is at the bottom right.

4. Elevations



**5. Site Photos**



Front of subject property.





Properties across Wiltshire Avenue.



Variance area.





Variance area.





Variance area.