

# Board of Zoning Adjustment Staff Report

October 3, 2016



<b>Case No:</b>	16VARIANCE1068
<b>Request:</b>	To allow a proposed home and garage to encroach into the minimum street side yard setback.
<b>Project Name:</b>	1704 Speed Avenue
<b>Location:</b>	1704 Speed Avenue
<b>Area:</b>	0.14770 acres or 6,433.812 sf.
<b>Owner:</b>	Don Petty – Danagirl Investments LLC.
<b>Applicant:</b>	Jeremy Pearman – JB Pearman Construction Co.
<b>Representative:</b>	Jeremy Pearman – JB Pearman Construction Co.
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	8 – Tom Owen

### REQUEST

- **Variance:** from the Land Development Code section 5.3.1.C, table 5.3.1 to allow single story home and detached garage to encroach into the 25 foot minimum street side yard setback along Radnor Avenue by approximately 20.59 feet.

Location	Requirement	Request	Variance
Street Side Yard Setback	25 ft.	4.41 ft.	20.59 ft.

### CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing to construct a 1,618 sf. single story home and a 264 sf. single story detached garage of which both encroach into the street side yard setback located along Radnor Ave. The site location is located on a triangular shaped parcel bounded by Radnor Ave. to the east, Speed Ave. to the north, and Highland Middle School's athletic field to the west, the parcel comes to a point on the south side of the property. The parcel is zoned R-5 in a Neighborhood Form District and the infill context was applicable to assess the property. The front yard was determined to be facing Speed Ave. and the street side yard along Radnor Ave, while the side yard was determined to be along the Highland Middle School athletic field.

The subject site is an odd shaped triangular parcel with frontage along Speed Ave., the home is situated length wise on the parcel for the use of space. The infill context when applicable

### LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing</b>	Vacant	R-5	Neighborhood
<b>Proposed</b>	Residential single family	R-5	Neighborhood
<b>Surrounding Properties</b>			
<b>North</b>	Residential single family	R-5	Neighborhood
<b>South</b>	Residential single family	R-5	Neighborhood
<b>East</b>	Public and Semi-Public	R-5	Neighborhood
<b>West</b>	Residential single family	R-5	Neighborhood

## PREVIOUS CASES ON SITE

None

## INTERESTED PARTY COMMENTS

No comments were received from concerned citizens.

## APPLICABLE PLANS AND POLICIES

Land Development Code (July 2016)

### 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 since the parcel is located approximately 23.5 feet from the edge of pavement along Radnor Ave. and approximately 35 feet from the edge of pavement along Speed Ave. to the property line. The five foot side yard setback from the Highland Middle School athletic field is separated by a six foot fence.

- (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 since homes located across Speed Ave. are facing Speed Ave. and the subject site would be facing Speed Ave.

- (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 since the home will be situated closer to Speed Ave. and towards the portion of the property that is wider with more space.

- (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 since the parcel is a buildable lot however, the odd shape of the lot and the fact that it is located adjacent to a Jefferson County Public School would make the lot unbuildable if the variance is not granted.

### 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 arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since the lot was subdivided prior to the adoption of the Land Development Code. The odd shape of the lot makes it unique for the Olympia subdivision as it was known in 1939.

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 since the odd shape and size of the lot would mean the lot is unbuildable.

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 since the lot was created in 1939 in the Olympia Subdivision which predates the Land Development Code.

**TECHNICAL REVIEW**

- None

**STAFF CONCLUSIONS**

The variance request appears to be adequately justified and meet 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 of review for granting a variance as established in the Land Development Code from section 5.3.1.C, table 5.3.1 to allow a single story home and garage to encroach by approximately 20.59 feet into the minimum street side yard setback for an R-5 zoned parcel within a Neighborhood Form District.

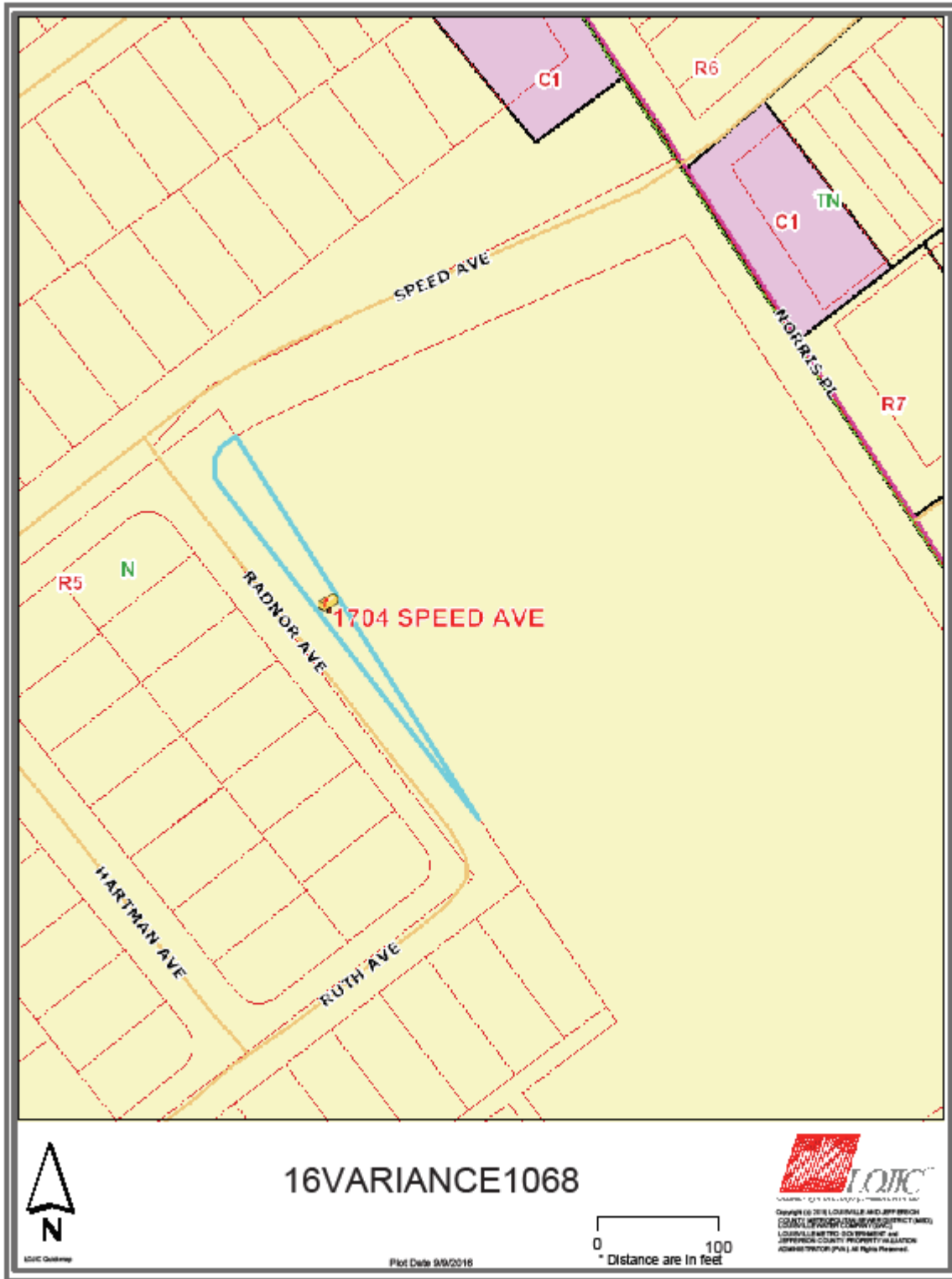
**NOTIFICATION**

Date	Purpose of Notice	Recipients
Sept. 16, 2016	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Subscribers of Council District 8 Notification of Development Proposals
Sept. 16, 2016	Sign Posting for BOZA	Sign Posting on property

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

