

Board of Zoning Adjustment
Staff Report
 May 6, 2019



Case No:	19VARIANCE1023
Project Name:	Rudy Lane Variance
Location:	623 Rudy Lane
Owner:	Kurt Showalter & Loretta Showalter
Applicant:	Charles Podgursky – C.R.P. & Associates, Inc.
Jurisdiction:	City of Windy Hills
Council District:	7 – Paula McCraney
Case Manager:	Zach Schwager, Planner I

REQUEST

- **Variance** from Land Development Code section 5.4.2.A.2.a to allow a structure to encroach into the required rear yard setback.

Location	Requirement	Request	Variance
Rear Yard	1,260 sq. ft.	1,176 sq. ft.	84 sq. ft.

CASE SUMMARY/BACKGROUND

The subject property is zoned R-3 and is in the Neighborhood form district. It is located in the Merrifield Subdivision in the City of Windy Hills and contains a one-story single-family residence. The applicant is proposing to add a garage and additional living space that will encroach into the rear yard.

STAFF FINDING

Staff finds that the requested variance is adequately justified and meets the standard 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 from section 5.4.2.A.2.a to allow a structure to encroach into the required rear yard setback.

INTERESTED PARTY COMMENTS

Staff received comments in favor and in opposition to the proposed addition.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.4.2.A.2.a

- (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 structure will be constructed to comply with all building codes, including fire codes.

- (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 addition is consistent with other residences in the subdivision.

- (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 the proposed addition will meet the five-foot setback requirement.

- (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 have minimal impact and meet all other setback requirements.

ADDITIONAL CONSIDERATIONS:

1. The requested variance does not arise 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 land in the general vicinity or the same zone as the subject property is similar in size to the surrounding properties.

2. The strict application of the provisions of the regulation would not 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 because the addition could be placed outside of the rear yard setback.

3. 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.

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.

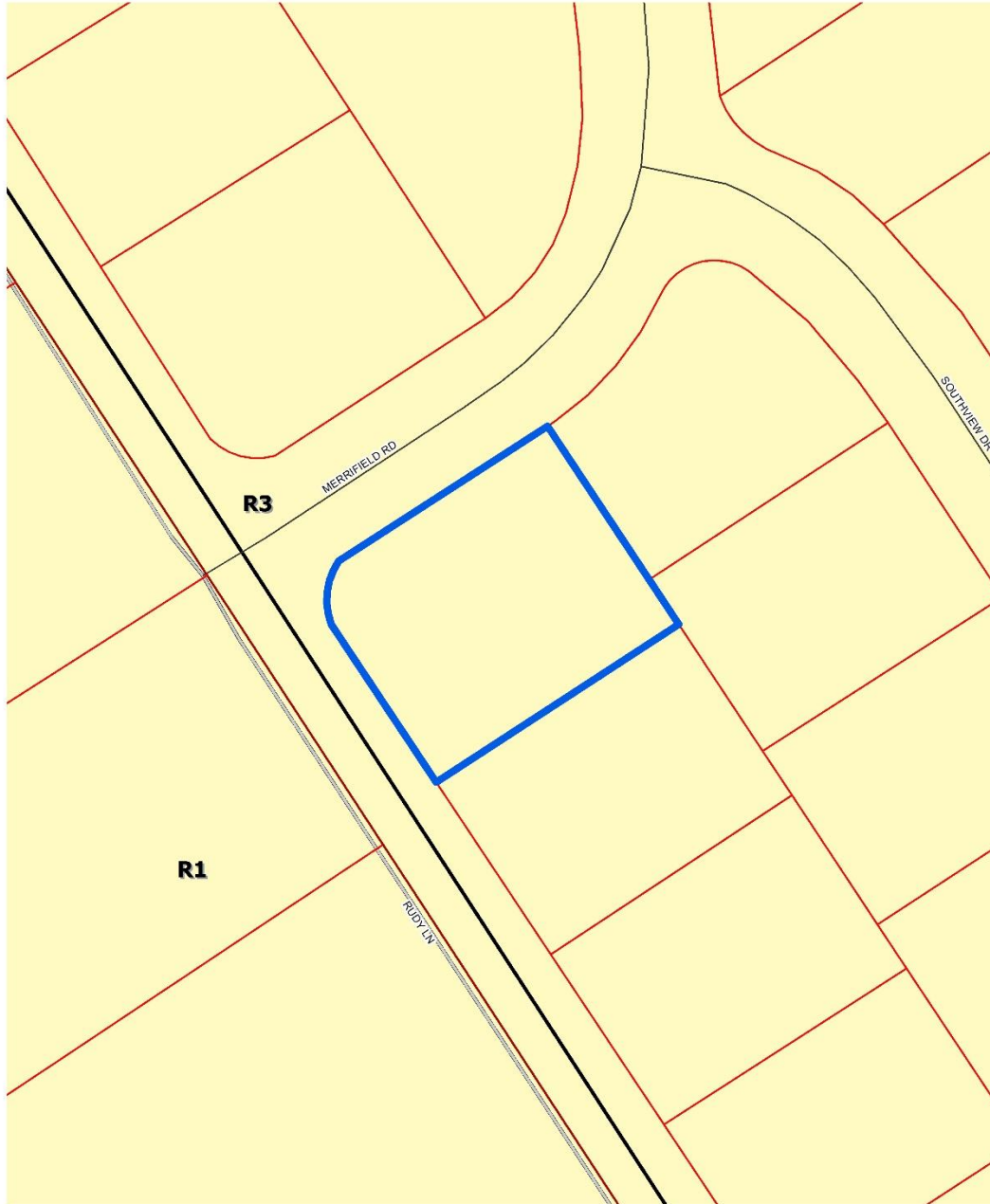
NOTIFICATION

Date	Purpose of Notice	Recipients
04/16/2019	Hearing before BOZA	1 st tier adjoining property owners
04/17/2019		Registered Neighborhood Groups in Council District 7
04/25/2019	Hearing before BOZA	Notice posted on property

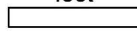
ATTACHMENTS

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

1. Zoning Map



623 Rudy Lane
feet



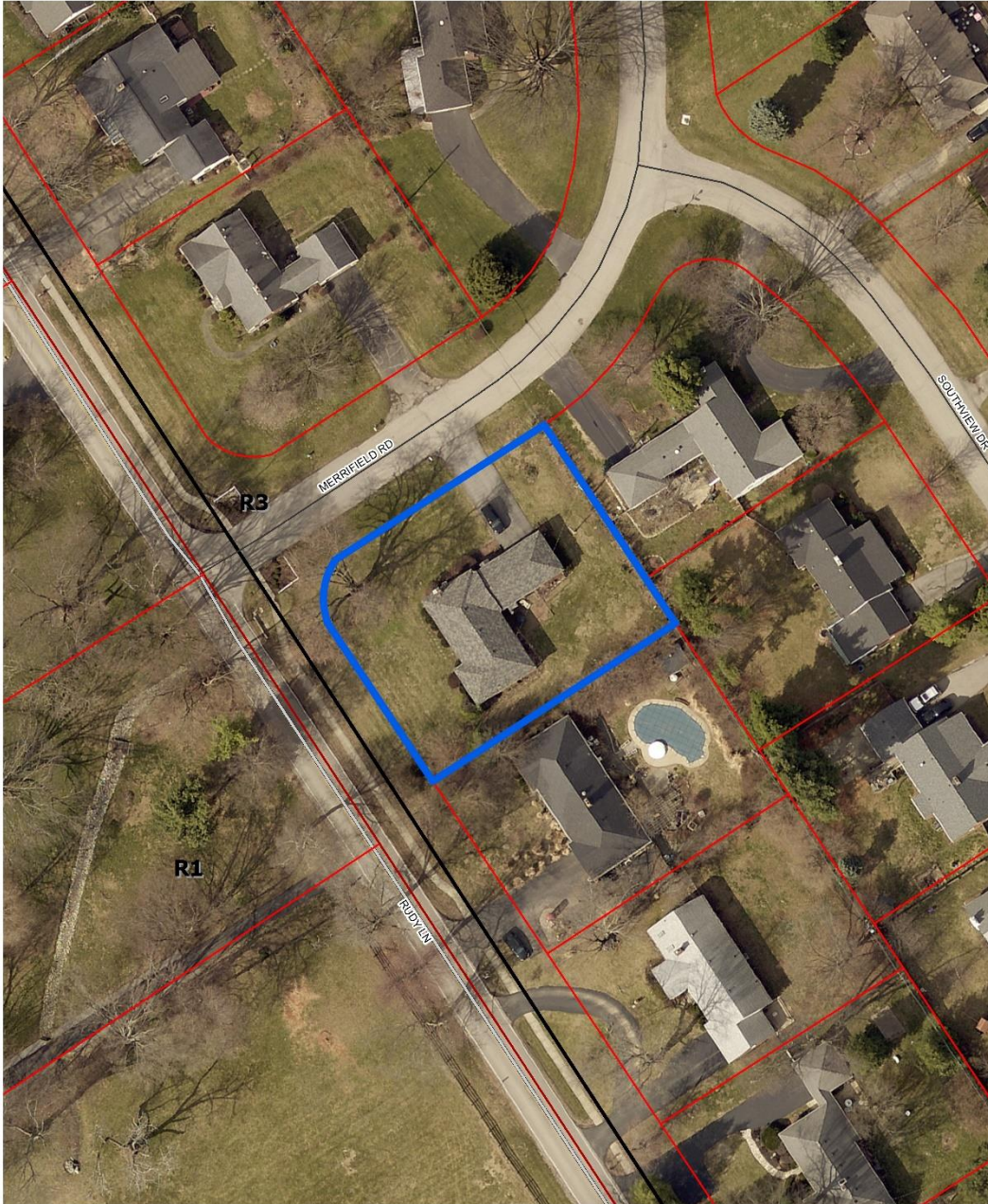
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Map Created: 4/24/2019

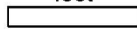


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2. Aerial Photograph



623 Rudy Lane
feet



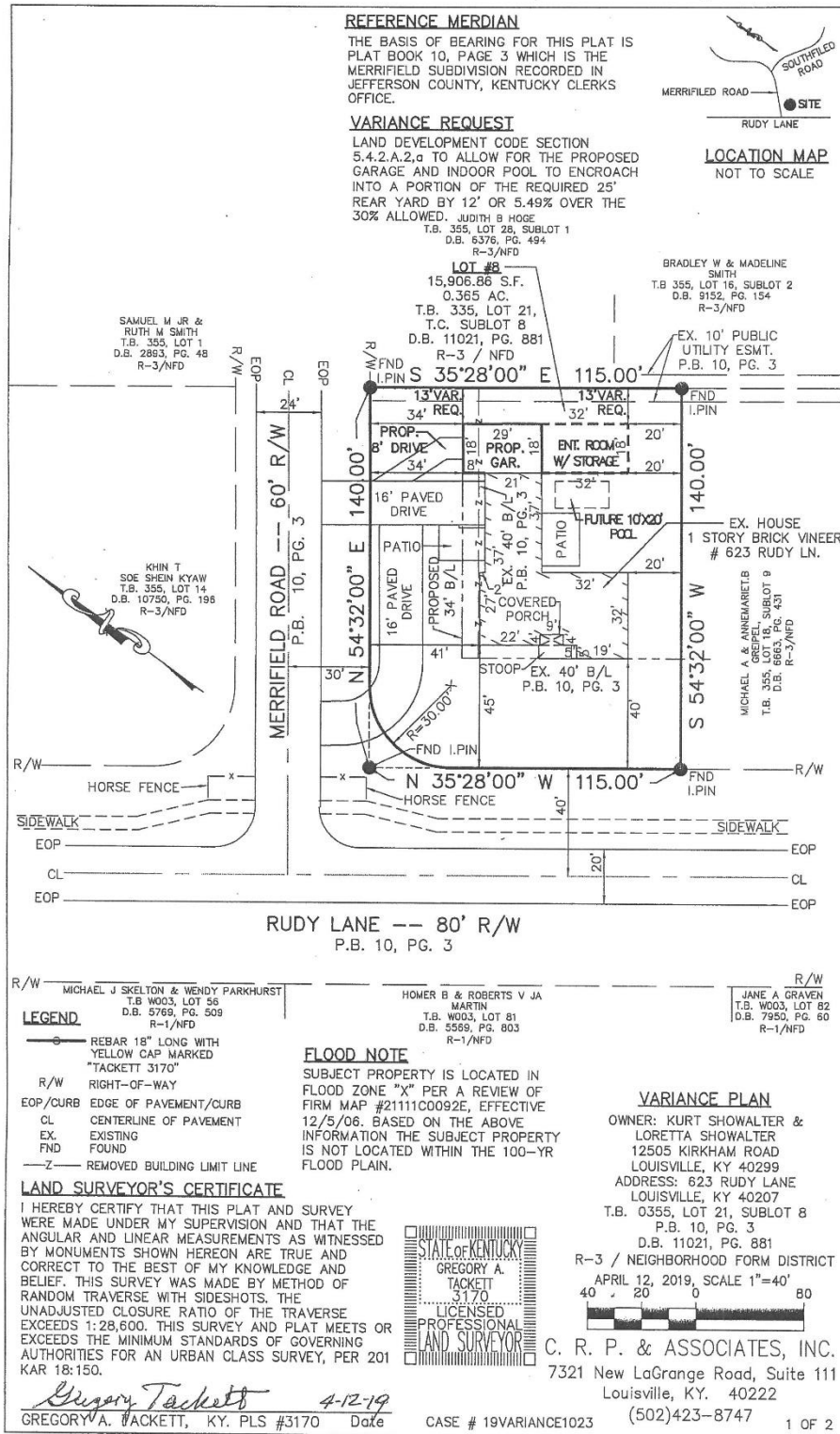
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Map Created: 4/24/2019



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3. Site Plan



4. Renderings



AFTER



AFTER



AFTER



AFTER

5. Site Photos



Front of the subject property.



Property to the left.



Property across Rudy Lane.



Property across Merrifield Road.



Variance area from Merrifield Road.



Variance area looking toward Merrifield Road.



Variance area from the rear of the residence.