

Board of Zoning Adjustment

Staff Report

February 6, 2023



Case No:	23-VARIANCE-0054 & 23-VARIANCE-0055
Project Name:	Burnett Avenue Variances
Location:	511-537 Burnett Avenue
Owner/Applicant:	Burwether, LLC
Jurisdiction:	Louisville Metro
Council District:	6 – Phillip Baker
Case Manager:	Molly Clark, Planner II

REQUEST:

- **Variance** from the Land Development Code section 5.5.1.A.2 for an addition to an existing structure to be setback more than 5 feet for a corner lot.
- **Variance** from Land Development Code section 5.2.5.C.3.c to reduce the required 20 foot rear yard setback from 20 feet to 3 feet for an addition to an existing structure.

Location	Requirement	Request	Variance
Corner Lot	5 feet from each road	315 feet	310 feet
Rear Yard	20 feet	3 feet	17 feet

CASE SUMMARY/BACKGROUND

The subject site is zoned EZ1 in the Traditional Workplace Form District. The property is a 1.34 acres in size with an old church and an old shotgun house on the site. The applicant proposing to construct a 891 SF addition and a 284.4 SF patio to the existing single family shotgun home on the site. The applicant is proposing to have a pub/grill and live entertainment in the existing church building and proposed retail in the other structure.

STAFF FINDINGS

Staff finds that the request for a corner lot variance and the rear yard variance are adequately justified and meet the standards 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.

TECHNICAL REVIEW

No outstanding technical issues.

INTERESTED PARTY COMMENTS

No interested party comments were received by staff.

RELATED CASES:

None.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.5.1.A.2 (Corner Lot)

- (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 and the Land Development Code, except where relief is requested.

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

STAFF: The proposed addition will not alter the essential character of the general vicinity as there is an existing structure (the old church) close to the corner.

- (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 this lot has a very acute angle at the corner that makes building at the corner difficult. There is an existing structure (the old church) that is situated near the corner of the lot.

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 arise from special circumstances which do generally apply to the land in the general vicinity as this lot has a very acute angle at the corner that makes building at the corner difficult. The lot is not square or rectangular in shape.

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 current configuration of the land and buildings only allows the applicant to build on to the old church towards the corner without a variance. The addition will be built with the existing home on the site that is on the other side of the lot.

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 has not begun construction.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.2.5.C.3.c (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.

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

STAFF: The proposed encroachment will not alter the essential character of the general vicinity as the existing shotgun home with the proposed addition will be structurally similar with compatible building materials to the existing shotgun home next door.

- (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. There is sufficient space between the proposed structures and property lines to conduct maintenance without crossing over into other properties.

- (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 accessory structure will comply with all other regulations, except where relief is requested, and there are other properties within the block that have seemingly reduced setbacks between structures.

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 general vicinity or the same zone as the lot is larger in size and shape in comparison 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 create an unnecessary hardship on the applicant as the applicant would have to tear down an existing shotgun home in order to meet the setbacks on the site.

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.

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.

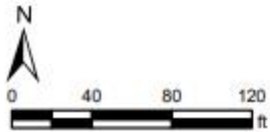
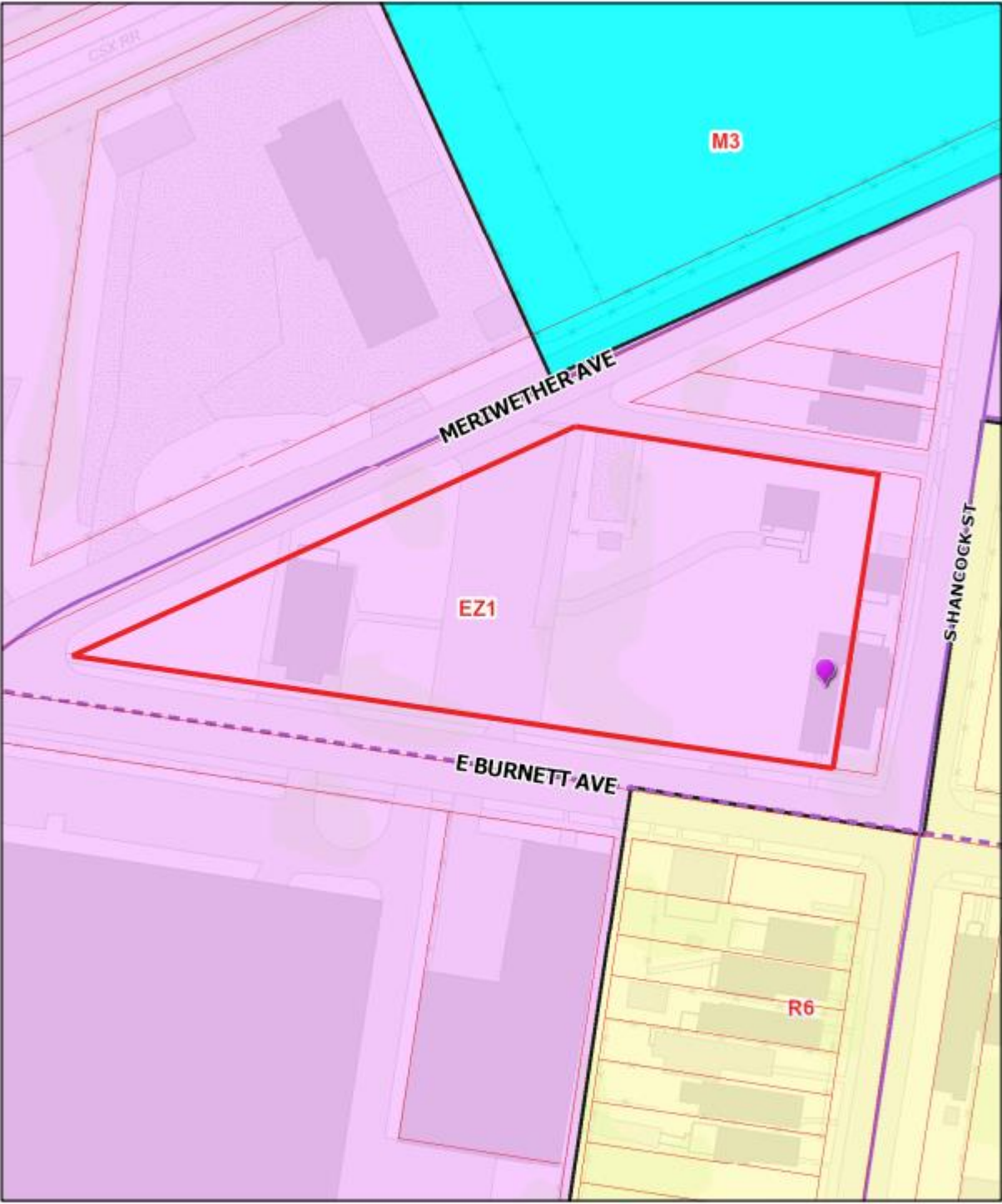
NOTIFICATION

Date	Purpose of Notice	Recipients
6/9/23	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 6
6/12/23	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

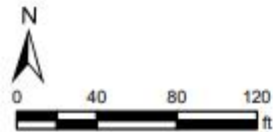


Tuesday, June 20, 2023 | 2:44:45 PM

 **LOJIC**
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This map is not a legal document and should only be used for general reference and identification

2. Aerial Photograph

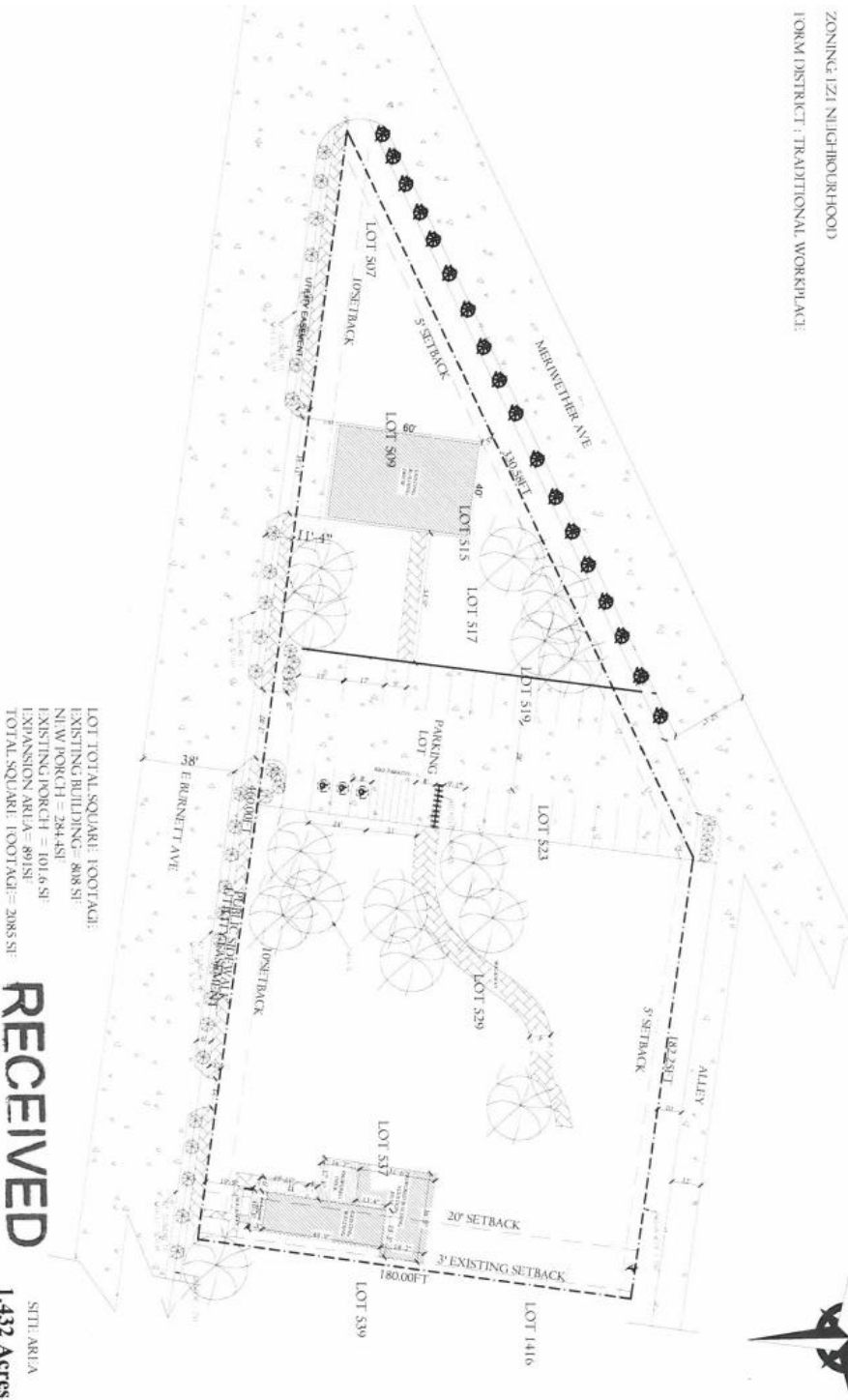


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Site Plan

LOCATION: 511, 537 E. Burnett Ave, Louisville, KY 40217, USA
 SITE: CITY: LOUISVILLE
 PARCEL ID: 02300100000
 OWNER: BURWETHER LLC
 ZONING: IZ1 (MILCHBROOKHOOD)
 FORM DISTRICT: TRADITIONAL WORKPLACE



LOT TOTAL SQUARE FOOTAGE:
 EXISTING BUILDING = 808 SF
 NEW PORCH = 284 SF
 EXISTING PORCH = 101.6 SF
 EXPANSION AREA = 891 SF
 TOTAL SQUARE FOOTAGE = 2085 SF

RECEIVED

SITE AREA
 1.432 Acres

APR 18 2023

PLANNING & DESIGN
 SERVICES

BURWETHER SITE PLAN

LOT 507-LOT 537 E BURNETT AVE
 LOUISVILLE KY 40217

NOTE

CLIENT
 BURWETHER LLC

ARCHITECT
 TIMI ADYEYEMI

SHEET NAME
 SITE PLAN

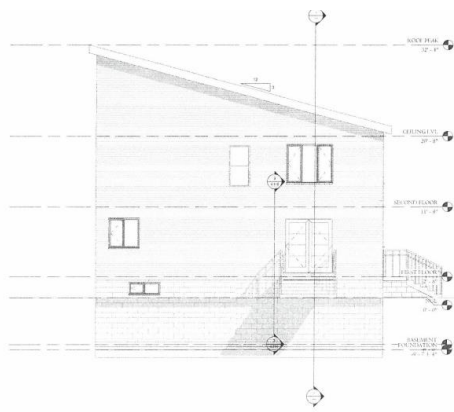
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SHEET NUMBER
 A103

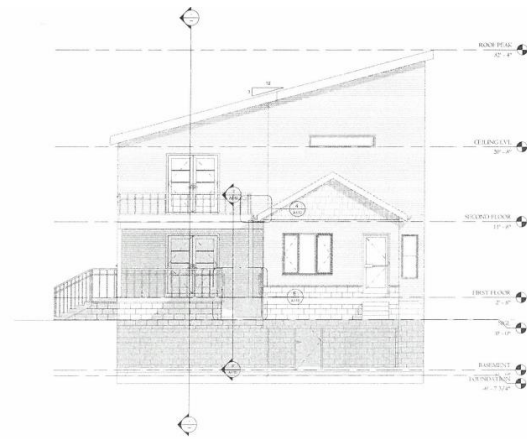
VF

VIRTUAL FIRM
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 +2348163946568

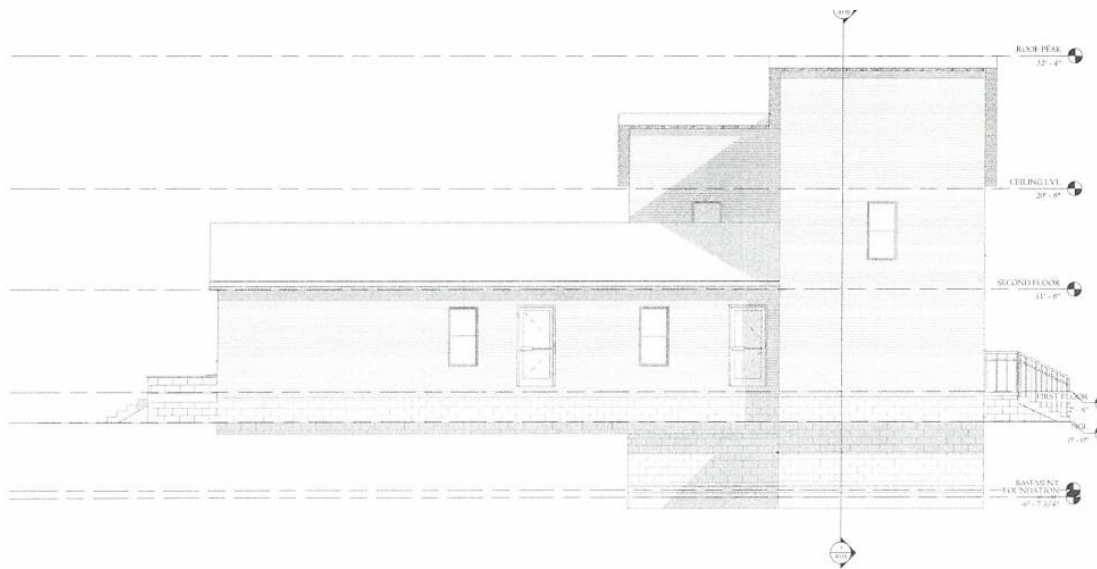
Elevations



① REAR ELEVATION
1/4" = 1'-0"



① FRONT ELEVATION
1/4" = 1'-0"



① RIGHT ELEVATION
1/4" = 1'-0"



① LEFT ELEVATION
1/4" = 1'-0"

3. Site Photos

Front of Subject Site.



Corner of Burnett and Merriweather



Across the Street



Next door to the right of subject site