

**Board of Zoning Adjustment**  
**Staff Report**  
 May 02, 2022



<b>Case No:</b>	22-VARIANCE-0020
<b>Project Name:</b>	Wainwright Avenue Variance
<b>Location:</b>	523 Wainwright Avenue
<b>Owner/Applicant:</b>	Sharon Conners Krauth
<b>Representative:</b>	Chris Brown, BTM Engineering, Bowman
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	15– Kevin Triplett
<b>Case Manager:</b>	Heather Pollock, Planner I

**REQUESTS:**

**Variance** from the Land Development Code, section 5.1.10.F to allow an addition to encroach into the side yard setback. And a Variance from section 5.4.1.E to allow a carport to encroach into the side and rear yard setbacks

<b>Location</b>	<b>Requirement</b>	<b>Request</b>	<b>Variance</b>
<b>Side Yard</b>	<b>2 ft.</b>	<b>0 ft.</b>	<b>2 ft.</b>
<b>Rear Yard</b>	<b>5 ft.</b>	<b>2.5 ft.</b>	<b>2.5 ft.</b>

**CASE SUMMARY/BACKGROUND**

The subject property is zoned R-4 Single Family Residential and is in the Traditional Neighborhood Form District. It is on the north side of the 500 block of Wainwright Ave. in the St. Joseph Neighborhood. The site currently has a one story single-family residential structure and the applicant has recently constructed an 82.5 sq. ft. covered side porch addition that encroaches into the required side yard setback.

The applicant is proposing to construct a 400 sq. ft. carport off the rear alley that will encroach into the side yard and rear yard setbacks.

The subject property is 20 feet in width. Because of the lot width, Land Development Code section 5.1.10.F allows for the width at the side yard setback to be 10% of the width of the lot. In this case, the required side yard setback is 2 feet. The applicant has requested to reduce the setback to 0 ft. therefore a variance is needed.

**STAFF FINDINGS**

Staff finds that the requested variance meets standards (b), (c), and (d), but there is concern that the variance request does not meet standard (a) because construction and maintenance of the addition and carport 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 Code to allow a principal structure to encroach into the side yard setback.

**TECHNICAL REVIEW**

No outstanding technical comments.

**INTERESTED PARTY COMMENTS**

No interested party comments were received by staff.

**RELATED CASES**

ENF-BLD-21-10346: Building Enforcement case for a side covered porch.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.1.10.F**

- (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 structure 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 maintenance of the side porch addition may require encroachment onto the adjacent 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 it will be built with material that will be in character with the existing residence and surrounding residential neighborhood.

- (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 subject property is only 20 ft. in width and the side porch addition is similar to others in the area.

**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 land in the general 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 create an unnecessary hardship on the applicant as the subject property is only 20 ft. in width and the existing residence is already close to the side yard setback.

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 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 started construction and is requesting the variance.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.4.1.E**

- (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 structure 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 carport may require encroachment onto the adjacent 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 proposed structure will be in line with other accessory structures in the area.

- (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 subject property is only 20 ft. in width and the proposed location of the carport meets all other zoning regulations except where relief is requested.

### **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 land in the general 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 create an unnecessary hardship on the applicant as the subject property is only 20 ft. in width and the and the proposed location of the carport keeps it from violating private yard area requirements.

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 started construction and is requesting the 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.

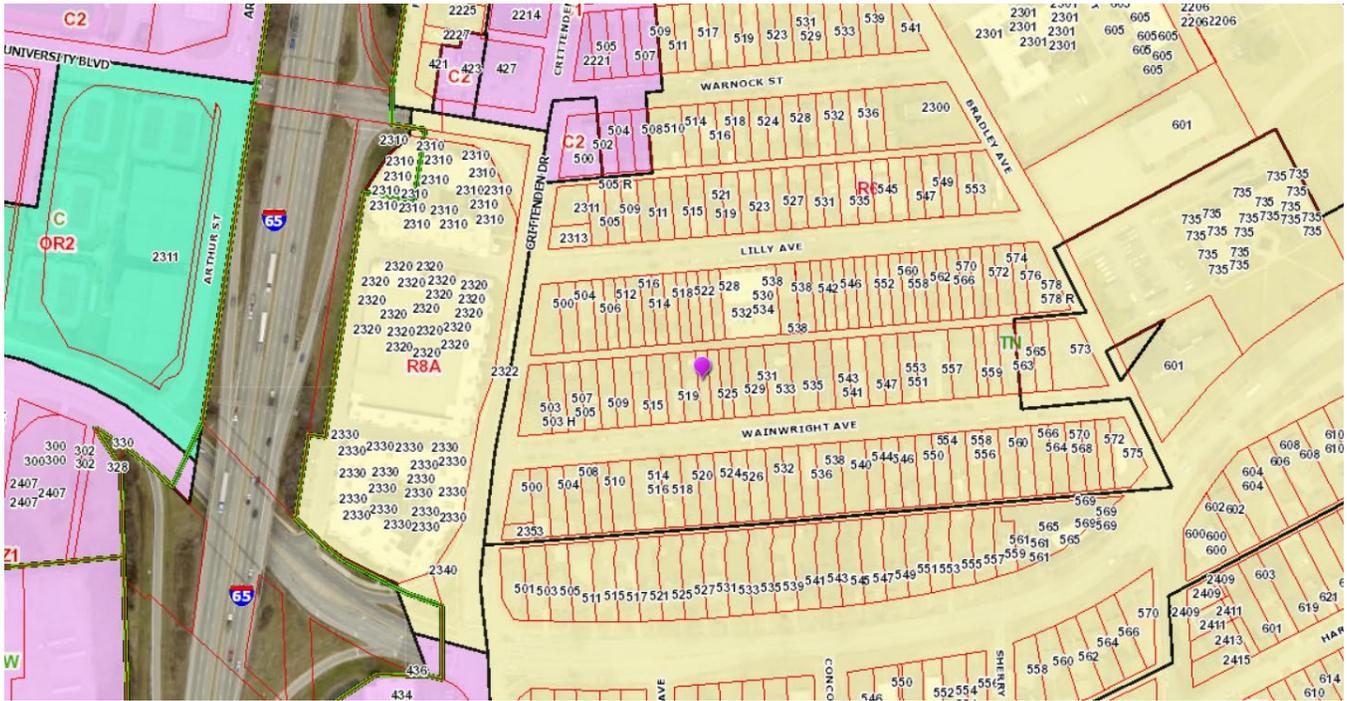
### **NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
<b>04/15/2022</b>	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 15
<b>04/18/2022</b>	Hearing before BOZA	Notice posted on property

### **ATTACHMENTS**

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

# 1. Zoning Map



## 2. Aerial Photograph





4. Site Photos



Front of subject property.



Across street.

Apr 18, 2022 at 10:35:50 AM  
523 Wainwright Ave  
Louisville KY 40217  
United States



View of variance area for side porch.



Private yard area.



View of variance area for carport, Google 2019