

Board of Zoning Adjustment Staff Report

July 10, 2023



Case No:	23-VARIANCE-0084
Project Name:	Rudd Avenue Second Story Variance
Location:	3206 Rudd Avenue
Owner:	Superior Henderson, LLC
Applicant:	Superior Henderson, LLC
Jurisdiction:	Louisville Metro
Council District:	5 – Donna Purvis
Case Manager:	Molly Clark, Planner II

REQUESTS

- **Variance** from Land Development Code section 5.2.2 to allow a second story to encroach into the required 3 ft setback.

Location	Requirement	Request	Variance
Side Yard	3 ft	0 ft	3 ft

CASE SUMMARY/BACKGROUND

The subject site is .237 acres and is zoned UN urban neighborhood in the Traditional Neighborhood Form District. The subject site currently has a 1 story single family home. The applicant is proposing to construct a 447 SF second story addition. The proposed second story will encroach into the side yard setback along the west property line. There are other 2 story structures in the immediate area.

STAFF FINDING

Staff finds that the requested side yard variance and height variance are adequately justified and meet the standards of review. The applicant was able to provide signatures of all the first tier property owners. Therefore, the case is on the business session per the bylaws and policies of the Board.

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

There are no outstanding technical issues with this request.

INTERESTED PARTY COMMENTS

None.

RELATED CASES

None.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.2.2 to allow a second story to encroach into the required 3 ft 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 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 existing home and surrounding homes are built to similar setbacks from side property lines.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The addition will not cause a hazard or nuisance to the public since it is required to meet all applicable requirements of the building code. The applicant will be fire rating the walls.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The proposed setback would not be an unreasonable circumvention of the zoning regulations because the proposed setback is consistent with the existing structure and to surrounding structures in the neighborhood.

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 because the lot is the same 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 is constructing the addition over the existing 1 story building footprint and bringing the addition away from the side yard may cause issues in the construction of the structure due to the location of existing load bearing walls..

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 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.

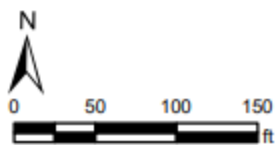
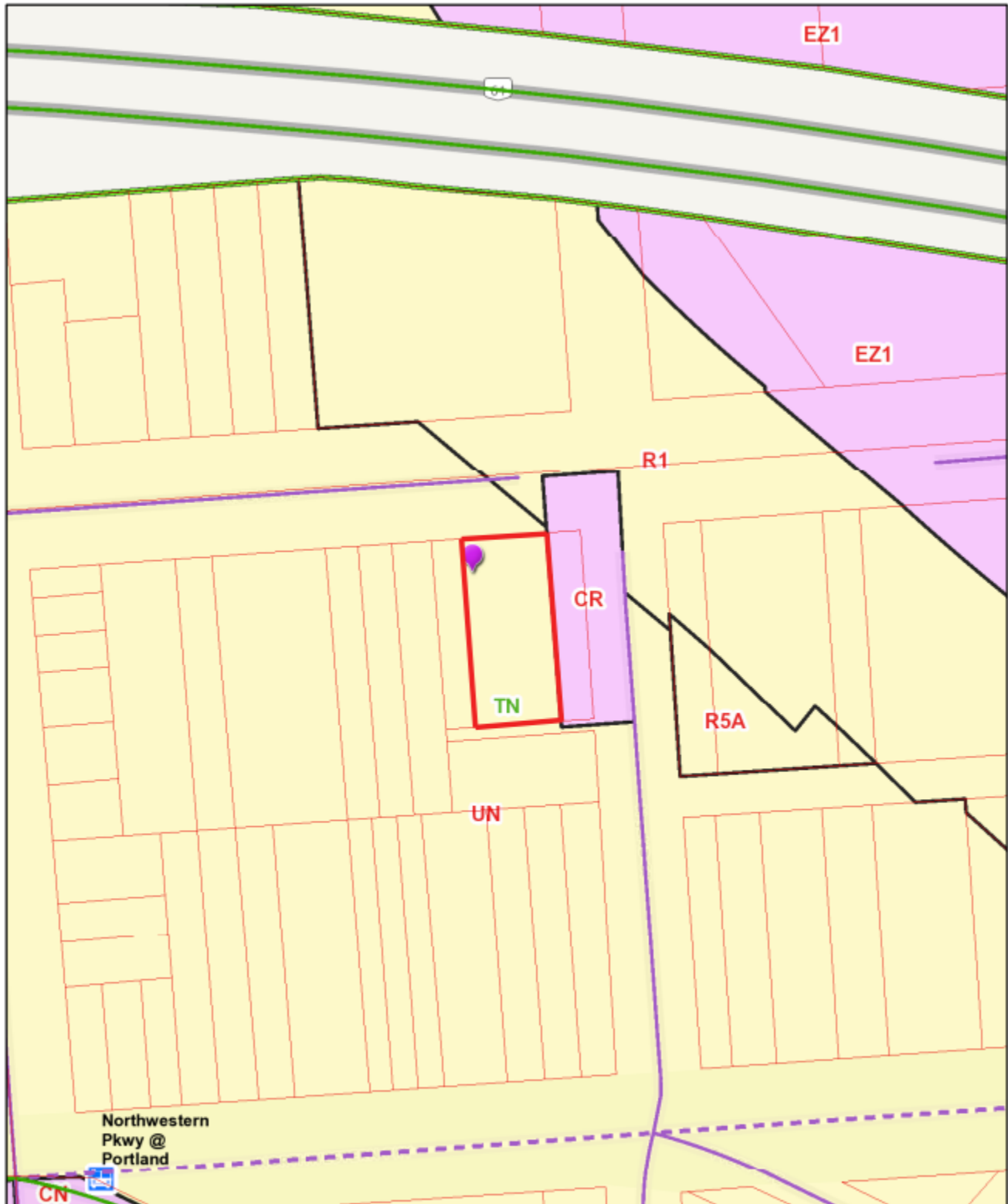
NOTIFICATION

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

ATTACHMENTS

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

1. Zoning Map



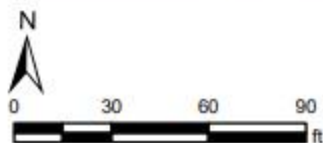
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2. Aerial Photograph



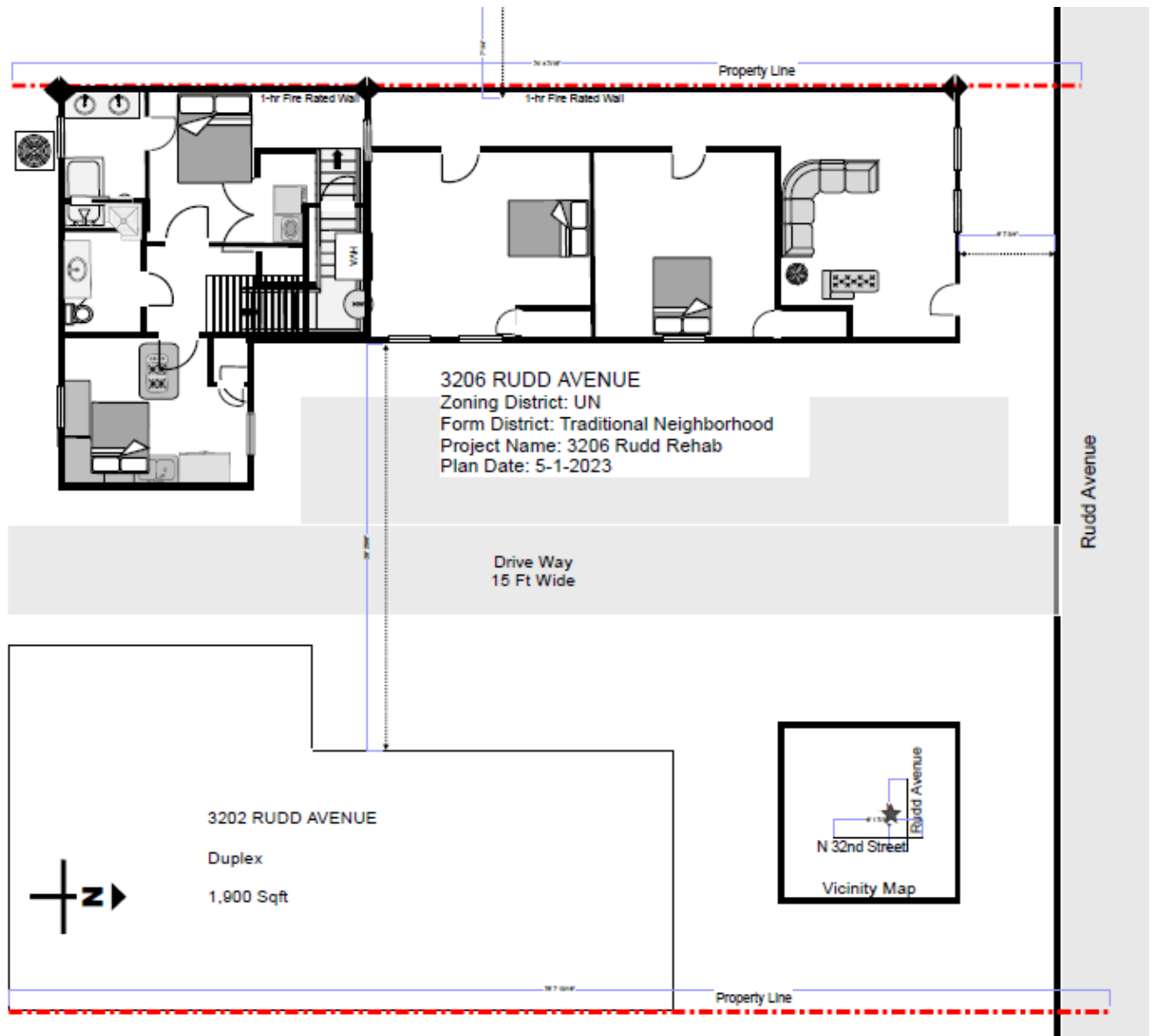
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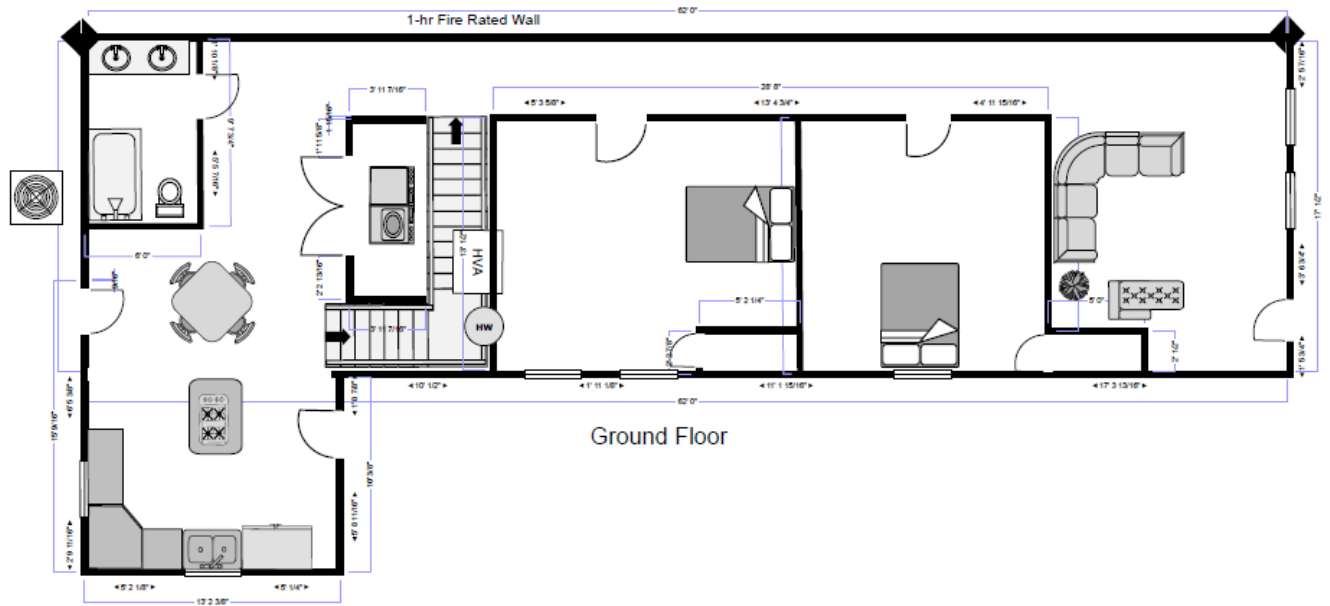
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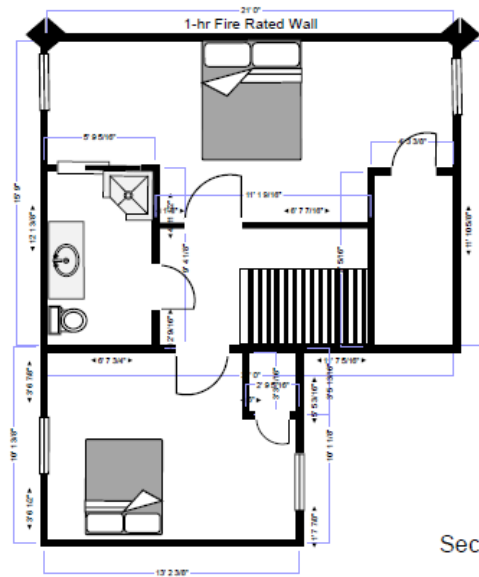
3.



4. Floorplan Layout



Ground Floor



Second Story Floor

5. Site Photos

Front of Property:



Houses to the right of subject site:



Properties to the left of subject site:



Across the street:

