

# Board of Zoning Adjustment

## Staff Report

June 5, 2023



<b>Case No:</b>	23-VARIANCE-0003
<b>Project Name:</b>	Macon Avenue Variance
<b>Location:</b>	530 Macon Avenue
<b>Owner:</b>	Joanie Samuel
<b>Applicant:</b>	William Feather, Feather Fine Homes & Const., LLC
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	9- Andrew Owen
<b>Case Manager:</b>	Amy Brooks, Planner I

**REQUEST:**

**Variance** from the Land Development Code Table 5.3.1 to allow an addition to encroach into the required side yard setback.

**Variance** from the Land Development Code Section 5.4.2.2.a to allow an addition to encroach into more than 30% of the required rear yard.

Location	Requirement	Request	Variance
Side Yard Setback	5.0 ft.	2.0 ft.	3.0 ft.
Rear Yard Setback	25 ft.	2.0 ft.	23 ft.

**CASE SUMMARY/BACKGROUND**

The subject site is zoned R-5 Single Family Residential in the Neighborhood Form District. It is located on the western side of Macon between Dayton and Nanz Avenues. It is currently developed with a two-story, single-family home. The applicant is proposing to build an attached garage that will measure approximately 355 square feet. The applicant is requesting two variances; one to allow the proposed addition to encroach into the five-foot required setback on the southwestern property line and another for the principal structure to occupy more than 30% of the required rear yard.

**STAFF FINDINGS**

The requested variances are adequately justified based on the staff’s analysis contained in both 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 variances as established in the Land Development Code.

**TECHNICAL REVIEW**

There are no technical issues with this request.

**INTERESTED PARTY COMMENTS**

Staff has not received any interested party comments.

**RELATED CASES**

No related cases.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM TABLE 5.3.1 (Side 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 and the Land Development Code, except where relief is requested.

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

STAFF: The requested variance will not alter the essential character of the general vicinity because the proposed addition is to be in an area where minimal setbacks from the side property lines are common. Examples of principal structures that seemingly encroach into the side yard setback include 3703 Nanz Avenue, 3705 Nanz Avenue, and 3702 Dayton Avenue. Please see site photos for aerial imagery of these specific properties.

- (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 addition to the primary 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 since the proposed request seems compatible with the established pattern of side setbacks within the surrounding 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 arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the property is not similar in size and shape to other properties in the subdivision. The property was the subject of a minor subdivision plat in 1991 which created two tracts from the lot at 3547 Nanz Avenue. As such, this property is smaller and shallower than most parcel tracts within the neighborhood.

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 because the existing driveway and curb cut are located on the western property line where the applicant is proposing the construct the garage addition.

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 applicant has not begun construction on the new addition and has applied for variances.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.4.2.2.a (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 and the Land Development Code, except where relief is requested.

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

STAFF: The requested variance will alter the essential character of the general vicinity because there are no other primary structures in the neighborhood that seemingly encroach into the required 25-foot rear yard setback.

- (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 addition to the primary 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 since the applicant's lot is rather narrow and has a limited amount of required rear yard. As such, any addition would probably encroach into the rear yard setback. There exists a limited amount of buildable space on the lot because of a 40-foot built limit line that runs across the front portion 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 land in the general vicinity or the same zone as the property is not similar in size and shape to other properties in the subdivision. The property contains both less square footage and available rear yard.

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 because there is limited buildable area on 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 since the applicant has not begun construction on the new addition and has applied for variances.

**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.

**REQUIRED ACTION:**

**APPROVE** or **DENY** the **VARIANCE** to allow a proposed addition to encroach into the required side yard and rear yard setbacks.

**NOTIFICATION**

Date	Purpose of Notice	Recipients
5/11/2023	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 9
5//2023	Hearing before BOZA	Notice posted on property

**ATTACHMENTS**

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

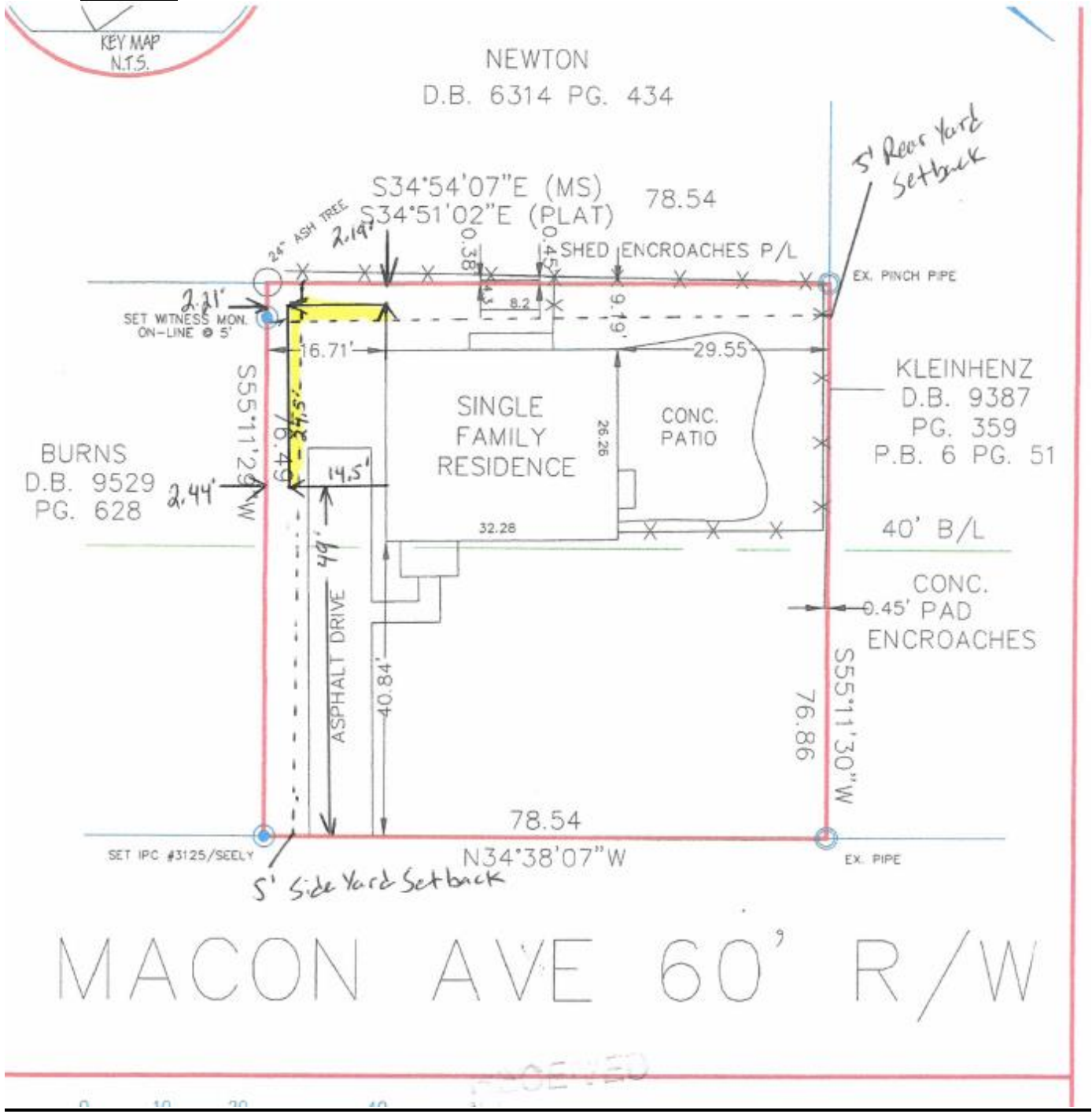
1. Zoning Map



2. Aerial Photograph



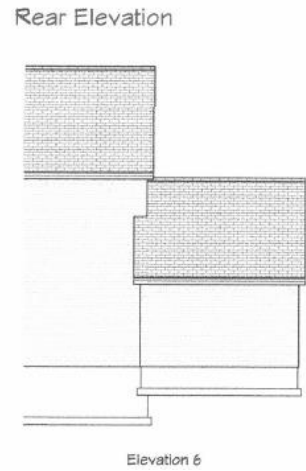
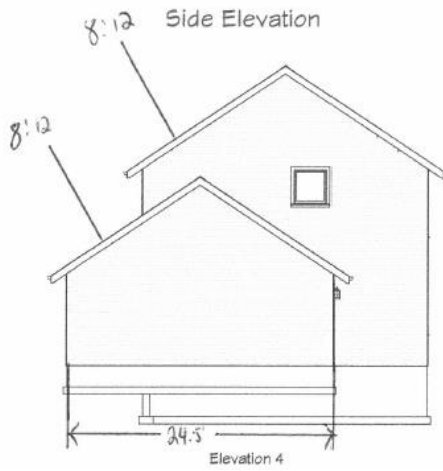
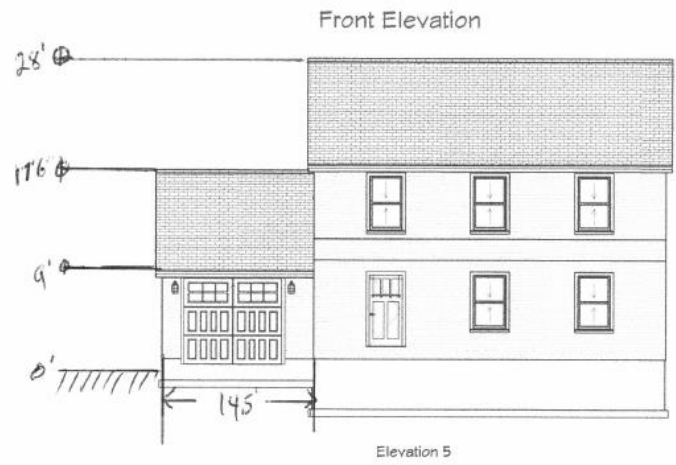
3. Site Plan



#### 4. Elevations

530 Macon Ave  
Garage Addition  
Elevation Details

APPROVED  
MAY 10 2023  
PLANNING DEPT.





5. Site Photos



Front of subject property.



Left of subject property.



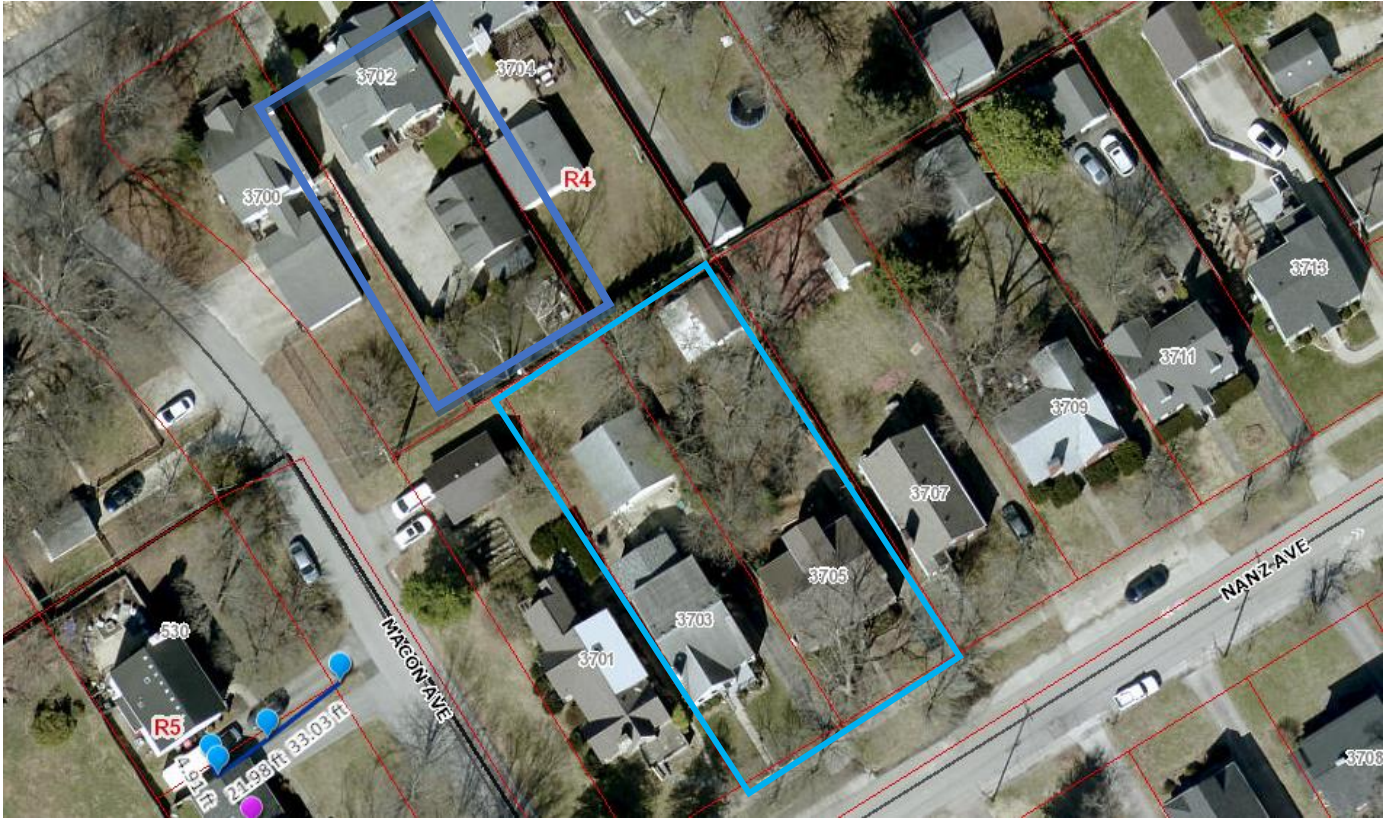
Right of subject site.



Across the street from the subject property.



View of side setback variance area.



Examples of principal structures that encroach into the side yard setback.