

# Board of Zoning Adjustment

## Staff Report

August 7, 2023



<b>Case No:</b>	23-VARIANCE-0091 and 23-WAIVER-0063
<b>Project Name:</b>	Talbot Avenue Variance
<b>Location:</b>	2510 Talbot Avenue
<b>Owner/Applicant:</b>	Craig Stern
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	8- Ben Reno-Weber
<b>Case Manager:</b>	Amy Brooks, Planner I

**REQUEST:**

- **Waiver** from Land Development Code section 5.4.1.B.1 to allow an accessory structure in the Public Realm Area.
- **Variance** from the Land Development Code Table 5.2.2 to allow an accessory structure to encroach into the front yard setback.

Location	Requirement	Request	Variance
Front Yard Setback	15 ft.	8 ft.	7 ft.

**CASE SUMMARY/BACKGROUND**

Located in the Highlands Douglass neighborhood, the site currently is developed with a 1.5 story single-family home. The applicant requests a variance to allow a carport to encroach within the required front yard setback. Additionally, in the Traditional Neighborhood form district, structures are not permitted in the public realm, which encompasses the area from the public right-of way- to the front of the principal structure. Thus, the carport would also require a site design waiver from Land Development Code regulations.

**STAFF FINDINGS**

The applicant has placed a carport in front of the home over the existing driveway, and based on the applicant’s drawing of the property, the carport is within the 15-foot setback. However, without a boundary survey of the front property line in relation to the carport, staff recommends the variance request to be up to 8 feet. Within the surrounding blocks adjacent to the subject property, staff found no evidence of any accessory structures in the public realm. The site has constraints which should be considered: there is no rear alley access, the width of the home eliminates easy to the accessory use area through the private yard area, and the opposite side of Talbot Avenue’s design is determined by Neighborhood Form regulations. However, the carport represents an appreciable difference in the visual impact to the surrounding properties and would change the character of the neighborhood.

Staff finds that the Waiver and Variance are not adequately justified for approval based on the staff’s analysis contained in the standard of review.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER 5.4.1.C.2**

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The accessory structure would adversely affect adjoining property owners because it detracts from the character of the neighborhood. While the block face has a historic pattern of principal structures that encroach into the public realm, staff was unable to find evidence of any accessory structures located in between the public right-of-way and the front of the principal structure.

- (b) The waiver will violate specific guidelines of Plan 2040; and

STAFF: The waiver does violate specific guidelines of Plan 2040. Plan 2040 states that revitalization and reinforcement of the Traditional Neighborhood Form will require particular emphasis on (a) preservation and renovation of existing buildings in stable neighborhoods (if the building design is consistent with the predominant building design in those neighborhoods), (b) in the case of new developments or redevelopments using traditional building scales and site layouts, (c) the preservation of the existing grid pattern of streets and alleys, (c) preservation of public open spaces. The location of the accessory structure in the public realm would violate the traditional site layout as established by the form district. The subject site's location of an accessory structure within the public realm is not complementary to the established site design standards in this block face.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant because the applicant has an existing garage and driveway that allows for off-street parking even without rear alley access.

- (d) Either:  
(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR  
(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land because the applicant has access to both a garage and driveway that offset the limited access to the accessory use area.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM Table 5.2.2**

- (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 is not fully enclosed and will not negatively impact the safe movement of people or vehicles along Talbott Avenue.

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

STAFF: The variance will alter the essential character of the general vicinity because there are no other accessory structures that encroach within the front 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 it neither impedes vision clearance for vehicles traveling along Talbott Avenue nor pedestrians that would utilize the sidewalks in the public right-of-way.

- (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 there is no alley access to the accessory use area on the site. Additionally, the other side of Talbott Avenue is developed with neighborhood form guidelines, which does not require the more stringent design components of the Traditional 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 generally apply to the land in the general vicinity or the same zone as the lot is similar in size and shape 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 not create an unnecessary hardship on the applicant as there is an existing garage and driveway that allow for off-street parking on the subject 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 the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. The applicant has already completed construction on the carport.

#### 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 ACTIONS

- **APPROVE or DENY .....**

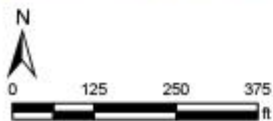
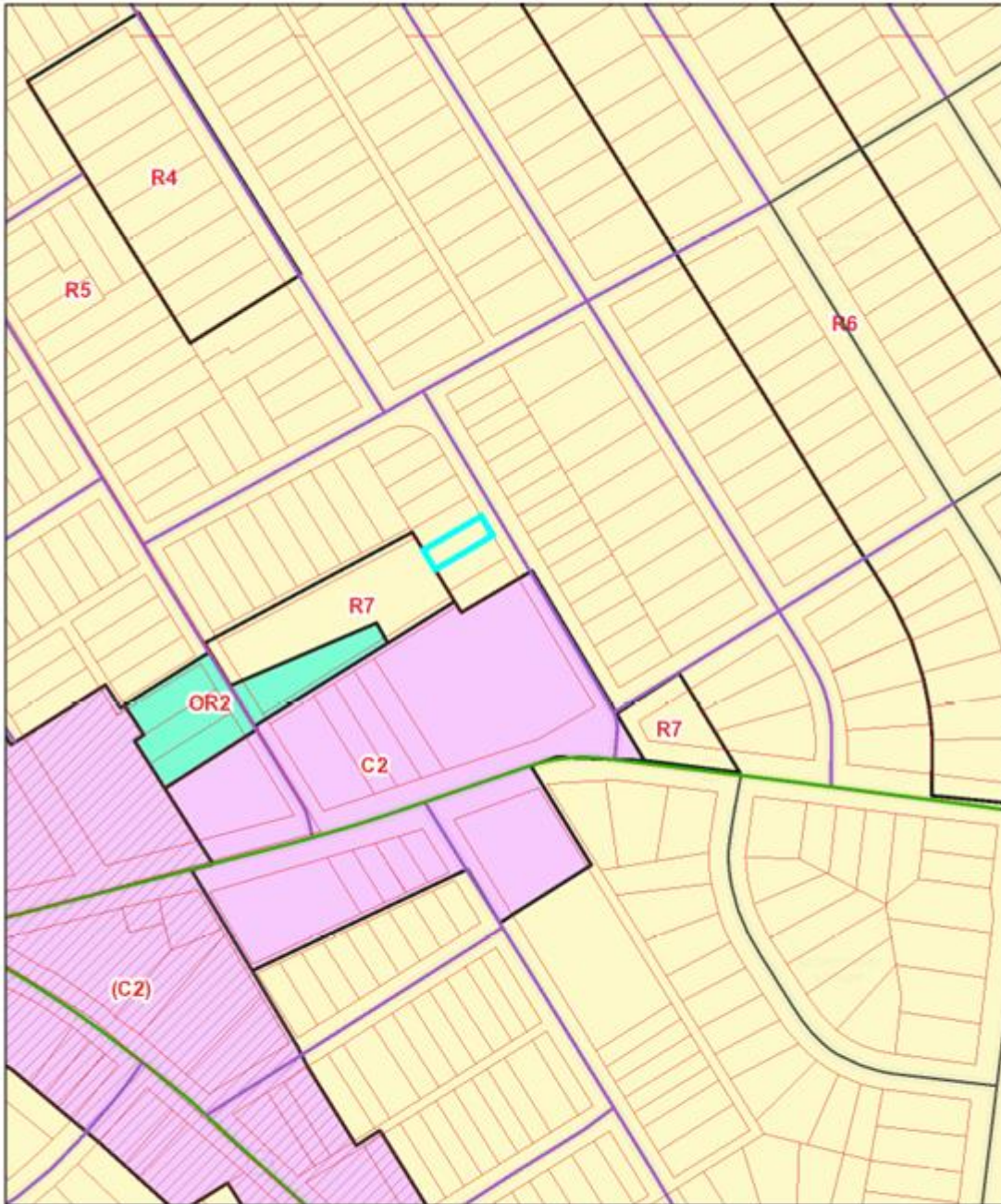
**NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
<b>07/20/2023</b>	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners
<b>07/24/2023</b>		Registered Neighborhood Groups in Council District 8
<b>07/26/2023</b>	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



Thursday, July 27, 2023 | 2:30:30 PM

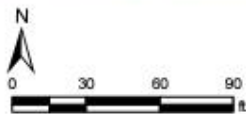


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2. Aerial Photograph



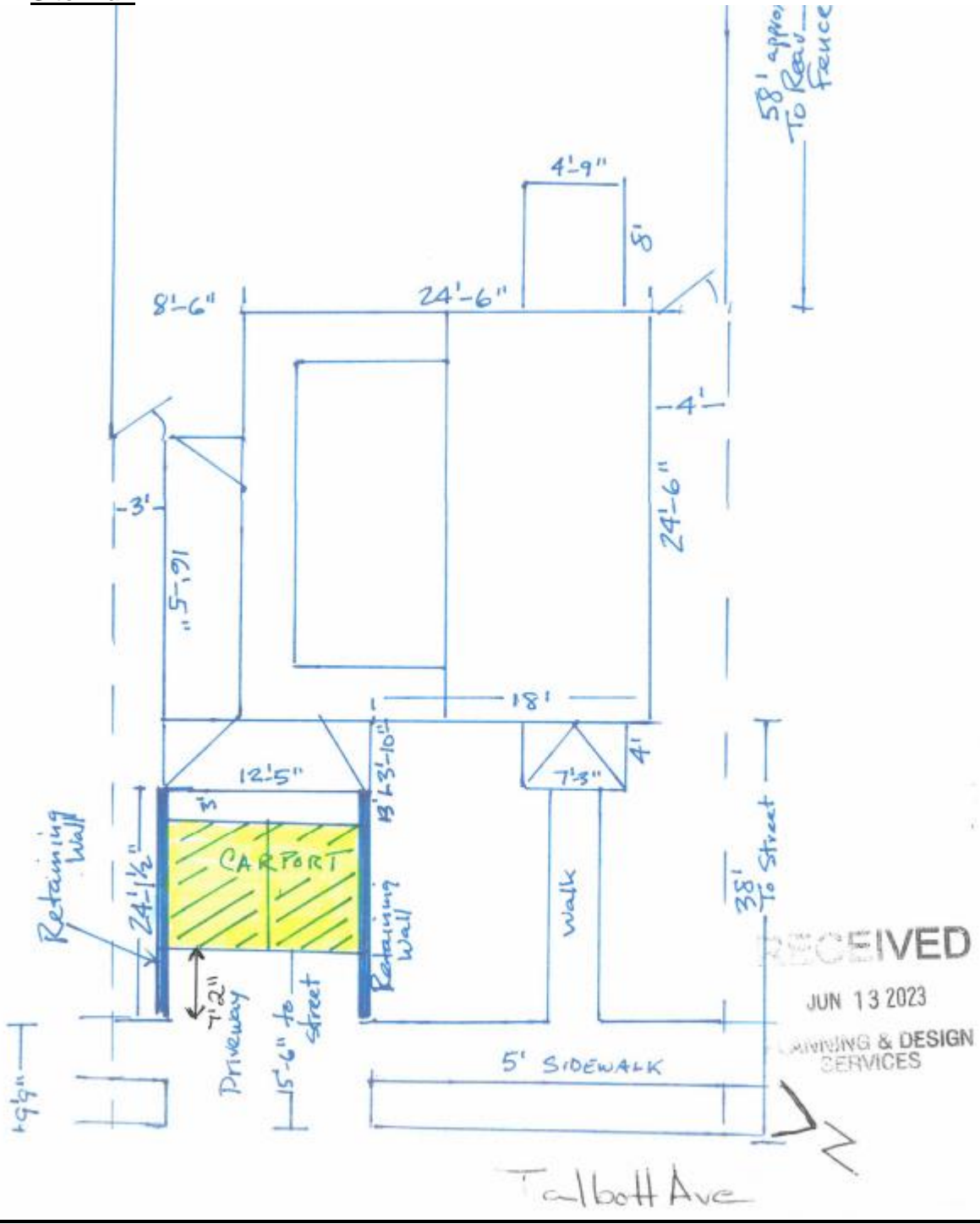
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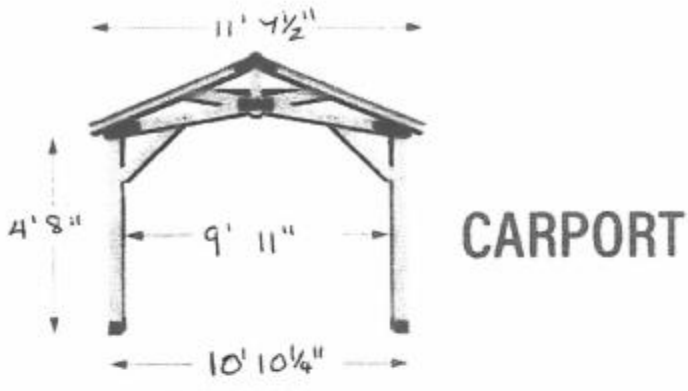
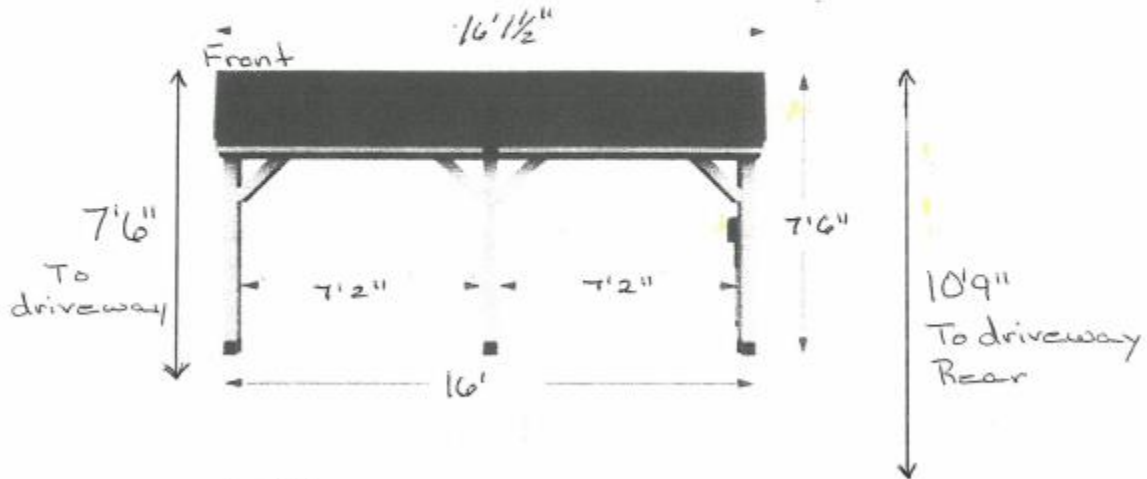
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3. Site Plan



4. Elevations



RECEIVED  
JUN 13 2023  
PLANNING & DESIGN  
SERVICES



**6. Site Photos**



Front of Subject Property and Variance area



Left of the subject property.





Right of the subject property.





Across the street from subject property.

