

Board of Zoning Adjustment
Staff Report
 August 31, 2020



Case No:	20-VARIANCE-0068
Project Name:	Baxter Avenue Variance
Location:	603 Baxter Avenue
Owner:	Fairlamb Homes, LLC
Applicant:	Gregg Kelley
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Zach Schwager, Planner I

REQUESTS:

Variance from Land Development Code section 5.1.10.F to allow a principle structure to encroach into the required side yard setback.

Location	Requirement	Request	Variance
Side Yard	2.49 ft.	0.26 ft.	2.23 ft.

CASE SUMMARY/BACKGROUND

The subject site is zoned R-6 Residential Multi-Family in the Traditional Neighborhood Form District. It is a single-family structure located in the Irish Hill Neighborhood. The applicant is proposing to add a second story addition to the existing residence. The addition will be the same distance from the side property line as the existing structure and will not have any overhangs.

The subject property is 24.9 feet in width. Land Development Code section 5.1.10.F allows for a lot less than 50 feet in width to have a side yard setback requirement of 10% of the width of the lot. The required side yard setback is therefore 2.49 feet.

STAFF FINDINGS

Staff finds that the requested variance meets standards (b), (c), and (d), but staff is concerned that the variance request does not meet standard (a) because construction and maintenance of the addition 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 the Land Development Code from section 5.1.10.F to allow a principal structure to encroach into the required side yard setback.

TECHNICAL REVIEW

No technical review required.

INTERESTED PARTY COMMENTS

Staff was contacted by the property owner of 605 Baxter Avenue who has concerns about giving her consent for the applicant to use her property in order to construct the proposed addition.

RELATED CASES

None.

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 addition 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 structure may require encroachment onto the neighboring 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 property to the left is 2 ½ stories.

- (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 will 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 proposed addition is the same distance away from the property line as the existing structure and private yard area is maintained.

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 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 not create an unnecessary hardship on the applicant as they could construct an addition that would not require such a significant departure from the dimensional requirement.

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 is requesting the variance and 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.

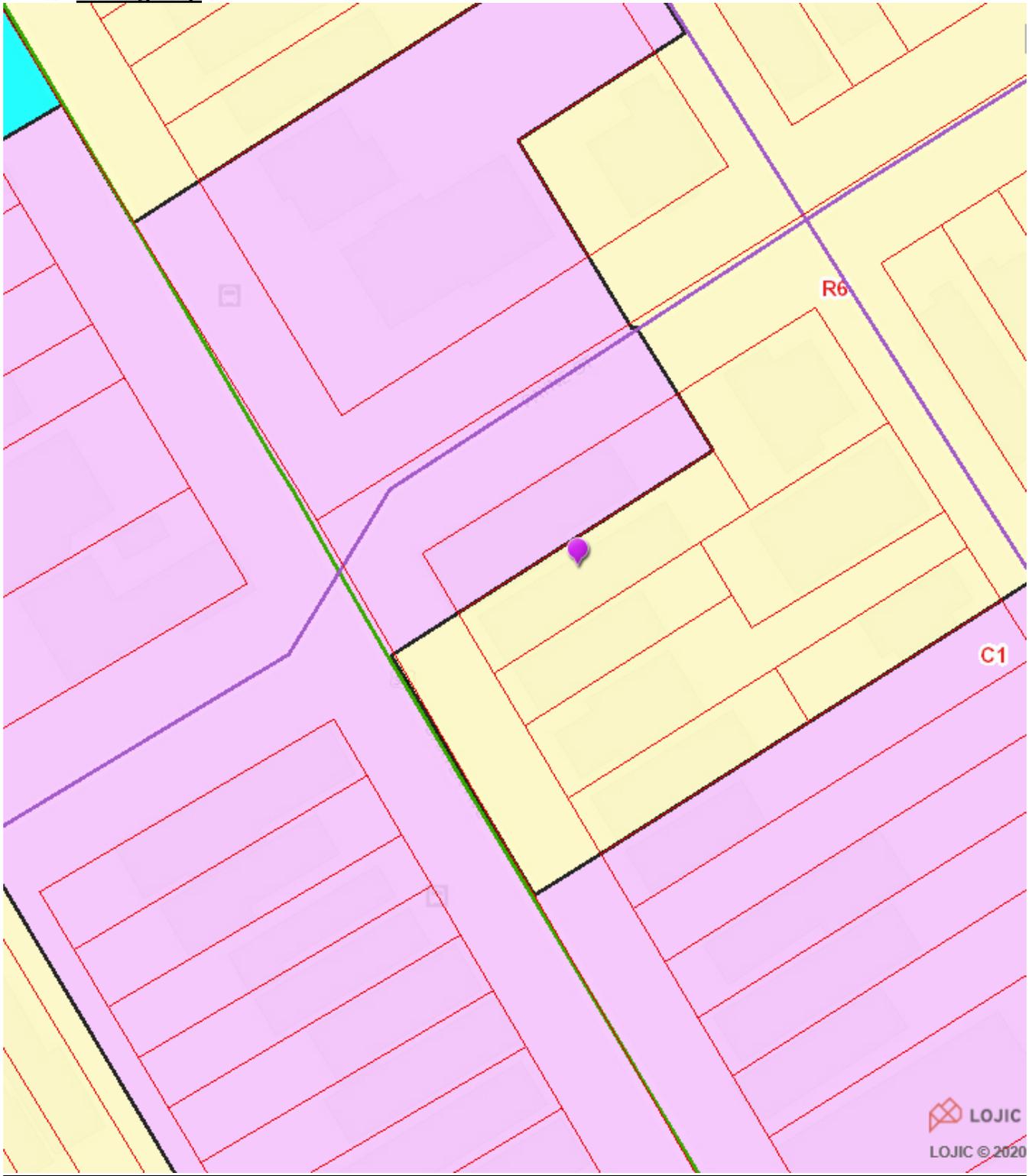
NOTIFICATION

Date	Purpose of Notice	Recipients
08/13/2020	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 4
08/18/2020	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

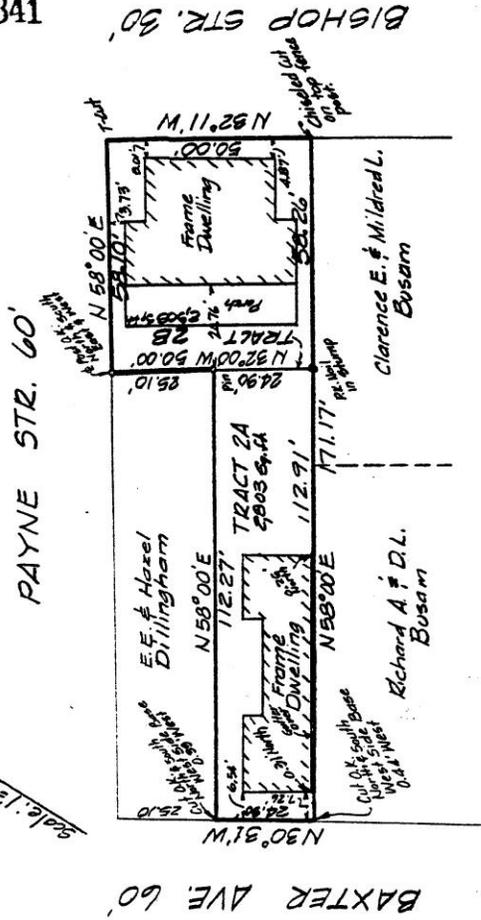


2. Aerial Photograph



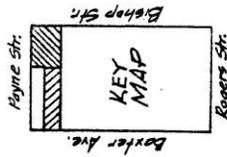
3. Site Plan

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Scale: 1"=30'

Note: See Plat attached to DB 4606 P.1



RECEIVED

JUN 19 2020

PLANNING & DESIGN SERVICES

APPROVED THIS 6 DAY OF June 11th 2020
 LOUISVILLE AND JEFFERSON COUNTY
 PLANNING COMMISSION
Richard A. Busam



NO SURVEYOR'S CERTIFICATE
 hereby certifies that this plat and survey were made
 under my supervision, and that the angular and linear
 measurements as witnessed by monuments shown herein,
 are true and correct to the best of my knowledge and
 belief.
Donald J. Morton
 Registered Land Surveyor—Ky., No. 1951

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H. E. RUDY CONSULTING ENGINEERS
 STONESTREET & FORD — SURVEYORS
 300 W. MAIN STREET • LOUISVILLE, KY. 40202

Owner: Mr & Mrs Edwin G. Cotte - 1805 Dear Park Ave
 Louisville, KY 40207

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4. Elevations

NOTE:
ALL DIMENSIONS AND MEASUREMENTS SHALL BE AS SHOWN UNLESS OTHERWISE NOTED.
CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND MEASUREMENTS BEFORE COMMENCING CONSTRUCTION.
UNLESS NOTED OTHERWISE, ALL DIMENSIONS SHALL BE AS SHOWN.

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DRAWN BY: JAMESON
REVISED BY: JAMESON
DESIGN: JAMESON
CHECKED: JAMESON
DATE: 06/19/20

DATE: 06/19/20

PROJECT: R + D HOMES

PRESENTS:

BY: JAMESON

DATE: 06/19/20

PROJECT: R + D HOMES

PRESENTS:

BY: JAMESON

5. Site Photos



Subject property and neighboring properties.



Properties across Baxter Avenue.



Variance area.



Variance area.



Variance area from the rear of the property.