

Board of Zoning Adjustment

Staff Report

May 23, 2022



Case No: 22-VARIANCE-0061 and 22-VARIANCE-0062
Project Name: Varanese Variances
Location: 2106 Frankfort Avenue
Owner: Varanese Properties, LLC
Applicant: Mike Pluta – MRP Associates, LLC
Jurisdiction: Louisville Metro
Council District: 9 – Bill Hollander
Case Manager: Zach Schwager, Planner I

REQUESTS:

Variances to allow an addition to an existing commercial structure to exceed the maximum front yard setback and encroach into the minimum required rear yard setback.

Location	Requirement	Request	Variance
Front Yard	15 ft.	21 ft. 6 in.	6 ft. 6 in.
Rear Yard	5 ft.	9 in.	4 ft. 3 in.

CASE SUMMARY/BACKGROUND

The subject property is zoned C-2 Commercial and is in the Traditional Marketplace Corridor Form District. It is on the south side of Frankfort Avenue between Vernon Avenue and Weikel Avenue and is in the Clifton neighborhood and preservation district. The property currently has a one-story commercial structure and parking and the applicant is proposing to construct an addition that will exceed the maximum front yard setback and encroach into the required rear yard setback.

Historic Landmarks and Preservation Commission staff approved the addition on condition under case number 22-COA-0041 on April 11, 2022. Planning & Design Staff does not have any recommended conditions.

STAFF FINDINGS

Staff finds that the requested variances are adequately justified and meet the 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 established in Land Development Code sections 5.2.3.D.3 to allow an addition to an existing commercial structure to exceed the maximum front yard setback and encroach into the minimum required rear yard setback.

TECHNICAL REVIEW

The applicant is required to obtain a building permit and the proposed addition or structure may require alterations to the proposed building plans in order to meet building code requirements.

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

RELATED CASES

8441 – Variance for side yard setback.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.2.3.D.3

- (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 building codes, including fire codes.

- (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 Historic Landmarks and Preservation Commission staff approved the addition.

- (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 existing structure meets the setback requirement and the proposed addition is in the only possible location on site.

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 not generally apply to the land in the general vicinity or the same zone as the property is irregular in shape.

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 proposed addition is in the only possible location on 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 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.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.2.3.D.3

- (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 building codes, including fire codes.

- (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 Historic Landmarks and Preservation Commission staff approved the addition.

- (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 proposed addition will have a similar rear yard setback as the existing structure.

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 not generally apply to the land in the general vicinity or the same zone as the property is irregular in shape.

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 proposed addition is in the only possible location on 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 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.

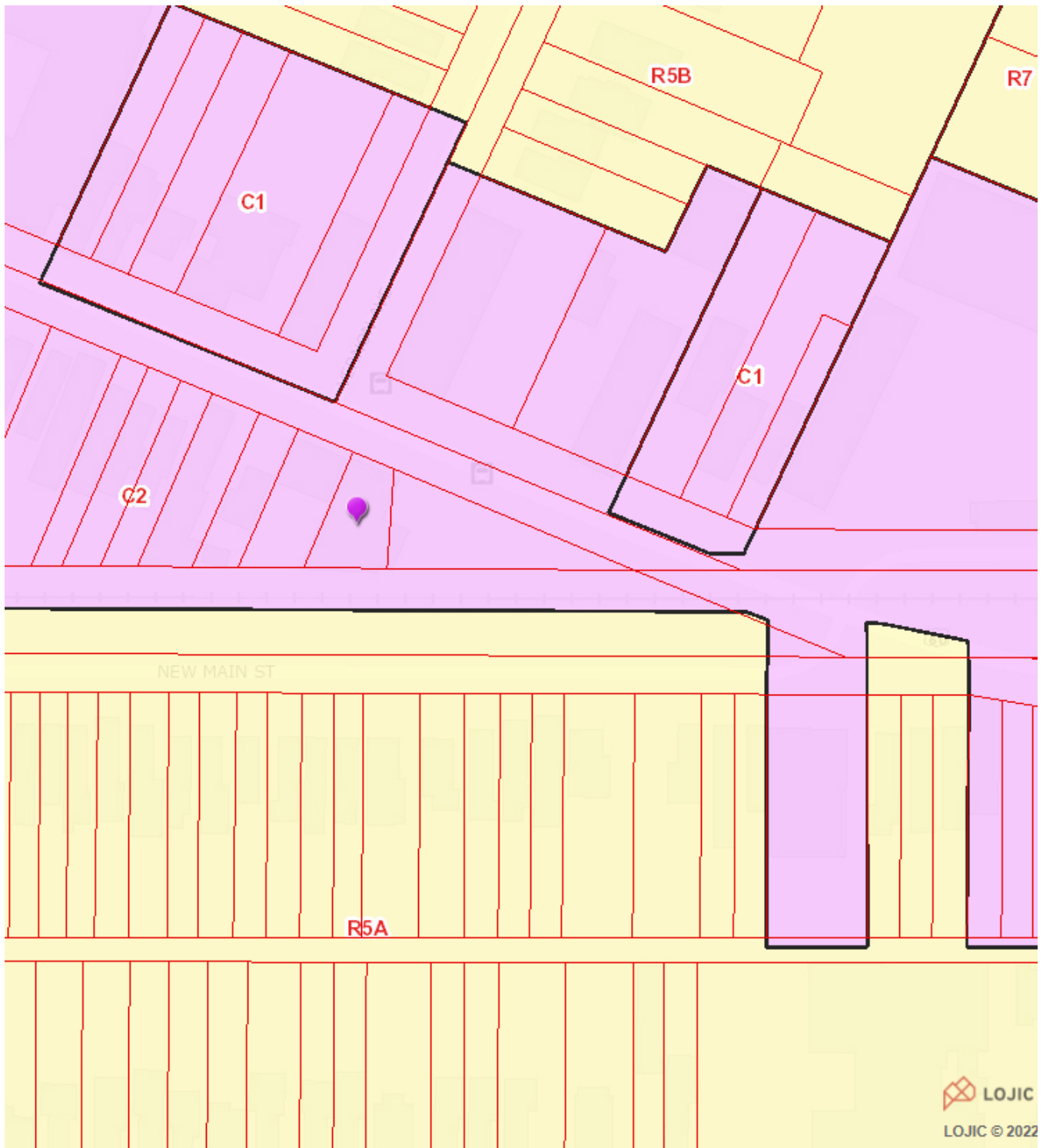
NOTIFICATION

Date	Purpose of Notice	Recipients
5/9/2022	Hearing before BOZA	1 st tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 9
5/9/2022	Hearing before BOZA	Notice posted on property

ATTACHMENTS

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

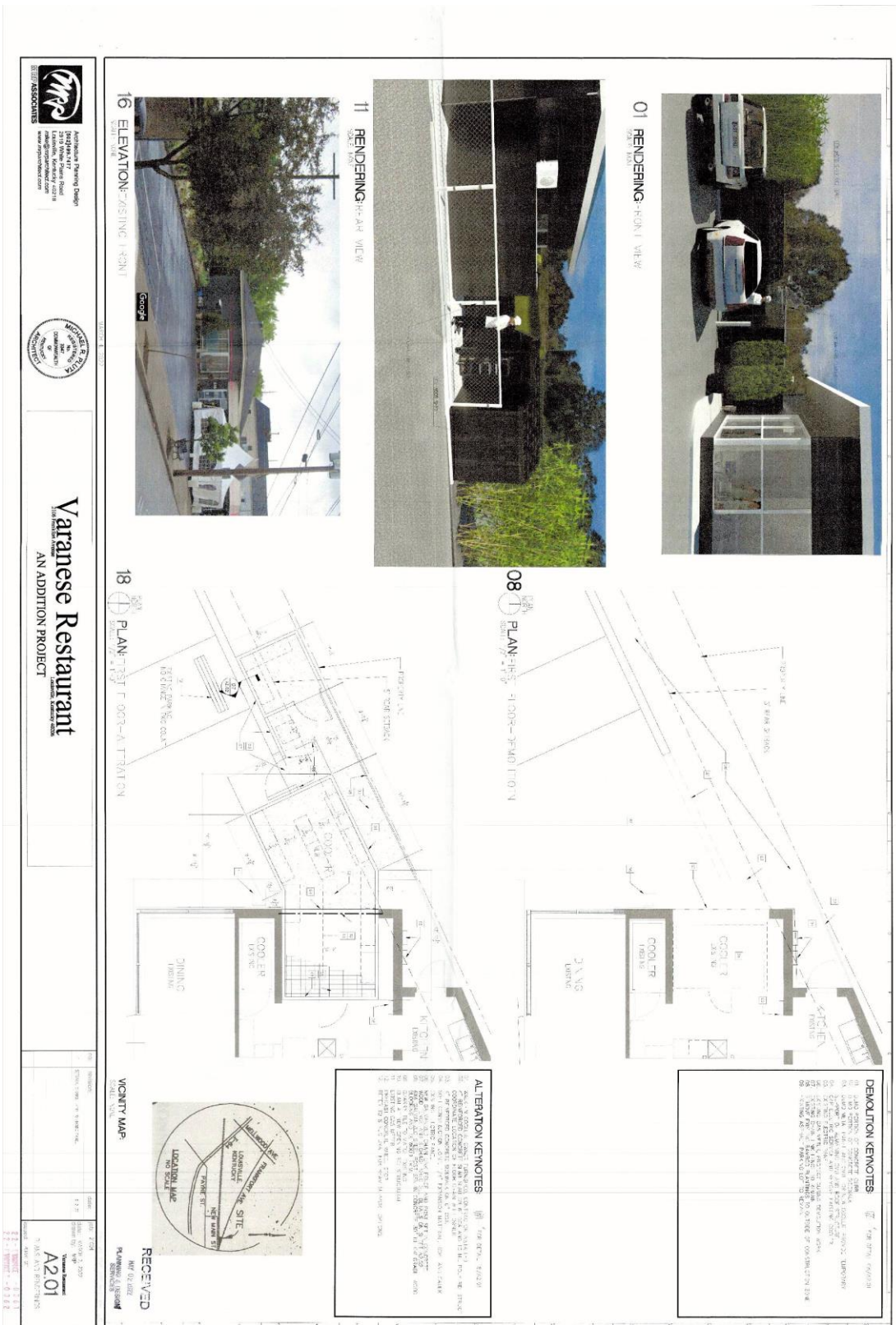
1. Zoning Map



2. Aerial Photograph



3. Site Plan



4. Site Photos



Front of subject property.



Parking area.



Properties to the right.

May 9, 2022 at 3:42:31 PM



Property across Frankfort Avenue.



Location of proposed addition.



Variance areas.