

Board of Zoning Adjustment

Staff Report

March 4, 2019



Case No:	19VARIANCE1008
Project Name:	Stowers Lane Variance
Location:	2221 Stowers Lane
Owner/Applicant:	Frank Russell Bennett
Jurisdiction:	City of Shively
Council District:	3 – Keisha Dorsey
Case Manager:	Zach Schwager, Planner I

REQUEST

- **Variance** from City of Shively Development Code section 5.4.2.D.3.a to allow an accessory structure to encroach into the required rear yard setback.

Location	Requirement	Request	Variance
Rear Yard	5 ft.	4 ft.	1 ft.

CASE SUMMARY/BACKGROUND

The subject property is located in the City of Shively at the intersection of Stowers Lane and Savage Drive. It contains a one-story single-family residence and an accessory structure used as storage space. The accessory structure is encroaching into the required rear yard setback. The property owner was issued a notice of violation for the accessory structure on April 23, 2018. The requested variance is to bring the structure into compliance with the City of Shively Development Code.

STAFF FINDING

Staff finds that the requested variance is adequately justified and meets the standard 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 a variance established in the City of Shively Development Code from section 5.4.2.D.3.a to allow a structure to encroach into the required rear yard setback.

TECHNICAL REVIEW

- No technical review was undertaken.

INTERESTED PARTY COMMENTS

Staff received an email on February 20, 2019, as a general inquiry about the variance request.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.4.2.D.3.A

- (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 as the structure is 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 it is an existing structure and similar in design to other accessory structures in the area.

- (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 as it is an existing structure.

- (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 it is an existing structure and slightly encroaches into the rear yard setback.

ADDITIONAL CONSIDERATIONS:

1. The requested variance does not arise 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 land in the general vicinity or the same zone as the property is similarly sized as the surrounding lots.

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 because it could be moved to comply with the City of Shively Development Code.

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 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 after the accessory structure was placed in the current location.

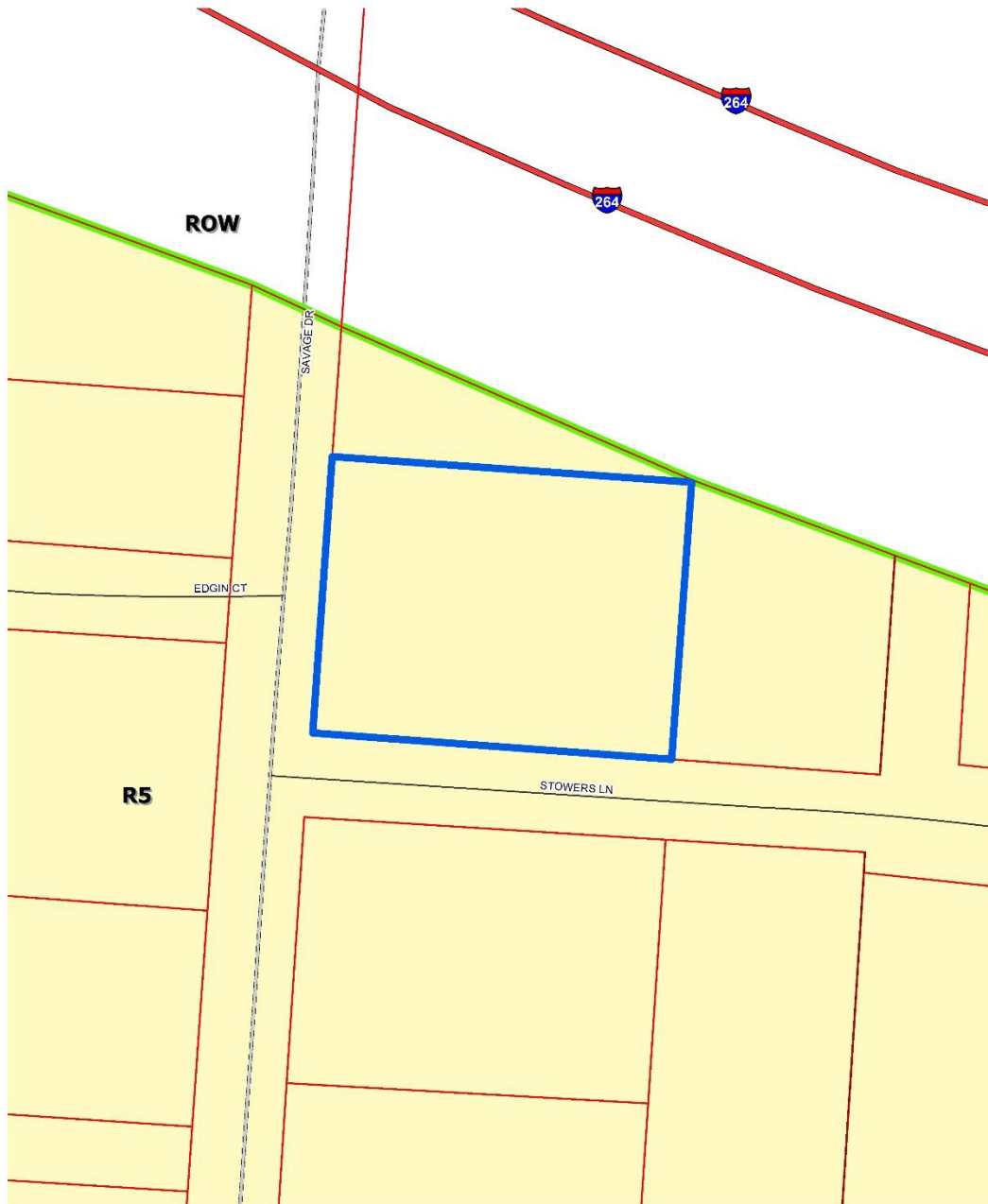
NOTIFICATION

Date	Purpose of Notice	Recipients
02/11/2019	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 3
02/14/2019	Hearing before BOZA	Notice posted on property

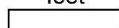
ATTACHMENTS

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

1. Zoning Map



2221 Stowers Lane
feet



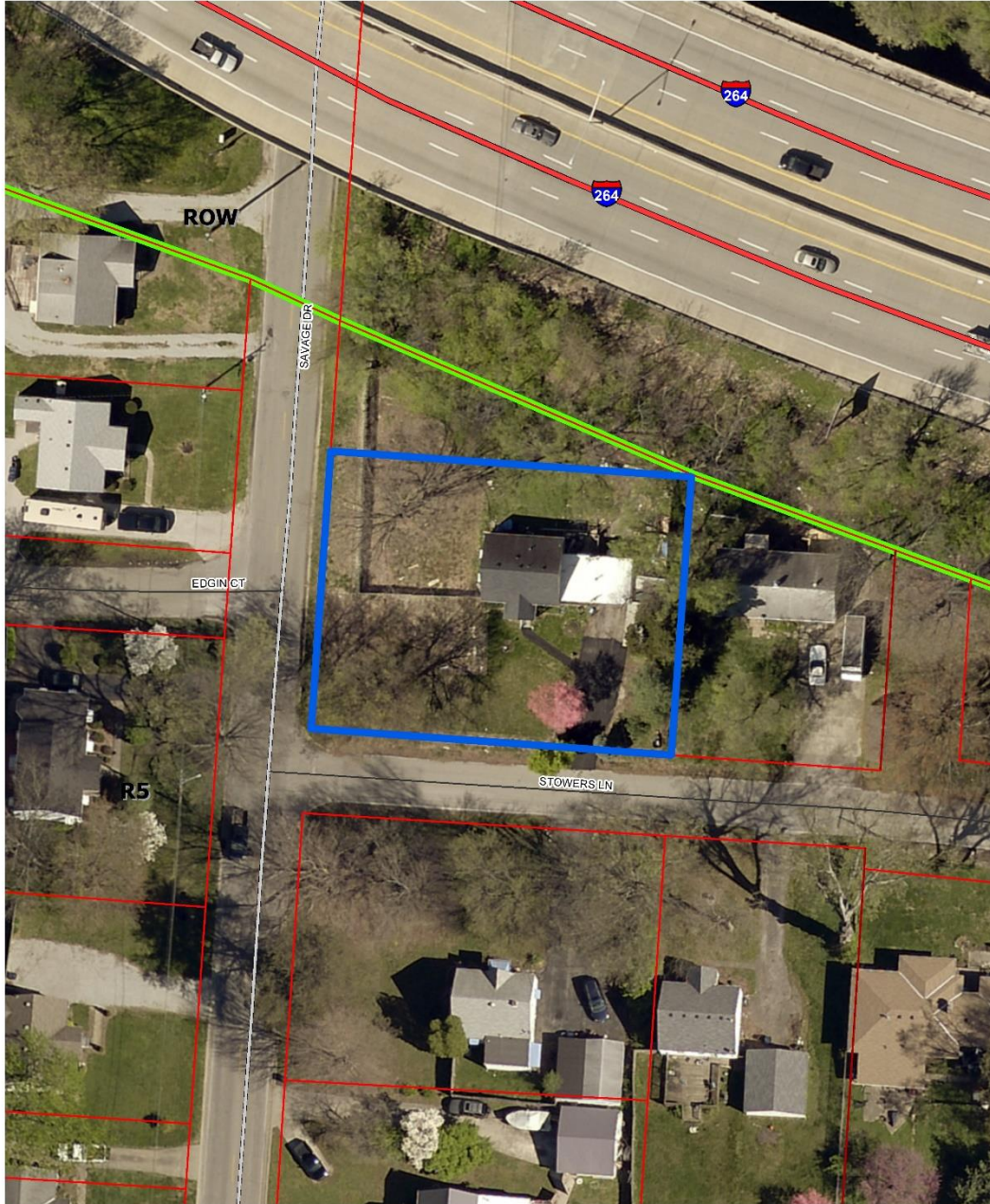
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Map Created: 2/19/2019

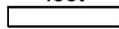


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2. Aerial Photograph



2221 Stowers Lane
feet



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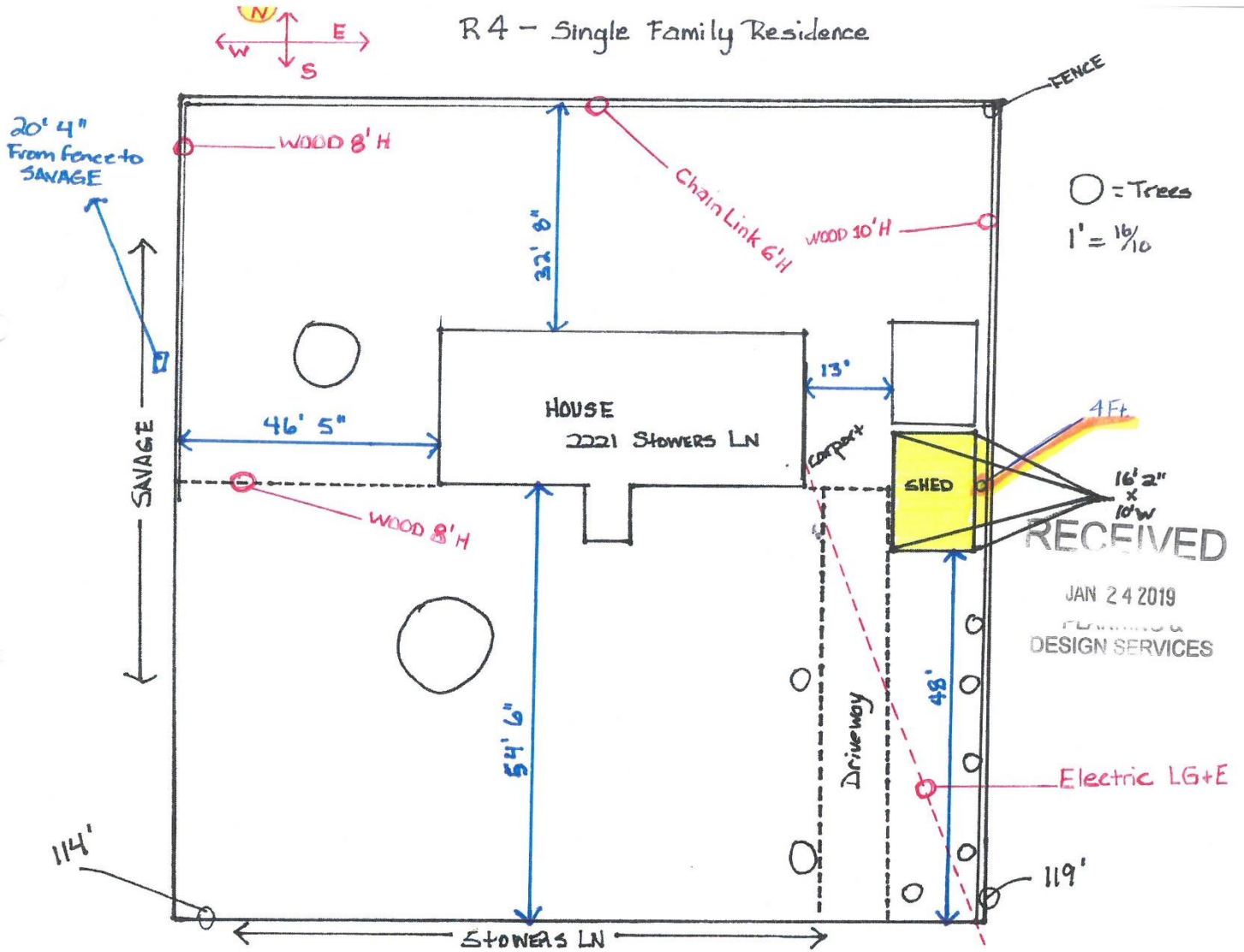
Map Created: 2/19/2019



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3. Site Plan

R4 - Single Family Residence



* 9 VARIANCE 1008

4. Site Photos



Front of subject property.



Property across Stowers Lane.



Property to the right of the subject property.



Looking east from Savage Drive.



Area of the requested variance looking west.



Area of the requested variance looking north.