

Board of Zoning Adjustment
Staff Report
 January 10, 2022



Case No:	21-VARIANCE-0175, 21-VARIANCE-0176 & 21-VARIANCE-0177
Project Name:	Bourbon House 3
Location:	2076 S Shelby Street
Owner:	Anthony & Debra Seadler
Applicant:	Steve Smith Homes
Jurisdiction:	Louisville Metro
Council District:	15 – Kevin Triplett
Case Manager:	Dante St. Germain, AICP, Planner II

REQUESTS:

Variations from section 5.5.1.A.2 to allow a principal structure to exceed the maximum setback along the front and street side yards
Variance from table 5.2.2 to permit a structure and parking to encroach into the required side yard setback

Location	Requirement	Request	Variance
Corner Lot – S Shelby St.	5 ft.	12.82 ft.	7.82 ft.
Corner Lot – Lynn St.	5 ft.	6 ft.	1 ft.
Side Yard Setback	10 ft.	0 ft.	10 ft.

CASE SUMMARY/BACKGROUND

The subject site is located at the intersection of S Shelby Street and Lynn Street and consists of one undeveloped parcel. The applicant proposes to construct a new mixed-use building with 350 square feet of office space and a 4-bedroom short-term rental unit. The property is currently zoned OR-3 and is located in the Traditional Neighborhood Form District.

STAFF FINDINGS

Staff finds that the requested variances are adequately justified and meet 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 variances established in Land Development Code section 5.5.1.A.2 to allow a principal structure to exceed the maximum setback along both street frontages, and from table 5.2.2 to permit a structure and parking to encroach into the required side yard setback.

TECHNICAL REVIEW

MSD and Transportation Planning have provided preliminary approval of the proposal. The site was rezoned in 1982 under docket 9-86-81 from R-5 Residential to R-9 Apartment (currently OR-3) to permit an office use of the structure on the adjoining parcel at 2074 S Shelby Street. This structure

remains in office use today. The subject site was undeveloped at the time of the rezoning and remains undeveloped.

In 1984, the binding elements were amended by Land Development and Transportation to permit a freestanding building identification sign on the adjacent property.

On December 1, 2021 the Development Review Committee approved a Revised Detailed District Development Plan and revised Binding Elements on condition that the applicant receives the necessary variances from the Board of Zoning Adjustment.

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.5.1.A.2 #1

- (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 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 the excess front yard setback will bring the structure more into line with the structures already located on the same block face.

- (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 lot is irregular in shape and a the variance will permit the proposed structure to be more in line with existing structures on the same block face.

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 generally vicinity or the same zone as the subject property unique in shape and location.

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 observing the required setback would cause potential topographical problems.

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 5.5.1.A.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 proposed 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 the excess setback will not be noticeable, as there is no established street wall on the Lynn Street side of the property.

- (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 lot is irregular in shape and observing the required setback would impact the applicant's proposed street side yard plantings.

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 generally vicinity or the same zone as the subject property unique in shape and location.

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 observing the required setback would impact the applicant's proposed street side yard plantings.

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 TABLE 5.2.2 #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 proposed 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 the parking encroachment already exists and will not be changed, and the encroachment by the structure will not be noticeable from the street.

- (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 lot is irregular in shape and observing the required side yard setback would shift the required parking over and impact the applicant's ability to install and plant a required Vehicular Use Area Landscape Buffer Area.

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 generally vicinity or the same zone as the subject property unique in shape and location.

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 observing the required setback would impact the applicant's ability to install and plant a required VUA LBA.

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.

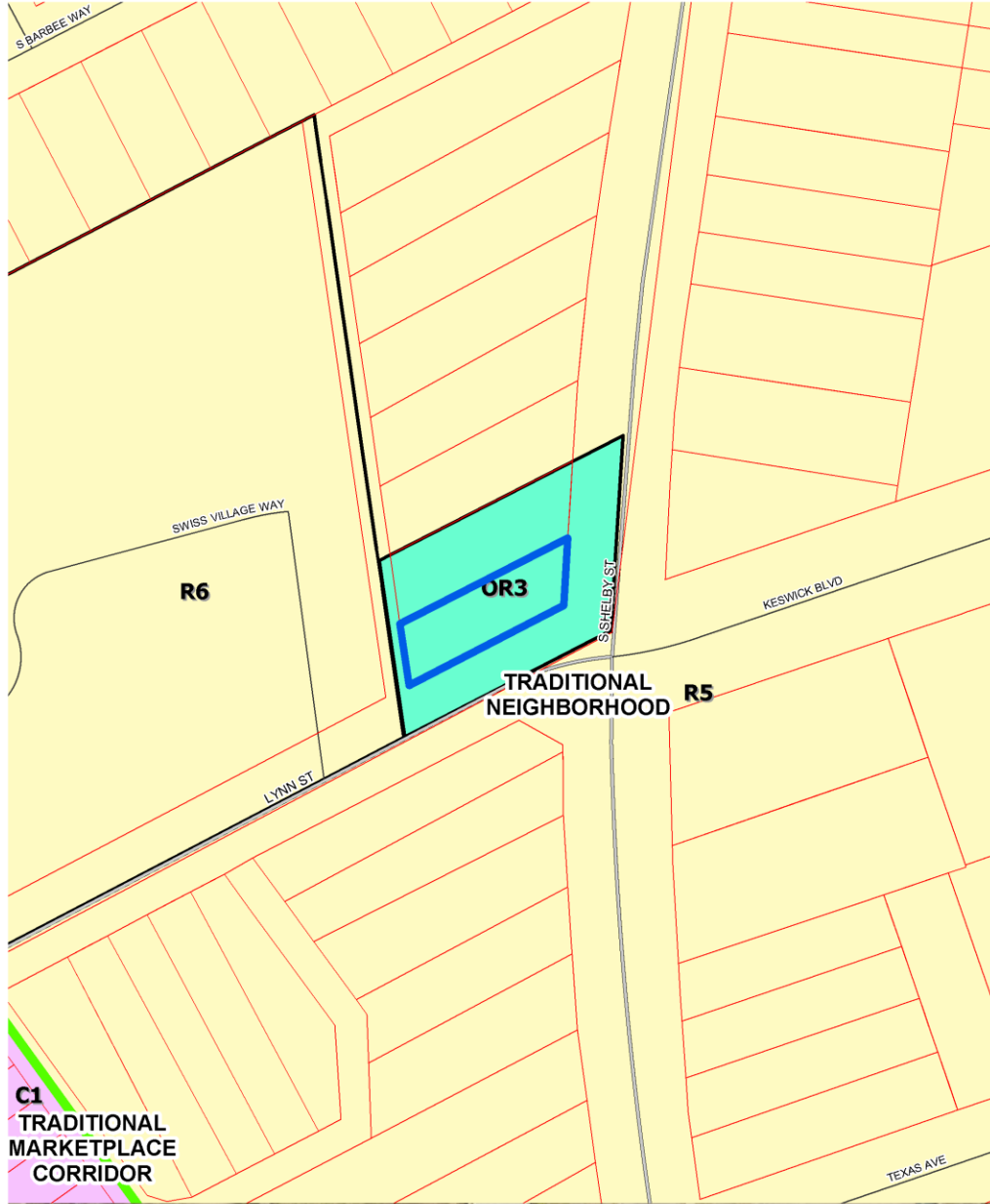
NOTIFICATION

Date	Purpose of Notice	Recipients
12/20/2021	Hearing before BOZA	1 st tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 15
12/23/2021	Hearing before BOZA	Notice posted on property

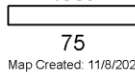
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2076 S Shelby Street
feet



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2. Aerial Photograph



2076 S Shelby Street
feet

75

Map Created: 11/8/2021



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