

Board of Zoning Adjustment

Staff Report

February 6, 2023



Case No: 23-VARIANCE-0003
Project Name: Stannye Drive Variance
Location: 2321 Stannye Drive
Owner: Andrew Noland
Applicant: Todd Shelburne – Twin Spires Remodeling
Jurisdiction: Louisville Metro
Council District: 16- Scott Reed
Case Manager: Amy Brooks, Planner I

REQUEST:

Variance from the Land Development Code Table 5.3.1 to allow a second story addition encroach into the required side yard setback in R-3.

Location	Requirement	Request	Variance
Side Yard Setback	7.5 ft. minimum, 22.5 ft. total	6 ft. & 9.2 ft 15.2 ft total	1.5 ft & 5.8 ft 7.3' total

CASE SUMMARY/BACKGROUND

The subject site is zoned R-3 Single Family Residential in the Neighborhood Form District. The applicant is proposing to construct a second story addition on the existing footprint of a single family home. The applicant is requesting a variance to allow the proposed structure to encroach into the side yard setback.

Table 5.3.1 requires this lot to have a minimum side yard setback of 7.5 feet. with both side yards totaling not less than 22.5 feet. The second floor addition to the primary structure will be 6.0 feet from the northern property line, thereby requiring a variance of 1.5 feet. On the southern portion of the site, the primary structure will be 9.2 feet from the property line which requires a dimensional variance of 5.8 feet.

STAFF FINDINGS

Staff finds that the requested variance is adequately justified and meets 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 a variance established in the Land Development Code.

TECHNICAL REVIEW

There are no technical issues with this request.

INTERESTED PARTY COMMENTS

Staff has not received any interested party comments.

RELATED CASES

No related cases.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION

- (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 applicable building codes and the Land Development Code, except where relief is requested.

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

STAFF: The requested variance will not alter the essential character of the general vicinity because there are other primary structures along this stretch of Stannye Drive that seemingly encroach into the side yard setbacks. In addition, other parcels in the vicinity have side yards that do not total the required 22 feet as specified by the Land Development for R-3 single- family zoned properties.

- (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 to the primary 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 since the proposed this request seems compatible with the established pattern of setbacks within the surrounding neighborhood. The encroachment only occurs because the applicant is proposing a second story addition onto an existing structure that was built prior to the current zoning regulations.

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 land in the general vicinity or the same zone as the property is similar in size and shape to other properties in the subdivision.

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 because the walls of the second story addition would have to be stepped back from the first floor external walls which would create the need to build load bearing walls on the first floor that would normally not exist and that could adversely alter the floor plan of the ground floor.

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 since the applicant has begun construction on the new addition.

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 ACTION:

APPROVE or **DENY** the **VARIANCE** to allow a proposed second story addition to encroach into the required side yard setback.

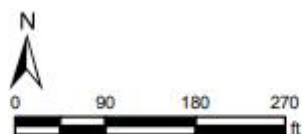
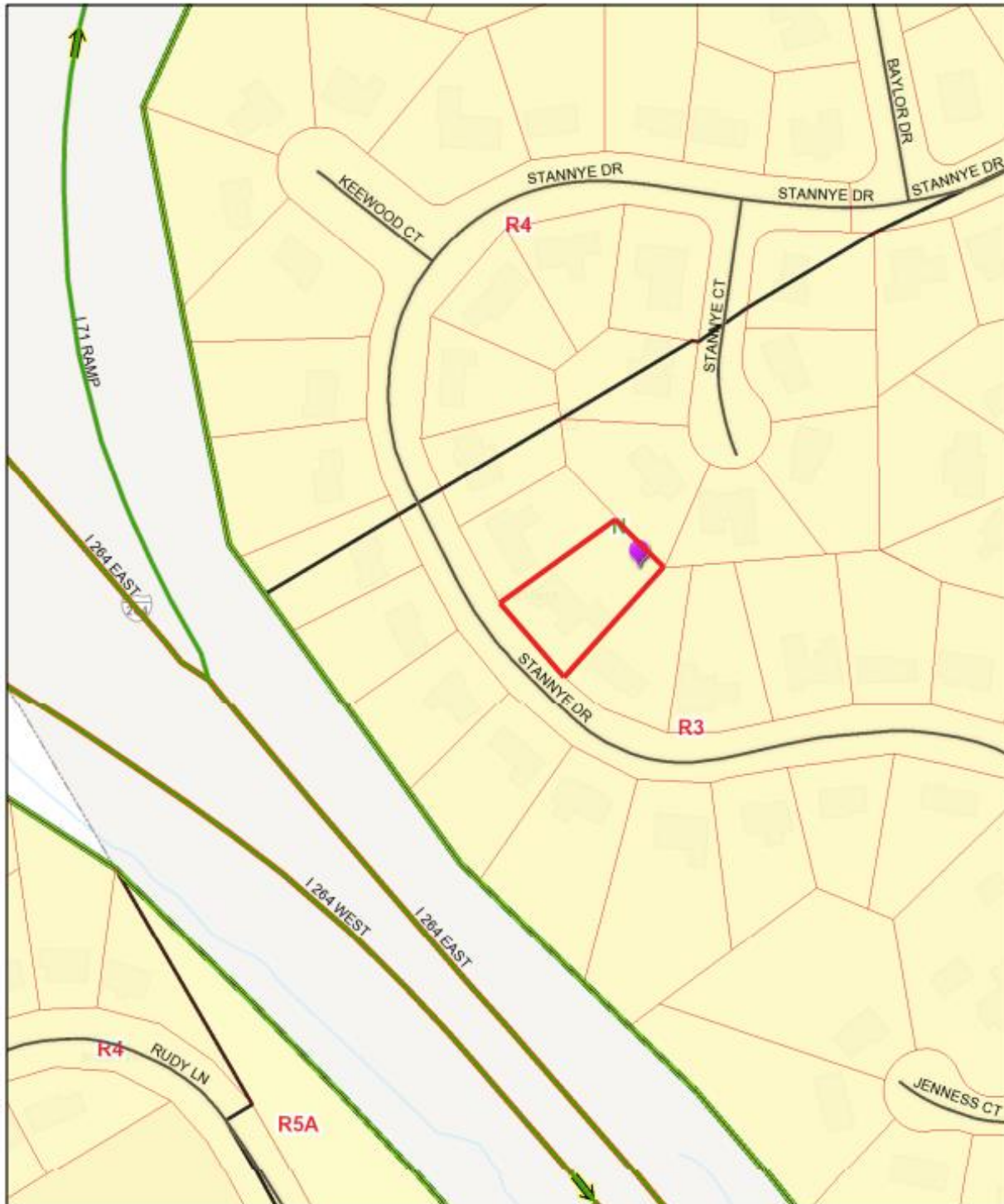
NOTIFICATION

Date	Purpose of Notice	Recipients
1/20/2023	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District
1/26/2023	Hearing before BOZA	Notice posted on property

ATTACHMENTS

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

1. Zoning Map



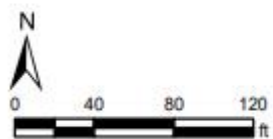
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2. Aerial Photograph



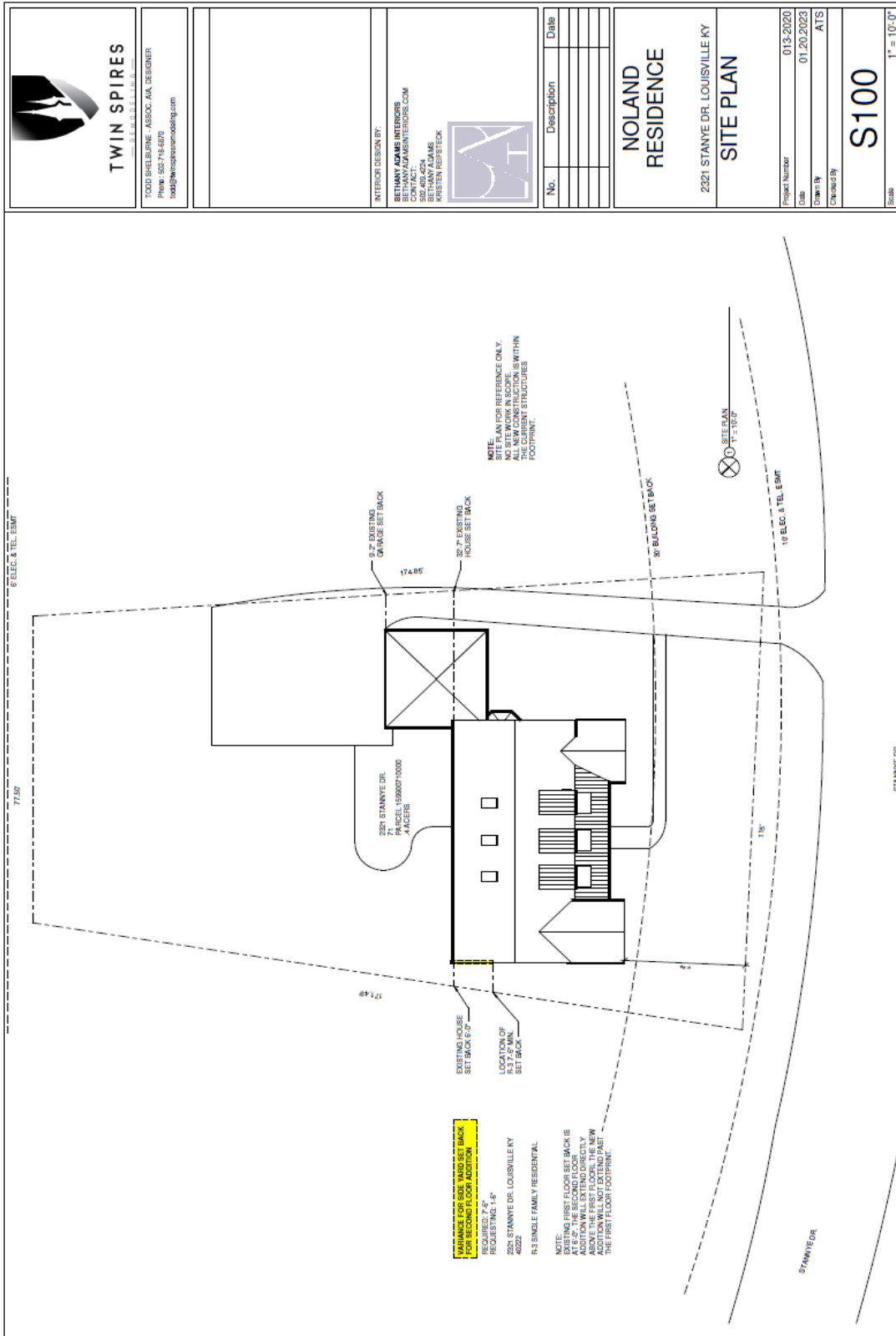
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3. Site Plan



4. Site Photos



Front of subject property.



Variance Area on the northern property line to the left of subject site.



View of Variance area and property to the right on the south property line



Properties across the street, Google street view, 2015.