

Board of Zoning Adjustment
Staff Report
 October 21, 2019



Case No:	19-VARIANCE-0018
Project Name:	S. 3 rd Street Variance
Location:	4704 S. 3 rd Street
Owner:	Vicky Saling
Applicant:	Charles Podgursky
Jurisdiction:	Louisville Metro
Council District:	21 – Nicole George
Case Manager:	Zach Schwager, Planner I

REQUEST

- **Variance** from Land Development Code section 5.4.1.D.2 to allow a private yard area to be less than the required 30% of the area of a lot.
- **Variance** from Land Development Code section 5.4.1.E.1 to allow an accessory structure/use area to exceed a depth of 60 ft.

Location	Requirement	Request	Variance
Private Yard Area	3,000 sq. ft.	890 sq. ft.	2,110 sq. ft.
Accessory Structure/Use Area	60 ft.	101 ft.	41 ft.

CASE SUMMARY/BACKGROUND

The subject property is in the Beechmont neighborhood on the west side of S. 3rd Street near the intersection with W. Woodlawn Avenue. It currently contains a two-story multi-family dwelling with four units. The applicant is proposing to construct a two-story accessory structure with two dwelling units and a one car garage. The proposed accessory structure will reduce the private yard area to less than 30% of the area of the lot and will exceed 60 ft. in depth of the accessory structure/use area. The applicant has stated that the accessory structure will not exceed a height of 24 ft. from grade and will be subordinate in size to the existing principal structure as required by the Land Development Code. Also, the applicant has stated that the principal entrance to the proposed accessory structure will face the southern side property line as required by the Land Development Code.

STAFF FINDING

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 standard of granting a variance established in the Land Development Code section 5.4.1.D.2 to allow a private yard area to be less than the required 30% of the area of a lot and section 5.4.1.E.1 to allow the accessory structure/use area to exceed 60 ft. in depth.

TECHNICAL REVIEW

- The plan has received preliminary approval from Transportation Planning.

INTERESTED PARTY COMMENTS

No interested party comments were received.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.4.1.D.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 as the proposed accessory structure will need 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 there will still be a significant amount of private yard area between the principal and accessory structure. Also, there are other properties in the area with similar or smaller private yard areas.

- (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 the accessory structure will need to comply with all building codes, including fire 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 there would still be a significant amount of private yard area.

ADDITIONAL CONSIDERATIONS:

1. The requested variance does not arise from special circumstances which do 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 because the lot is similar in shape and size to other lots in the area.

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 may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because if the accessory structure were moved back to provide more private yard area there would not be enough room to provide the required parking. Also, if parking was provided in between the principal structure and accessory structure there would be no private yard area.

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 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.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.4.1.E.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 as the proposed accessory structure will need 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 there are other properties in the vicinity that have accessory structure/use areas that exceed the maximum depth.

- (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 the accessory structure will need to comply with all building codes, including fire 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 accessory structure would be set back from the rear property line at this distance in order to provide the required parking.

ADDITIONAL CONSIDERATIONS:

1. The requested variance does not arise from special circumstances which do 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 because the lot is similar in shape and size to other lots in the area.

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 may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because they would not be able to provide the required parking if the accessory structure met the depth requirement for the accessory structure/use area.

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 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.

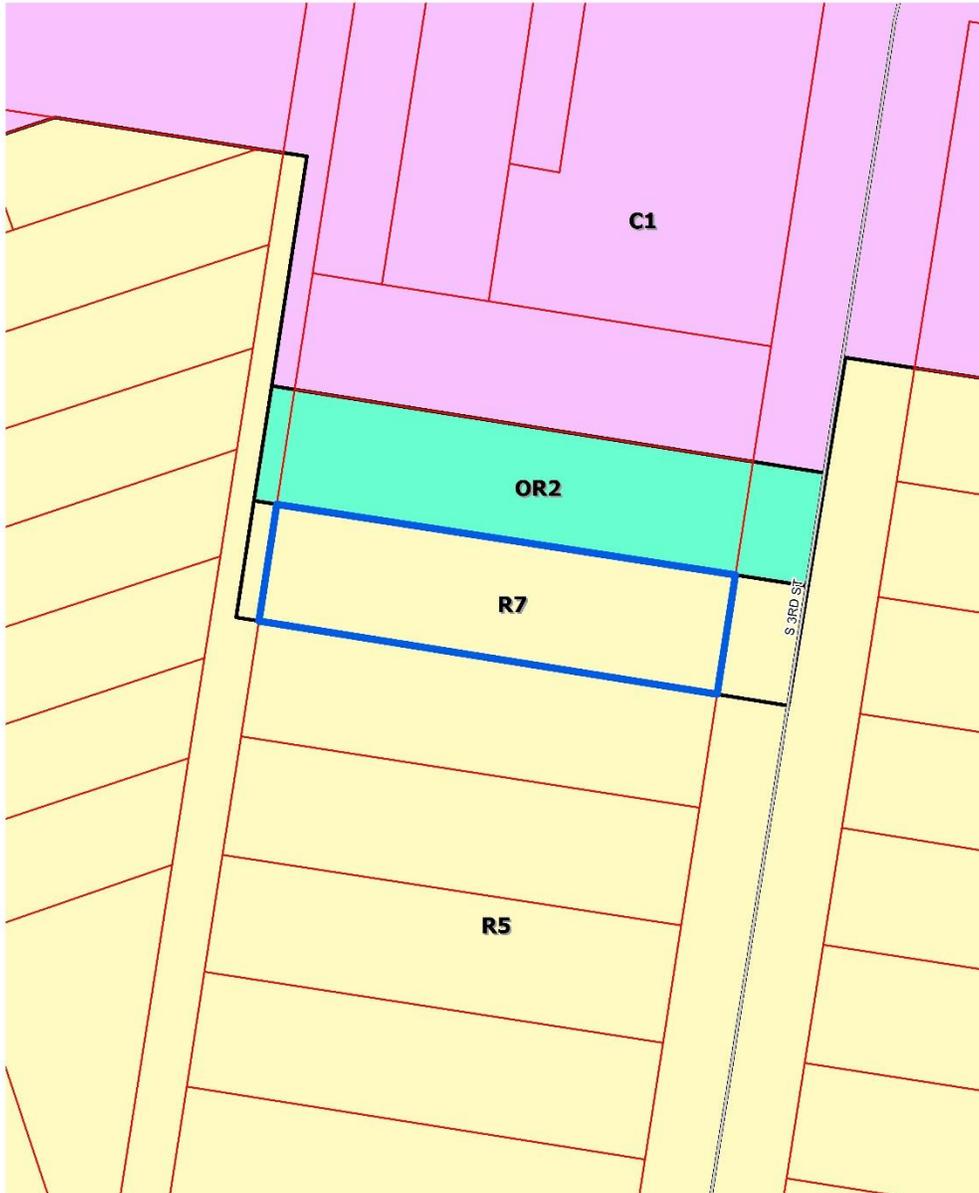
NOTIFICATION

Date	Purpose of Notice	Recipients
10/1/2019	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 21
10/4/2019	Hearing before BOZA	Notice posted on property

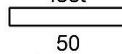
ATTACHMENTS

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

1. **Zoning Map**



4704 S. 3rd Street
feet



Map Created: 10/16/2019

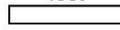


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2. **Aerial Photograph**



4704 S. 3rd Street
feet

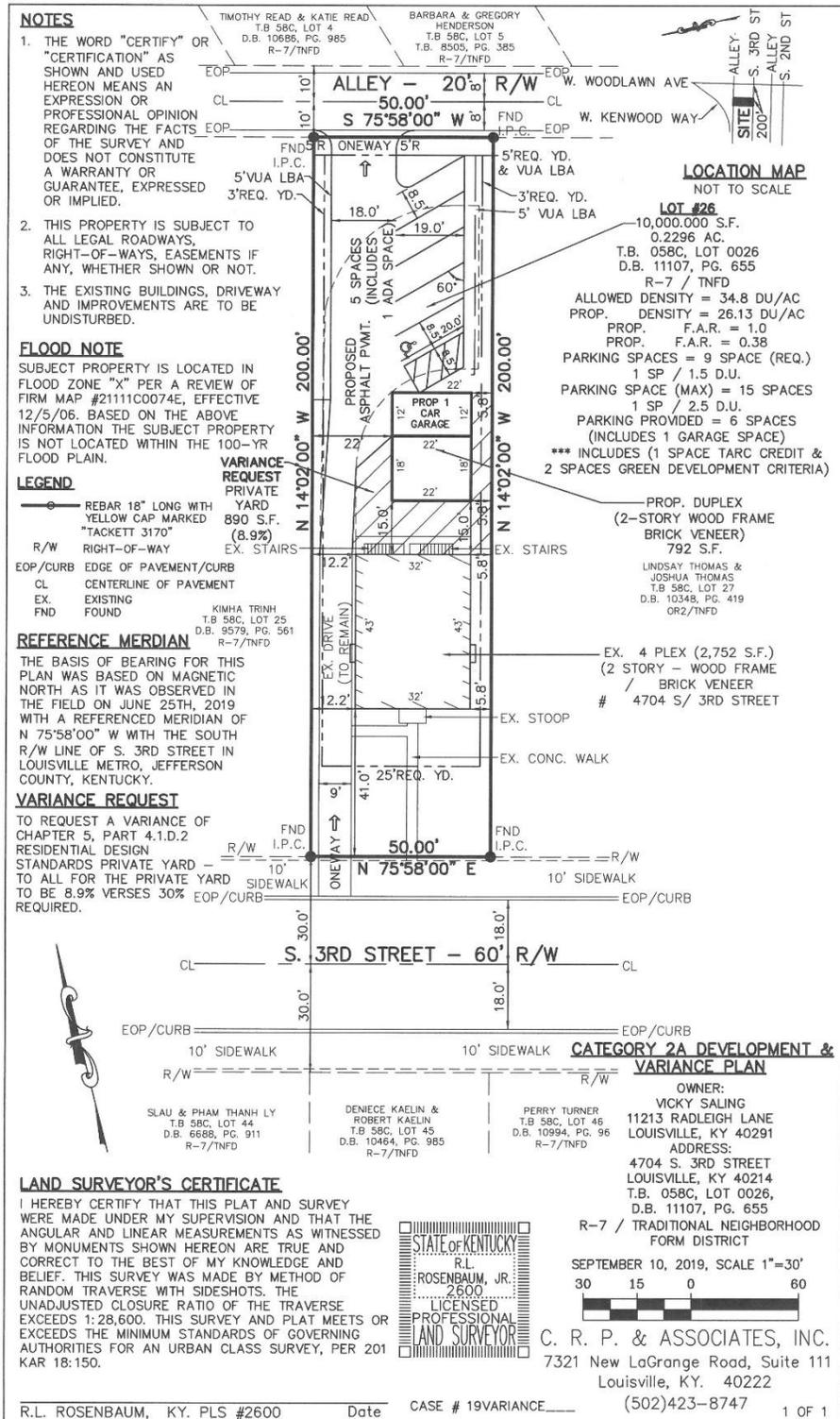


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Map Created: 10/16/2019



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3. **Site Plan**



4. Site Photos



Subject property.



Property to the right.



Property to the left.



Properties across S. 3rd Street.



Existing private yard area.



Private yard area from the rear of the property.