

# Board of Zoning Adjustment Staff Report

June 20, 2016



<b>Case No:</b>	16VARIANCE1031
<b>Request:</b>	Proposed outdoor living area to encroach into the minimum side yard setback.
<b>Project Name:</b>	2801 Circlewood Court
<b>Location:</b>	2801 Circlewood Court
<b>Area:</b>	.44890 acres
<b>Owner:</b>	Laura Purnell
<b>Applicant:</b>	Laura Purnell
<b>Representative:</b>	David Dornick – Aesthetics Inc.
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	8 – Bill Hollander
<b>Case Manager:</b>	Ross Allen, Planner I

### REQUEST

- Variances from the Land Development Code section 5.3.1 table 5.3.1 to allow a proposed outdoor living Area (roofed) to encroach into the minimum side yard setback.

Location	Requirement	Request	Variance
<b>Side Yard Setback</b>	<b>5' ft.</b>	<b>1' ft.</b>	<b>4' ft.</b>

### CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing to construct a roofed outdoor living area for a length of 35' ft. on the northern side and wrapping around the rear (eastern) for a length of 36.5' ft. of the principal structure of an R-5 zoned parcel within a Neighborhood Form District. The applicant is attempting to landscape the rear yard area for a more appealing visual appearance.

### LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing</b>	Residential Single Family	R-5	Neighborhood
<b>Proposed</b>	Residential Single Family	R-5	Neighborhood
<b>Surrounding Properties</b>			
<b>North</b>	Residential Single Family	R-5	Neighborhood
<b>South</b>	Residential Single Family	R-5	Neighborhood
<b>East</b>	Residential Single Family	R-5	Neighborhood
<b>West</b>	Residential Single Family	R-5	Neighborhood

### PREVIOUS CASES ON SITE

No related cases are associated with the subject site.

## INTERESTED PARTY COMMENTS

No comments were received from concerned citizens.

## APPLICABLE PLANS AND POLICIES

Land Development Code

### STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will adversely affect the public health, safety or welfare since the proposed covered patio will be adjacent to the rear of the adjacent property located at 515 Altagate Road which has no structures within a distance of approximately 60' feet. The applicant has the signatures of the adjacent property owners that would be impacted but such an addition.

- (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 since the existing wall and covered patio area will match with existing materials (also matching the residence). The proposed construction will be located on the side and rear of the property and minimal view from the cul-de-sac.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will cause a hazard or nuisance to the public since the construction is located along the side and rear of the property having no public access and minimal exposure to view from the street.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will allow an unreasonable circumvention of the zoning regulations since encroachment into the minimum side yard setback will not impact adjacent property owner at 515 Altagate Road. The proposed covered patio area abuts an empty unimproved portion of the neighbor's lot with no other structures within approximately 60' ft. The proposed roof will not extend above existing residence's roofline or obstruct views of adjacent neighbor's.

### 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 land in the general vicinity or the same zone since the proposed covered patio is unique to the vicinity as many homes in the area have decks and pools but none have attached unfinished living space as the applicant is proposing.

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 since the proposed covered patio could be reduced to approximately 10 feet

and meet the requirements of the LDC minimum side yard setback of 5' ft. The reduction would allow for maintenance of the structure.

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 since the applicant has not constructed the proposed covered patio.

### TECHNICAL REVIEW

- No technical review undertaken.

### STAFF CONCLUSIONS

Based upon the information in the staff report, 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 from section 5.3.1 table 5.3.1 to allow the proposed outdoor living space (roofed) to encroach into 5' foot side yard setback.

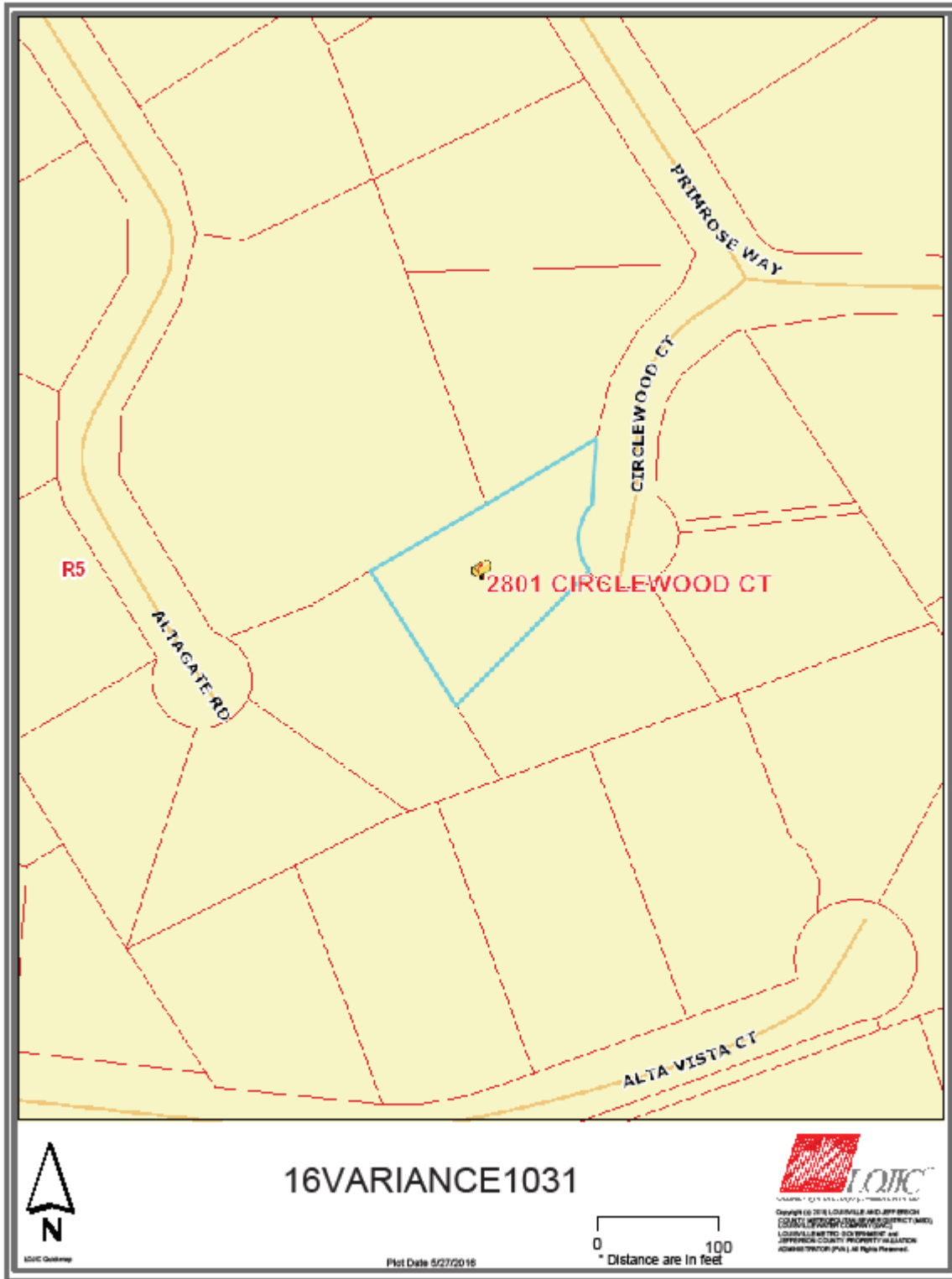
### NOTIFICATION

Date	Purpose of Notice	Recipients
June 17, 2016	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Subscribers of Council District 9 Notification of Development Proposals
June 17, 2016	Sign Posting for BOZA	Sign Posting on property

### ATTACHMENTS

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

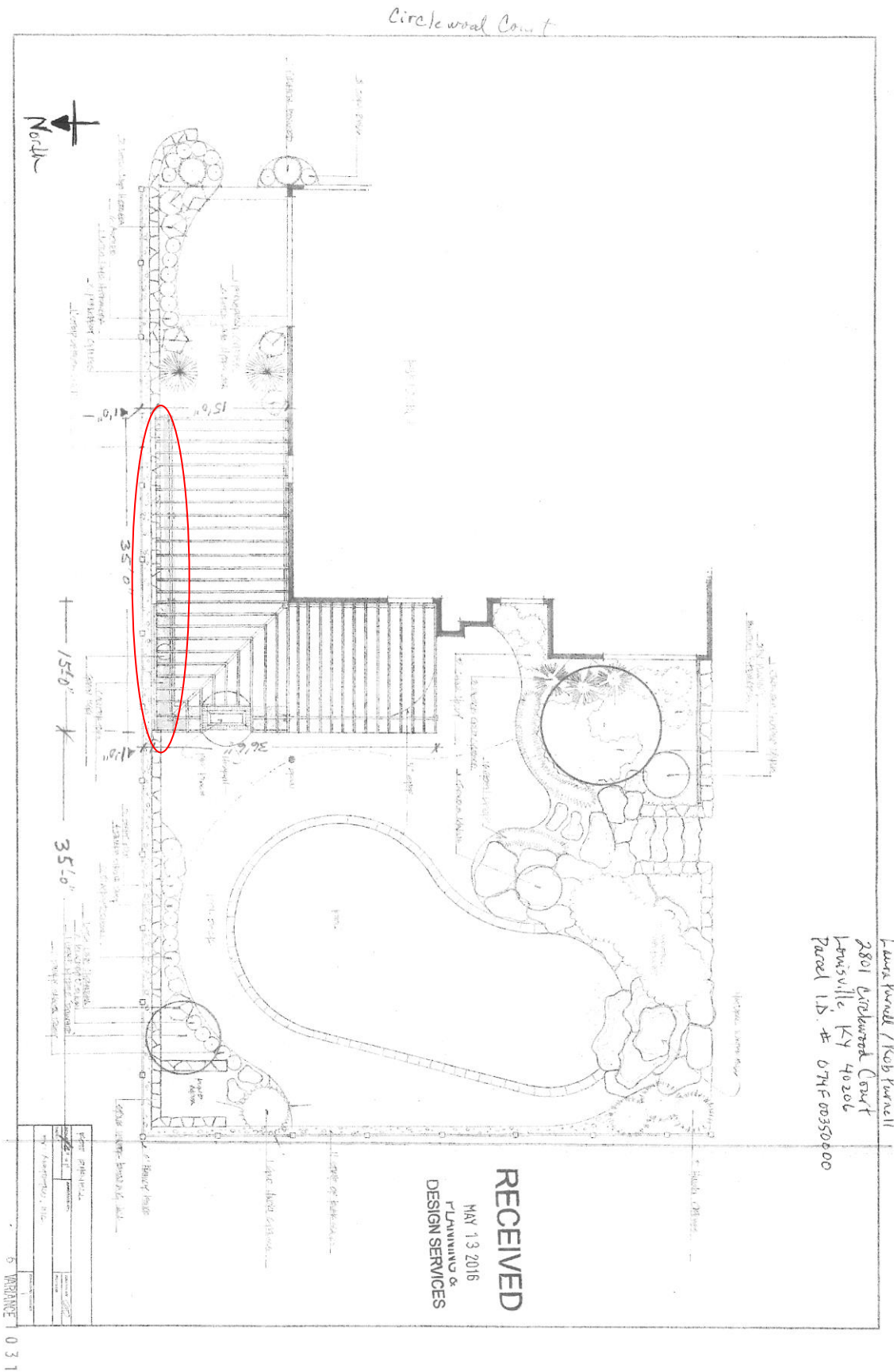
1. Zoning Map



2. Aerial Photograph



3. Site Plan



**4. Site Inspection Photos**



The front of the subject site located at 2801 Circlewood Court.



Looking at the front right hand side of the property where the proposed roofed outdoor living would be constructed the proposed length along this side of the house is approximately 35'. The pitched roof would be supported by the wall you see in the right of the photo.





Looking at the rear of the property where the roof would continue for approximately 36.5' ft.