

Board of Zoning Adjustment
Staff Report
 August 29, 2022



Case No:	22-VARIANCE-0024
Project Name:	Highland Avenue Variance
Location:	1308 Highland Avenue
Owner/Applicant:	Gary Hibbeln & Stacey Mefford
Jurisdiction:	Louisville Metro
Council District:	8– Cassie Chambers Armstrong
Case Manager:	Heather Pollock, Planner I

REQUESTS:

Variance from the Land Development Code, section 5.4.1.E to allow an accessory structure to encroach into the side yard setback.

Location	Requirement	Request	Variance
Side Yard	2 ft.	1.5 ft.	0.5 ft.

CASE SUMMARY/BACKGROUND

The subject property is zoned R5-B Two Family Residential and is in the Traditional Neighborhood Form District. It is on the south side of the 1300 block of Highland Ave. close to the intersection with Barret Ave. It is in the Highlands Neighborhood. The site currently has a single-family residential structure and the applicant has constructed a 156.75 sq. ft. accessory structure that encroaches into the required side yard setback.

STAFF FINDINGS

Staff finds that the requested variance meets standards (b), (c), and (d), but there is concern that the variance request does not meet standard (a) because construction and maintenance of the structure may have an adverse impact on the adjoining property owner.

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 Code to allow a principal structure to encroach into the side yard setback.

TECHNICAL REVIEW

No outstanding technical comments.

INTERESTED PARTY COMMENTS

Two interested party comments were received by staff.

RELATED CASES

ENF-ZON-21-000380: Zoning enforcement case for shed encroaching into side setback.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.4.1.E

- (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; however, staff is concerned that the variance could adversely affect the adjacent property owner because construction and maintenance of the accessory structure may require encroachment onto the adjacent property.

- (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 structure is built with material that is in character with the existing residence and the location is similar to others 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 because the structure must be constructed to comply with all building codes. The location of the accessory structure does not adversely impact the safe movement of vehicles or pedestrians.

- (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 complies with all other regulations except where relief is requested; and the location is similar to others in the 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 not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the lot is similar in size and shape as the surrounding properties.

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 as the accessory structure does not appear to have a foundation and could be moved to comply with setback regulations.

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 as the applicant has completed 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.

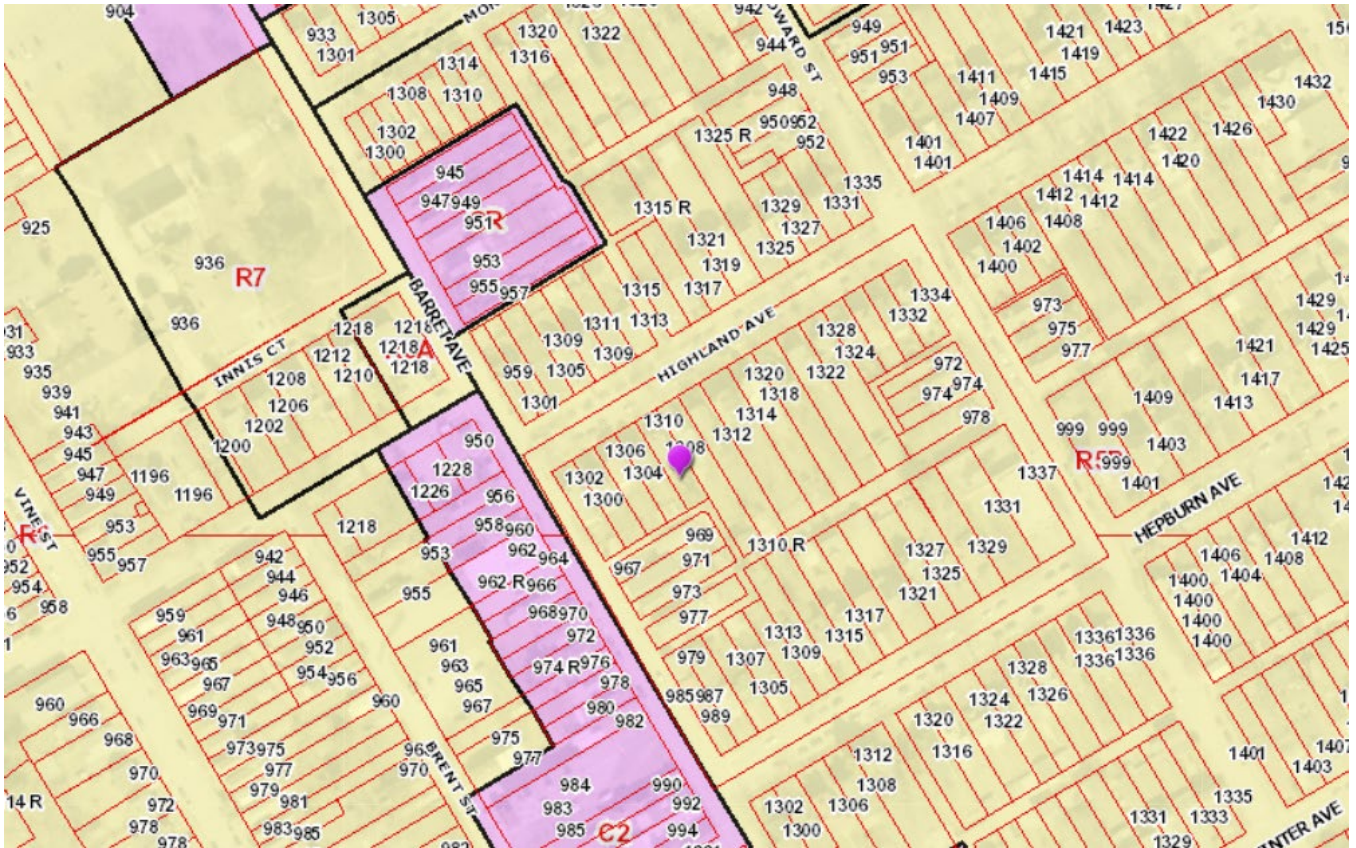
NOTIFICATION

Date	Purpose of Notice	Recipients
08/15/2022	Hearing before BOZA	1 st tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 8
08/11/2022	Hearing before BOZA	Notice posted on property

ATTACHMENTS

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

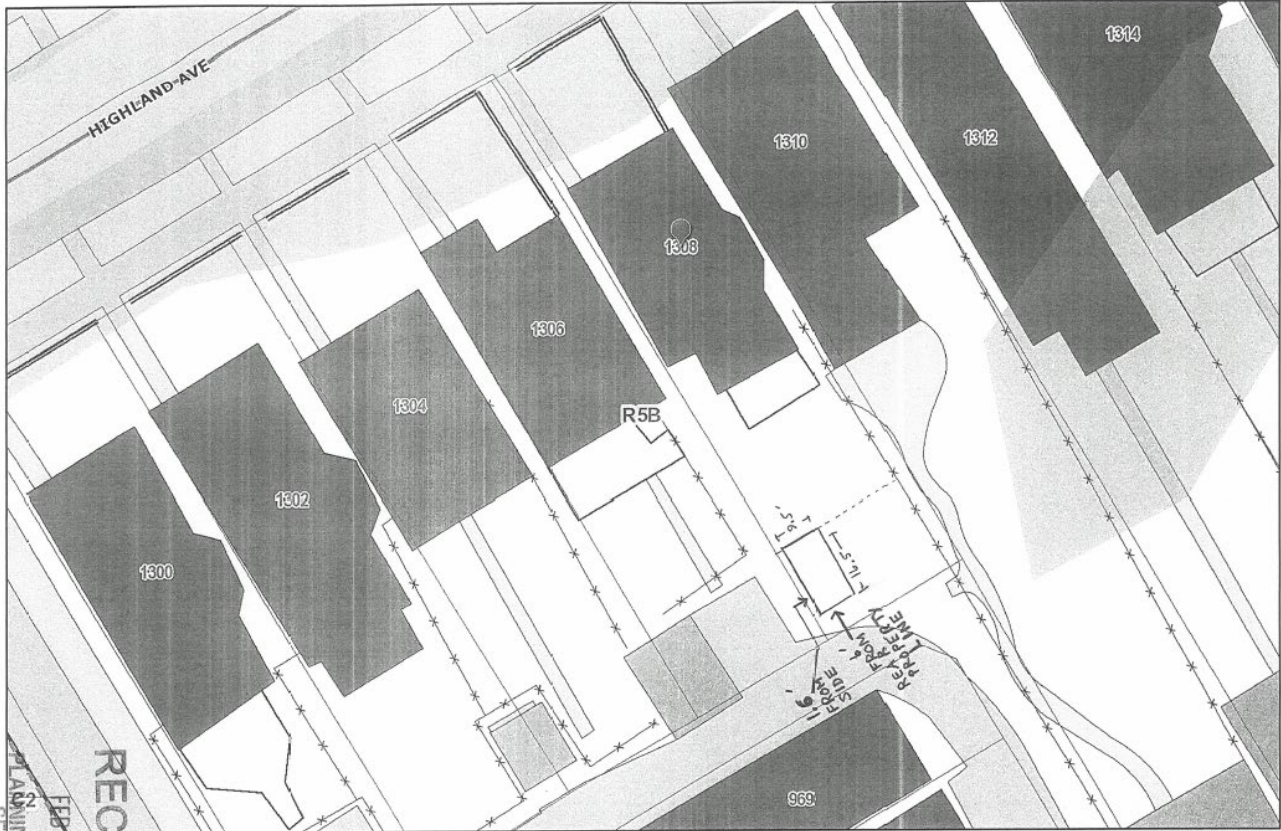
1. Zoning Map



2. Aerial Photograph



3. Site Plan



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LOJIC © 2022
This map is not a legal document and should only be used for general reference and identification.

4. Site Photos



Front of subject property.



View of variance area from private yard area.



View of accessory structure from alley.



View of accessory structure from alley.



View of accessory structure from parking area.