

Board of Zoning Adjustment Staff Report

May 16, 2016



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| Case No: | 16VARIANCE1018 |
| Request: | Variance from a minimum side yard setback. |
| Project Name: | 551 Barberry Lane |
| Location: | 551 Barberry Lane |
| Area: | .27870 acres |
| Owner: | Russell Smith |
| Applicant: | Rebecca Northup |
| Representative: | Rebecca Northup |
| Jurisdiction: | Louisville Metro |
| Council District: | 9 – Bill Hollander |
| Case Manager: | Ross Allen, Planner I |

REQUEST

- Variance from LDC section 5.3.1 table 5.3.1 Dimensional Standards – Residential Development to encroach into the minimum required side yard setback.

| Location | Requirement | Request | Variance |
|--------------------------|-------------|---------|----------|
| Side Yard Setback | 5' ft. | 1' ft. | 4' ft. |

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is requesting a variance from LDC section 5.3.1 table 5.3.1 due to an existing garage and concrete driveway encroaching into the five foot minimum side yard setback along the northern property line. The subject property is located on Barberry Lane in the Loretto Subdivision in an R-5 zoned district within a Neighborhood Form District in Louisville Metro. The garage was constructed prior to the current land development code and therefore the owners are attempting to come into compliance. The variance would allow both the driveway for an approximate linear distance of 11 ft. beyond the front setback (25 ft.) and the attached garage for an approximate linear distance of 2 ft. to encroach into the minimum side yard setback of 5 feet on the northern property line.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

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

PREVIOUS CASES ON SITE

No previous cases associated with the subject property.

INTERESTED PARTY COMMENTS

No comments have been 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 not adversely affect the public health, safety or welfare since the applicant has an existing two car garage that has been in place prior to the current LDC regulations and is applying for relief from the current LDC.

- (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 many homes in the general vicinity were constructed in the mid 1930's.

- (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 since the 4 foot encroachment into the side yard setback does not encroach upon the adjacent property and to date has not created issue with the adjoining property north of the property line.

- (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 setbacks would not have been present for the 1931 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 not generally apply to land in the general vicinity or the same zone since many of the homes in the general vicinity would have been constructed when (1930's) zoning would not have had setbacks at the time of construction.

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 since the applicant would be required to reconstruct the existing garage and driveway to conform to current LDC to be in compliance.

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 is requesting a variance to come into compliance with the Land Development Code as of April 26, 2016.

TECHNICAL REVIEW

- No technical review was undertaken.

STAFF CONCLUSIONS

The variance would allow the applicant's, at 551 Barberry Lane, garage and portion of the driveway to come into compliance for the required side yard setbacks in an R-5 zoned, Neighborhood Form District.

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 sections 5.3.1, table 5.3.1 Dimensional Standards: Residential Development for a garage and driveway within an R-5 zoned parcel in a Neighborhood Form District.

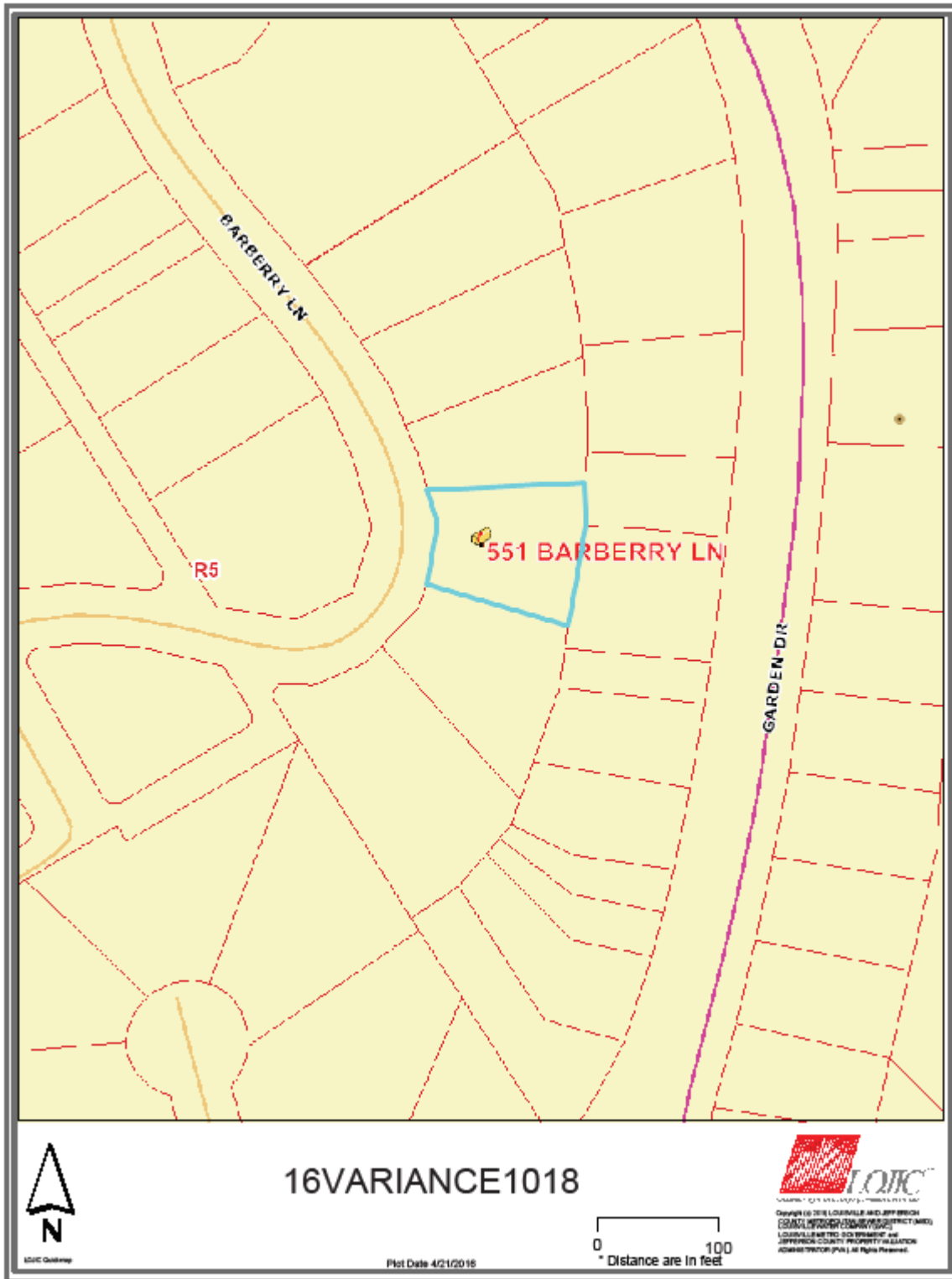
NOTIFICATION

| Date | Purpose of Notice | Recipients |
|----------------|-----------------------|--|
| May 16, 2016 | Hearing before BOZA | 1 st and 2 nd tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District __ Notification of Development Proposals |
| April 29, 2016 | Sign Posting for BOZA | Sign Posting on property |

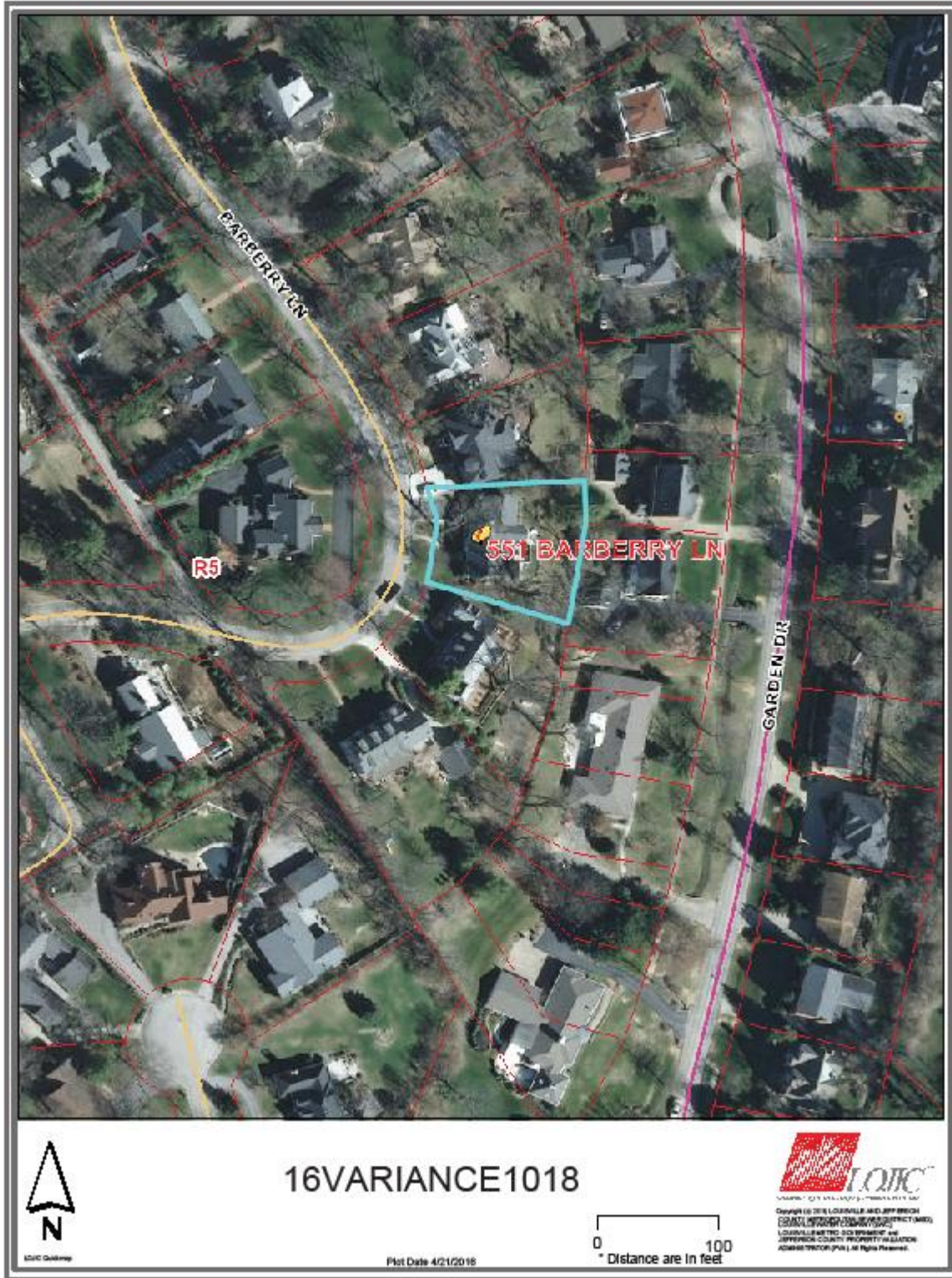
ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph



3. Site Plan

