

Board of Zoning Adjustment
Staff Report
 March 18, 2019



Case No:	19VARIANCE1010
Project Name:	Etawah Avenue Variance
Location:	1330 Etawah Avenue
Owner/Applicant:	Clarisa De Luna-Villaflor – Equity Trust Company
Jurisdiction:	City of Lyndon
Council District:	7 – Paula McCraney
Case Manager:	Zach Schwager, Planner I

REQUEST

- **Variance** from City of Lyndon Development Code table 5.3.1 to allow a structure to encroach into the required side yard setback.

Location	Requirement	Request	Variance
Side Yard	5 ft.	3 ft.	2 ft.

CASE SUMMARY/BACKGROUND

The subject property is undeveloped and is located in the Eastview subdivision in the City of Lyndon. The property was part of a minor subdivision that was approved under case number 18MINORPLAT1161 on January 23, 2019. The applicant is proposing to construct a two-story single-family residence on the lot.

STAFF FINDING

Staff finds that the requested variance is adequately justified and meets the standard 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 City of Lyndon Development Code from table 5.3.1 to allow a structure to encroach into the required side yard setback.

Condition of Approval:

- #1) A survey of the southern property line shall be completed prior to the commencement of construction activity and shall be staked in the field. No projections from the façade or building foundation shall cross the property line; any such projections shall be accommodated by stepping back the proposed structure from the property line.

TECHNICAL REVIEW

- No technical review was undertaken.

INTERESTED PARTY COMMENTS

Staff received an email from Brent Hagan, the mayor of Lyndon, in opposition to the variance.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM TABLE 5.3.1

- (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 structure will be constructed 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 the structures in the area are all close to the side property lines.

- (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 proposed structure will be the same distance from the side property line as the neighboring structure.

- (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 location of the proposed residence is similar to surrounding structures.

ADDITIONAL CONSIDERATIONS:

1. The requested variance does not arise 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 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 create an unnecessary hardship on the applicant because there is an existing MSD easement on the northern portion of the lot, which prevents the applicant from building to the required side yard setback.

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.

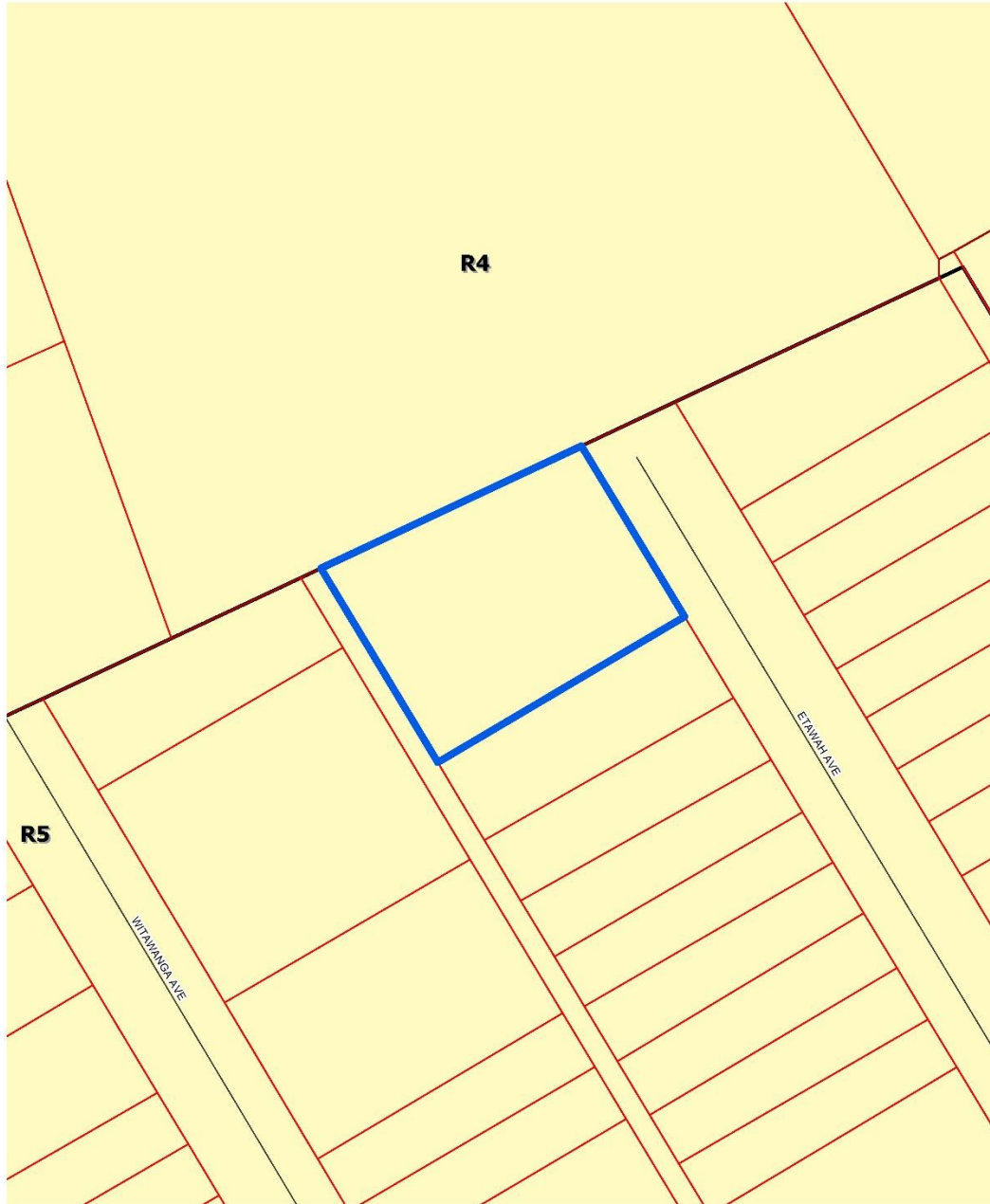
NOTIFICATION

Date	Purpose of Notice	Recipients
02/28/2019	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 7
03/01/2019	Hearing before BOZA	Notice posted on property

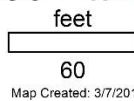
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Elevation
5. Site Photos
6. Opposition Email

1. Zoning Map



1328 & 1330 Etawah Avenue



Map Created: 3/7/2019

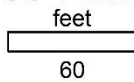


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2. Aerial Photograph



1328 & 1330 Etawah Avenue

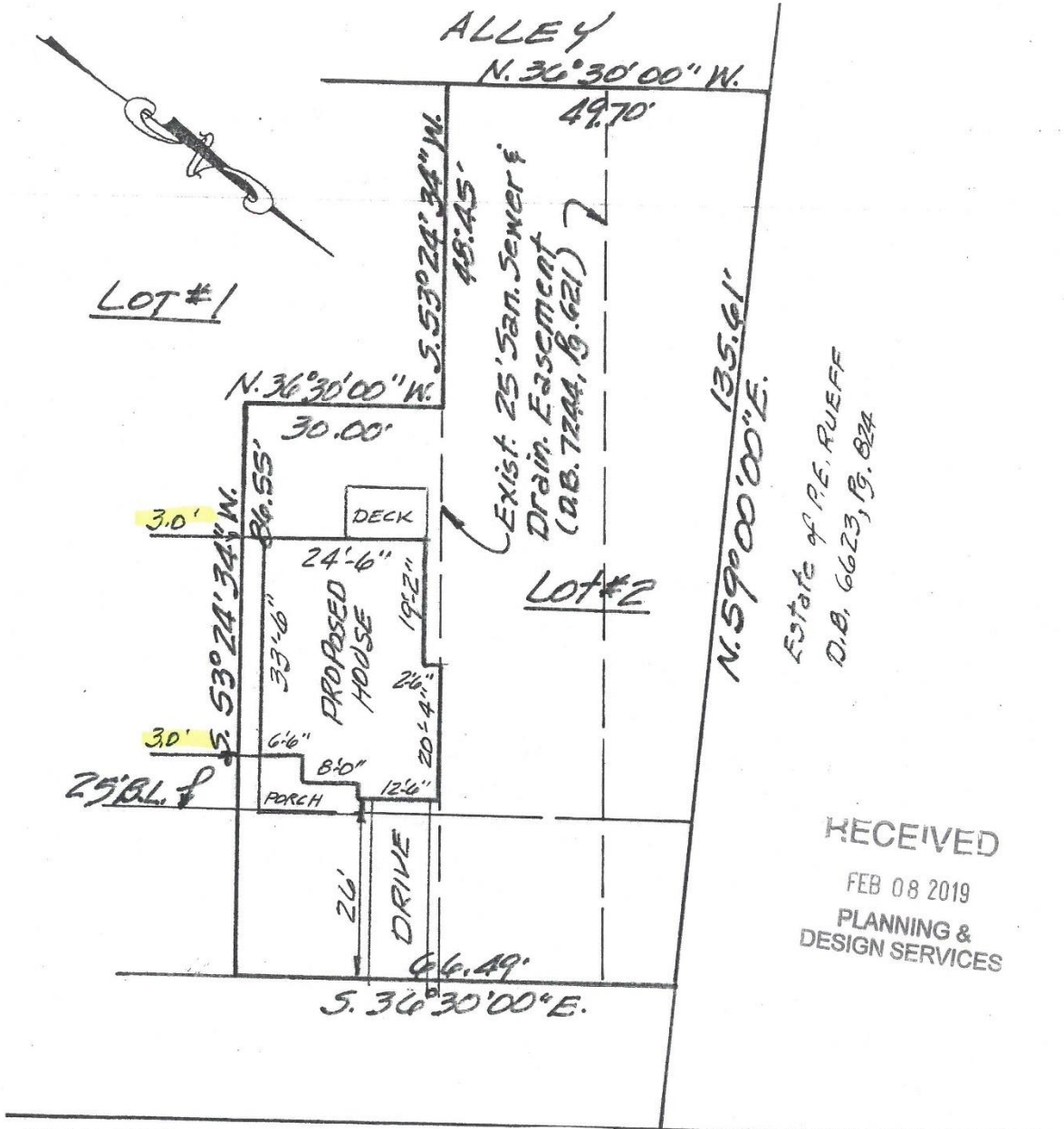


Map Created: 3/7/2019



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3. Site Plan



RECEIVED
 FEB 08 2019
 PLANNING &
 DESIGN SERVICES

PLOT PLAN ONLY
DO NOT SCALE

Survey For Equity Trust Company
 Location 133 ETAWAH AVE.
Lot # 2 per Minor Plat # 11 MR 161
 D.B. B. Pg. Jeff. C.
 Scale: 1" = 20' Date: 2-4-19

C.R.P. & ASSOC., INC.
 7321 New LaGrange Road, Suite 111
 Louisville, KY 40222
 (502) 423-8747 • Fax (502) 429-0602

This tract shown on this plat is subject to all easements and right of way and restrictions visually apparent and of record

4. Elevation



5. Site Photos



Front of the subject property.



Close-up of subject property.



Property to the left of the subject property.



Developed neighboring properties to the left.



Properties across Etawah Avenue.



Looking south down Etawah Avenue.

6. **Opposition Email**

Schwager, Zachary D.

From: Brent Hagan <lyndonmayor@cityoflyndon.org>
Sent: Thursday, February 28, 2019 2:21 PM
To: Schwager, Zachary D.
Subject: 19Variance1011 and 19Variance1010

Follow Up Flag: Follow up
Flag Status: Completed

Zachary,

While the division of this parcel is to a size like many other parcels on this road, I strongly oppose this variance. This area does not conform to the current neighborhood form district guidelines, I am aware that they may not be subject to these rules because it is not a new development. The roadway is very narrow and difficult for emergency services to access these properties. There is absolutely nowhere to turn around and the road extensions have been built of sub standard quality. Lyndon's previous administration may have turned a blind eye to these developments and parcel size variants, but I will not sit here and watch another neighborhood in my city become blighted because of poor planning. If it is approved, there should be a requirement of this developer to build a cul de sac at the terminus of the right of way.