

**Board of Zoning Adjustment
Staff Report**
March 7, 2016



Case No:	16VARIANCE1007
Request:	Variations to encroach into side and rear yards
Project Name:	514 Baxter Avenue
Location:	509 & 514 Baxter Avenue
Owners:	514 Baxter Avenue, LLC
Applicant:	John Thomas, Sabak, Wilson & Lingo, Inc.
Representative:	John Thomas, Sabak, Wilson & Lingo, Inc.
Jurisdiction:	Louisville Metro
Council District:	4 – David Tandy
Case Manager:	Laura Mattingly-Humphrey, Planner I

REQUEST

- Variance #1: A 10' variance request from LDC Section 5.2.2, Table 5.2.2 to allow a 0' side yard setback on Tract 1.
- Variance #2: A 15' variance request from LDC Section 5.2.2, Table 5.2.2 to allow a 0' rear yard setback on Tract 2.

Variance #1

Location	Requirement	Request	Variance
Side Yard-Tract 1	10'	0'	10'

Variance #2

Location	Requirement	Request	Variance
Rear Yard-Tract 2	15'	0'	15'

CASE SUMMARY/BACKGROUND/SITE CONTEXT

Existing Zoning District: CM
 Existing Form District: Traditional Neighborhood
 Existing Use: Commercial
 Proposed Use: Commercial

The applicant is requesting to divide one tract into two through a minor plat that is currently under review. The site is currently occupied by two structures with separate addresses. The subdivision of the lot requires that a property line be drawn separating the buildings, requiring 0 foot setbacks where the new lot line is drawn. Tract One has frontage and access on Baxter Ave and Tract 2 has frontage and access on Barret Ave. All other physical aspects of the property, besides the new lot line, will remain unchanged.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Commercial	CM	TN
Proposed	Commercial	CM	TN
Surrounding Properties			
North	Parts Distributor, Commercial Retail	CM, C-2	TN
South	Religious, Single Family Residential, Manufacturing	CM, R-6, M-2	TN
East	Commercial Office	C-1, C-2	TN
West	Commercial Office	CM	TN

PREVIOUS CASES ON SITE

15MINORPLAT1158: Proposal to create two lots from one. Currently under review and will be approved on condition that variance is granted.

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

APPLICABLE PLANS AND POLICIES

Land Development Code
Cornerstone 2020

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES #1 & #2
(Side Yard Setbacks on Tract 1 & Rear Yard Setback on Tract 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 building is an existing condition and the division of land has received preliminary approvals from Construction Review.

- (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 design and function of the property is remaining unchanged.

- (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 all safety standards from Construction Review have been met.

- (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 encroachment is a result of a new lot line being drawn in order for one of the existing buildings to be sold.

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 arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the variance request is a result of a new lot line being drawn where two abutting buildings currently exist.

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 deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant as the applicant would not be able to sell the vacant building and would be faced with the financial burden of maintaining and finding a use for a vacant building.

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 indeed the result of action of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought but are reasonably justified considering the existing conditions and the reasons for which the new lot line is being drawn.

TECHNICAL REVIEW

- The required minor plat to create the new tracts has been submitted by the applicant and is currently under review.
- There are no other outstanding technical review items.

STAFF CONCLUSIONS

The standard of review for the requested variances has been met. 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 variances as established in the Land Development Code.

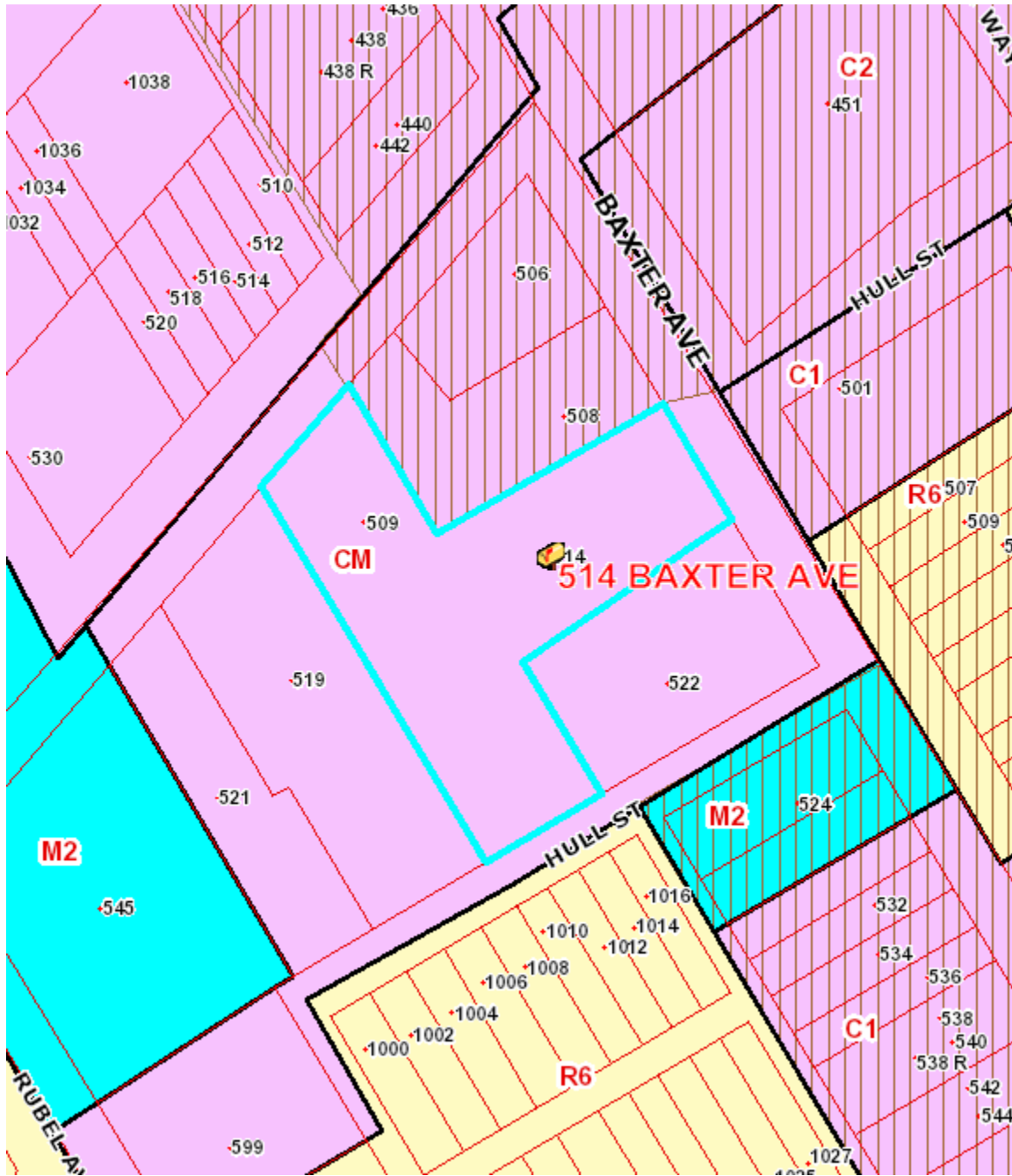
NOTIFICATION

Date	Purpose of Notice	Recipients
2/17/16	Hearing before BOZA	1 st tier APO of subject property Registered Interested Parties for Council District 22

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

