

Board of Zoning Adjustment

Staff Report

December 05, 2022



Case No: 22-VARIANCE-0102
Project Name: Esperanza Way Variance
Location: 2011 Esperanza Way
Owner/Applicant: Shellie & Arthur C. Eggers
Jurisdiction: Louisville Metro
Council District: 8 – Cassie Chambers Armstrong
Case Manager: Heather Pollock, Planner I

REQUEST:

Variance from Land Development Code section 5.4.1.D.2 to allow a private yard area to be less than the required 20% of the area of the lot.

Location	Requirement	Request	Variance
Private Yard Area	1,024.53 sq. ft.	0 sq. ft.	1,024.53 sq. ft.

CASE SUMMARY/BACKGROUND

The subject site is zoned R-5 Residential Single-Family in the Traditional Neighborhood Form District. The property is located on the north side of Esperanza Way, which is a named alley that runs from Hampden Ct. to Bardstown Rd. It is in the Highlands Douglass Neighborhood. The applicant is building a two-story, 500 sq. ft. garage off of the side alley which will reduce the private yard area to be less than the required 20% of the area of the lot.

STAFF FINDINGS

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 Land Development Code from section 5.4.1.D.2 to allow a private yard area to be less than the required 30% of the area of the lot.

TECHNICAL REVIEW

Transportation Planning has reviewed the plan for this variance request. The entrance being used to access the alley that runs parallel to Esperanza Way is not a valid access so there is not a sight distance to be considered.

INTERESTED PARTY COMMENTS

Staff received several comments from interested parties. These are attached the agenda item.

RELATED CASES

RES-NEW-22-00764: Building permit for a detached two-car garage, issued September 09, 2022.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.4.1.D.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, because the structure must be constructed to comply with all building codes, including fire codes and Land Development Codes, except for where relief is requested.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The proposed structure will not alter the essential character of the general vicinity as it is going to be built with material that will be in character with the existing residence and surrounding residential neighborhood. While the shape of this lot is unique, the lack of adequate private yard area is not. There are other corner lots on Speed Ave, Kenilworth Pl, and Grasmere Dr. that do not appear to meet private yard area requirements.

- (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 and will not adversely impact the safe movement of vehicles or pedestrians. While there is an alley that runs between the location of the primary structure and the proposed garage, the right of way terminates before connecting to the alley that runs from Esperanza Way to Speed Ave. Thus, there is no sight distance triangle to consider.

- (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 lot is a unique shape and there is an alley that terminates behind the home, these conditions keep this property from having adequate space for the private yard area requirement.

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 the land in the generally vicinity or the same zone as the lot is dissimilar in size and shape to 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 create an unnecessary hardship on the applicant as there is not adequate space that can be counted toward the private yard area due to the unique shape of the lot and the location of a private alley between the home and the accessory use area.

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 been issued a building permit and has started construction.

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.

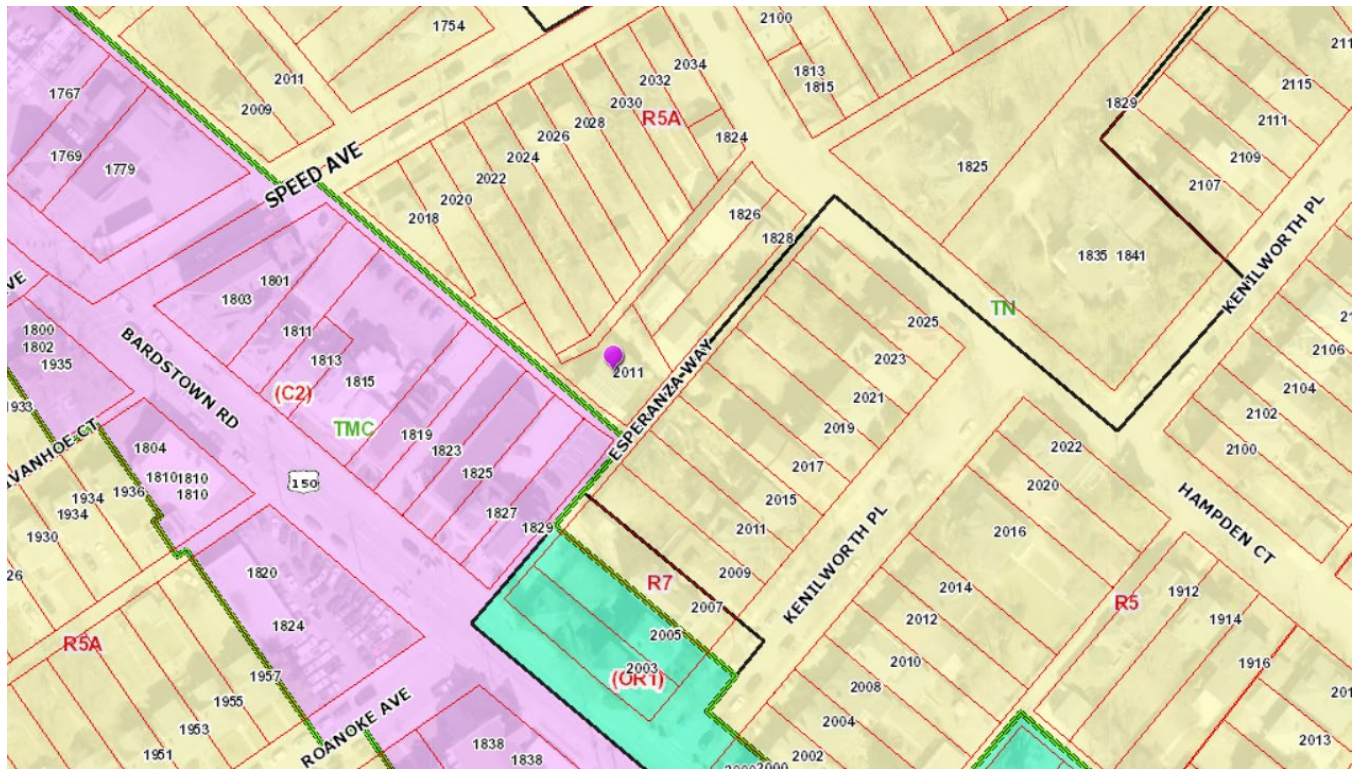
NOTIFICATION

Date	Purpose of Notice	Recipients
11/21/2022	Hearing before BOZA	1 st tier adjoining property owners and registered neighborhood groups in council district 8
11/22/2022	Hearing before BOZA	Notice posted on property

ATTACHMENTS

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

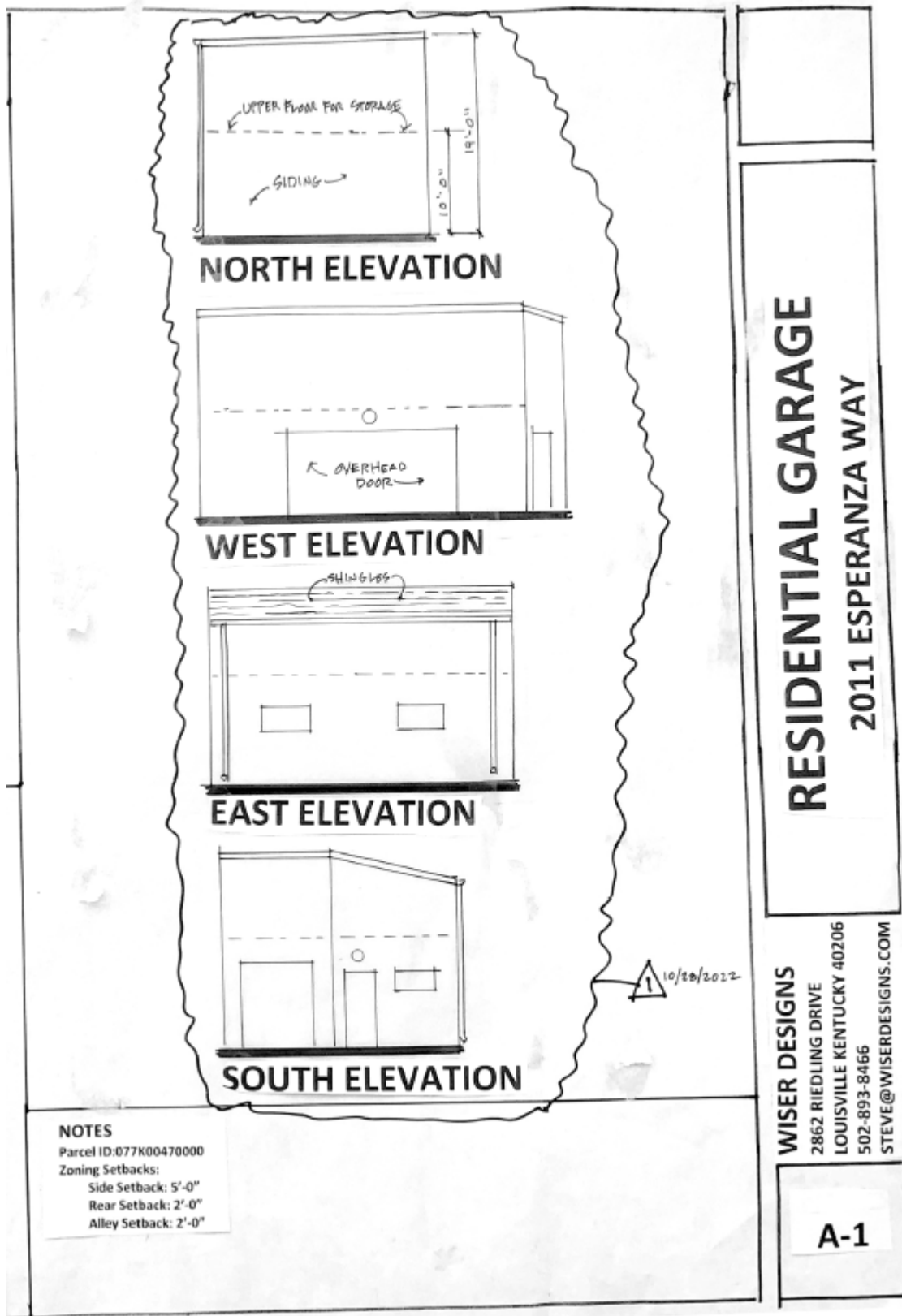
1. Zoning Map



2. Aerial Photograph



4. Elevations



5. Site Photos



Front of subject property, Google 2019.



To the right of subject property, along Esperanza Way.



To the left of subject property, alley running parallel to Bardstown Rd.



Across alley from site.



View of variance area from alley that terminates behind the primary structure.



View of variance area from accessory use area.



Survey pins showing rear yard and side yard setbacks.

