

# Board of Zoning Adjustment

## Staff Report

January 09, 2023



**Case No:** 22-VARIANCE-0128  
**Project Name:** Winton Avenue Variance  
**Location:** 311 Winton Avenue  
**Owner/Applicant:** Todd McDonald  
**Jurisdiction:** Louisville Metro  
**Council District:** 9- Andrew Owen  
**Case Manager:** Heather Pollock, Planner I

### **REQUEST:**

**Variance** from the Land Development Code section 5.4.C.3.b to allow an accessory structure to occupy more than 50% of the required rear yard area.

Location	Requirement	Request	Variance
Rear Yard	1,250 sq. ft	510 sq. ft	740 sq. ft.

### **CASE SUMMARY/BACKGROUND**

The subject site is zoned R-5 Single Family Residential in the Neighborhood Form District. The property is located on the east side of Winton Ave. in the Brownsboro Zorn neighborhood. The subject property has a single-family home. The applicant is proposing to construct a 1,584 sq. ft. garage with an accessory dwelling unit that will occupy more than 50% of the area of the required rear yard.

Section 5.4.C.3.b states that the cumulative total area of building footprint, accessory structure(s), and residence shall not encroach more than 50% of the area of the rear yard. The area of the rear yard requirement for this property is 1,250 sq. ft. The proposed accessory structure will occupy 740 sq. ft. of the rear yard, therefore a variance is needed.

### **STAFF FINDINGS**

Staff finds that the requested variance meets standards (a), (b), and (c) but does not meet standard (d) because there is adequate space behind the rear of the home to move the accessory structure and reduce the impact on the required rear yard.

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.

### **TECHNICAL REVIEW**

The applicant is required to obtain a building permit and the structure may require alterations to the proposed building plans in order to meet building code requirements.

Any changes to the proposed ADU that alter the plan and/or information related to the special standards listed in LDC 4.3.25 shall require a new ADU review by Planning and Design Services.

### **INTERESTED PARTY COMMENTS**

Interested party comments were received by staff and are attached to this agenda item.

### **RELATED CASES**

RES-NW-22-00093: Pending foundation only permit.

RES-NEW-22-00539: Pending construction permit for a 1,584 sq. ft

22-ADU-0008: Proposed Accessory Dwelling Unit, subject to the standards of LDC 4.3.25. Approved on April 29, 2022.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.4.C.3.b**

- (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 applicable building codes and the Land Development Code, except where relief is requested.

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

STAFF: The structure will not alter the essential character of the general vicinity as it will be built with material that is in character with the surrounding residential neighborhood. There are other properties in the area that have structures that appear to occupy more than 50% of the required rear yard.

- (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 hinder 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 may allow an unreasonable circumvention of the zoning regulations as there is adequate space behind the rear of the home to move the location of the proposed accessory structure so that it does not occupy more than 50% of the required rear yard.

### 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 generally apply to the land in the generally vicinity or the same zone as the lot is similar 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 not create an unnecessary hardship on the applicant as the lot is deep enough to move the accessory structure far enough out of the rear yard to meet the requirement.

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 as the applicant has not started 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.

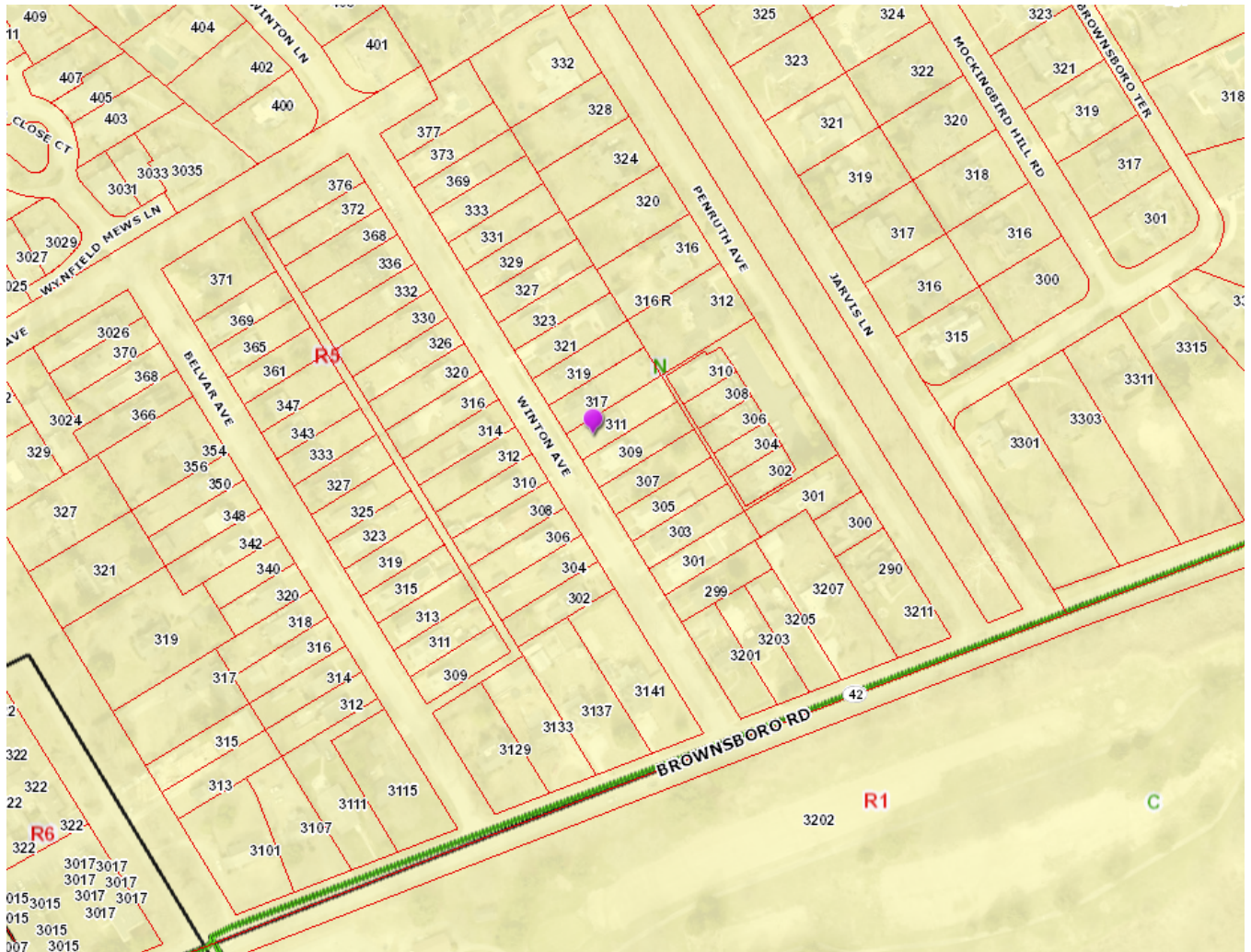
### NOTIFICATION

Date	Purpose of Notice	Recipients
12/19/2022	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 9
12/28/2022	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

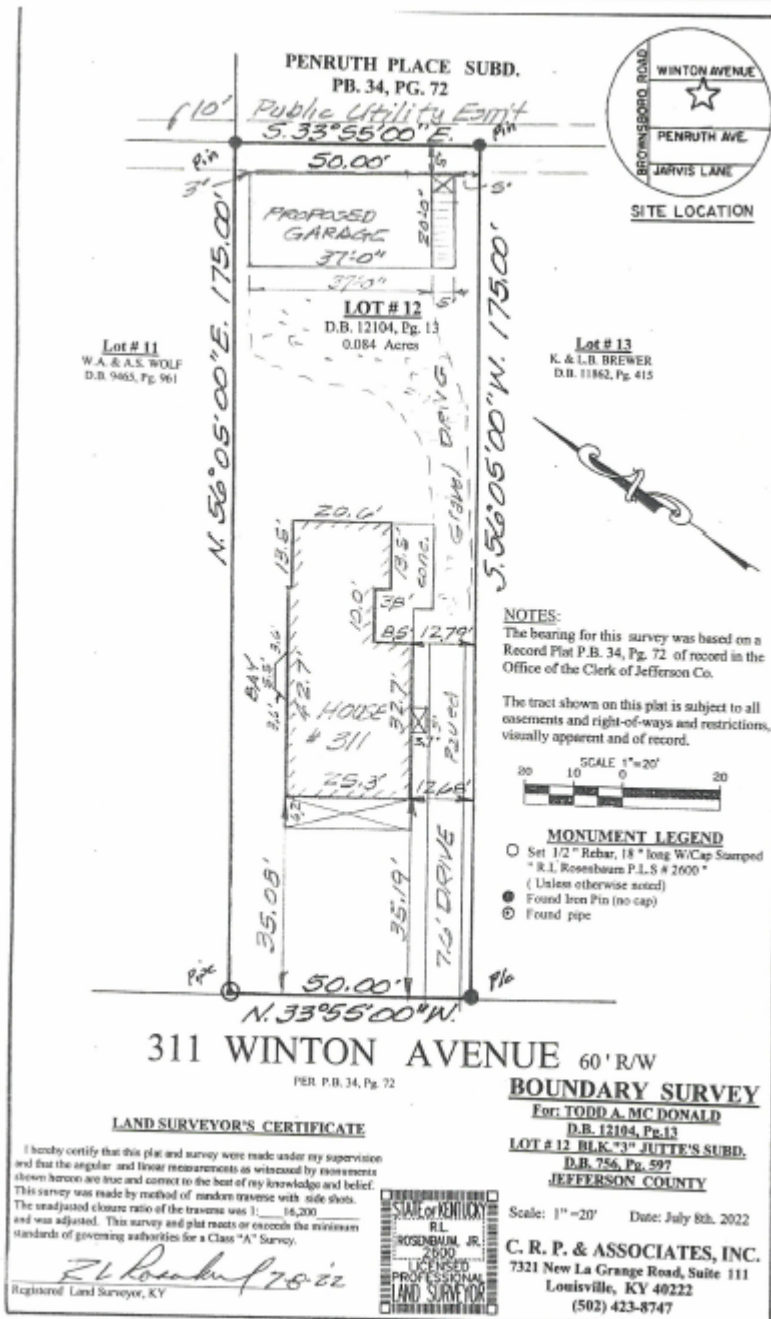




## 2. Aerial Photograph



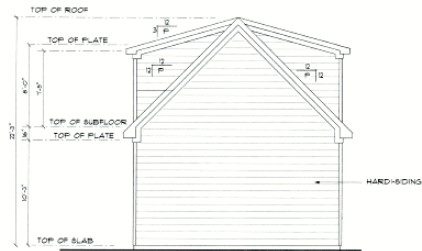
### 3. Site Plan



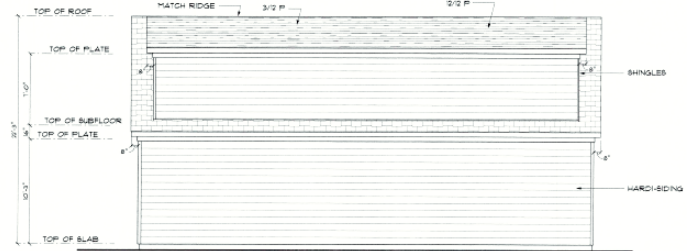
## 4. Elevations

### NOTE:

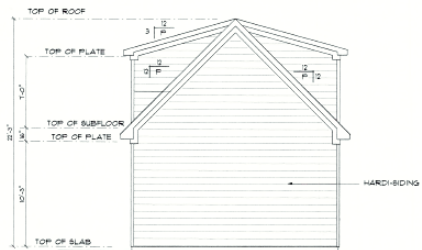
**BUILDING "JUST VINYL" DRAWINGS**  
 For all exterior, structural, and interior finish work, please refer to the "JUST VINYL" drawings and all building code requirements are assumed before starting any construction. **QUALITYMAN IS NOT RESPONSIBLE** if these provisions are ignored.



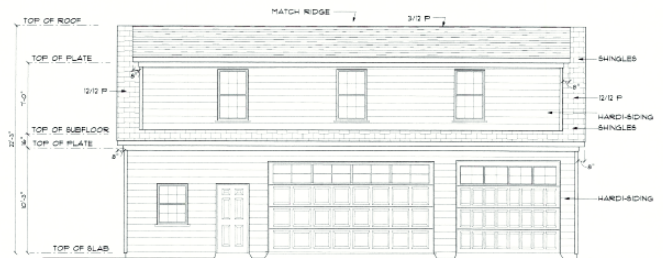
**RIGHT ELEVATION**



**REAR ELEVATION**



**LEFT ELEVATION**



**FRONT ELEVATION**

DATE: 8/30/22

RECEIVED  
 SP 12/03  
 PLANNING & DESIGN  
 CENTER

GARAGE DESIGN FOR TODD McDONALD  
 311 WINTON AVENUE





## 5. Site Photos



Front of subject property.





To the left of subject property





To the right of subject property





Across street





Variance area and yard.