

Board of Zoning Adjustment

Staff Report

October 21, 2019



Case No:	19-VARIANCE-0038
Project Name:	Colonial Drive Variance
Location:	201 Colonial Drive
Owner/Applicant:	Dale Dueffert
Jurisdiction:	City of St. Matthews
Council District:	9 – Bill Hollander
Case Manager:	Zach Schwager, Planner I

REQUEST

- **Variance** from City of St. Matthews Development Code section 4.7.C.2.c to allow a structure to encroach into the required street side yard setback.

Location	Requirement	Request	Variance
Street Side Yard	25 ft.	4 ft.	21 ft.

CASE SUMMARY/BACKGROUND

The subject property is zoned R-5 and is in the Neighborhood Form District. It is located in the Colonial Village subdivision in the City of St. Matthews on the northeast corner of Colonial Drive and Massie Avenue and contains a 1 ½ story single-family residence. The applicant replaced an existing deck with a new deck that encroaches the same distance and has the same footprint as the previous one. The applicant is therefore requesting a variance for the new deck to encroach into the required street side yard setback.

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 standard of granting a variance established in the City of St. Matthews Development Code from section 4.7.C.2.c to allow a deck to encroach into the required street side yard setback.

Condition of Approval:

#1) The applicant shall submit a Minor Subdivision Plat application to Planning & Design services for review and approval to shift the 15 ft. building limit line along Massie Avenue. The approved minor plat shall be recorded with the Jefferson County Clerk prior to issuance of building permits.

INTERESTED PARTY COMMENTS

Staff received a phone call from an adjoining property owner with a general inquiry about the proposal.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 4.7.C.2.c

- (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 need to 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 there is a similar deck that encroaches into the street side yard setback on Colonial Drive. Also, the deck existed prior to the variance request, which was submitted after the applicant began construction on the new deck.

- (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 deck will be built to comply with building and fire codes.

- (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 required setback does not meet the existing conditions of the subject property or surrounding properties.

ADDITIONAL CONSIDERATIONS:

1. The requested variance does 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 subject property is similar in size and shape to 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 the deck existed prior to the applicant beginning construction on the new deck.

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 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 after beginning construction.

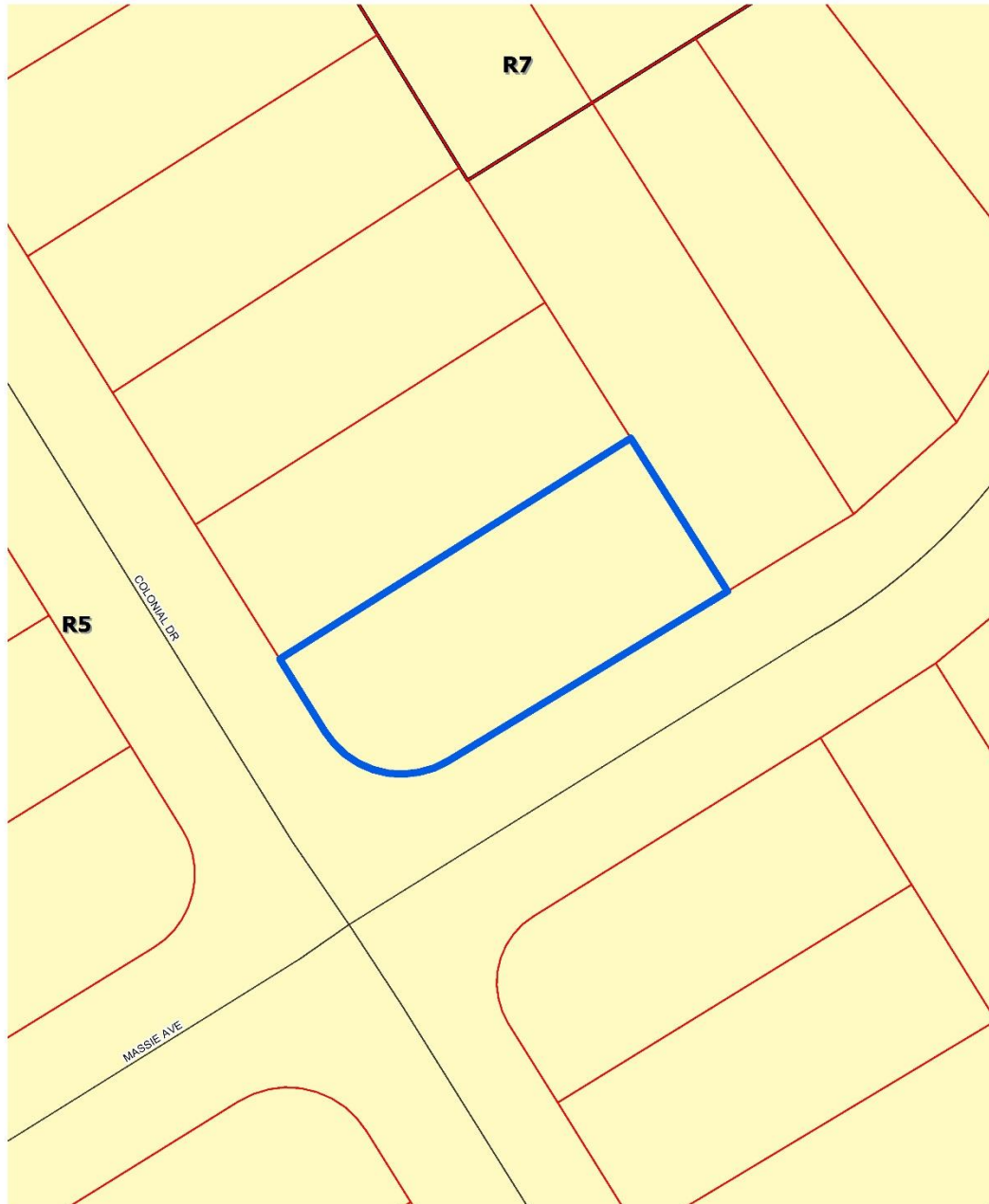
NOTIFICATION

Date	Purpose of Notice	Recipients
09/9/2019	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 9
10/4/2019	Hearing before BOZA	Notice posted on property

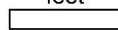
ATTACHMENTS

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

1. **Zoning Map**



201 Colonial Drive
feet

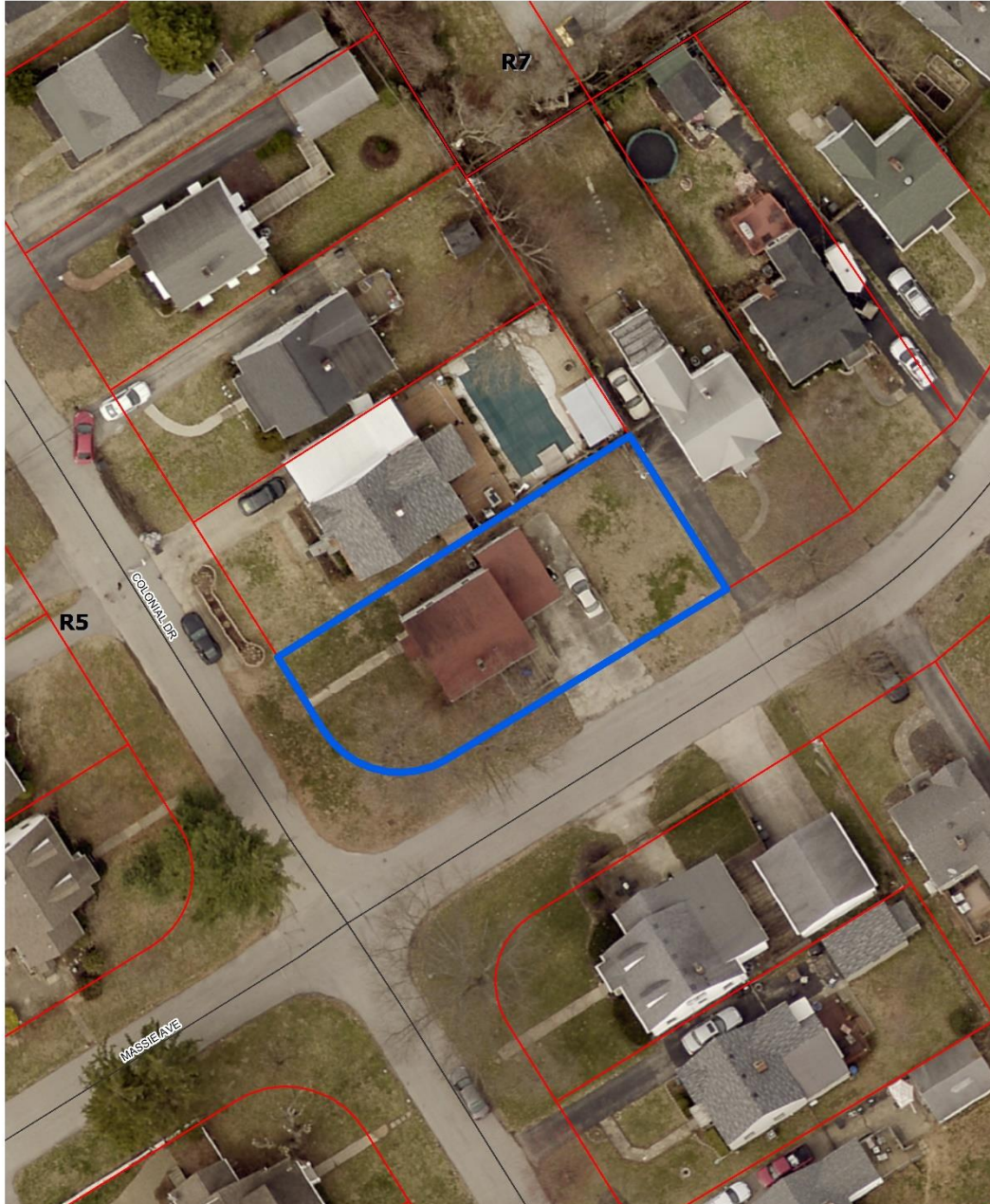


Map Created: 10/16/2019

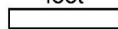


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2. Aerial Photograph



201 Colonial Drive
feet

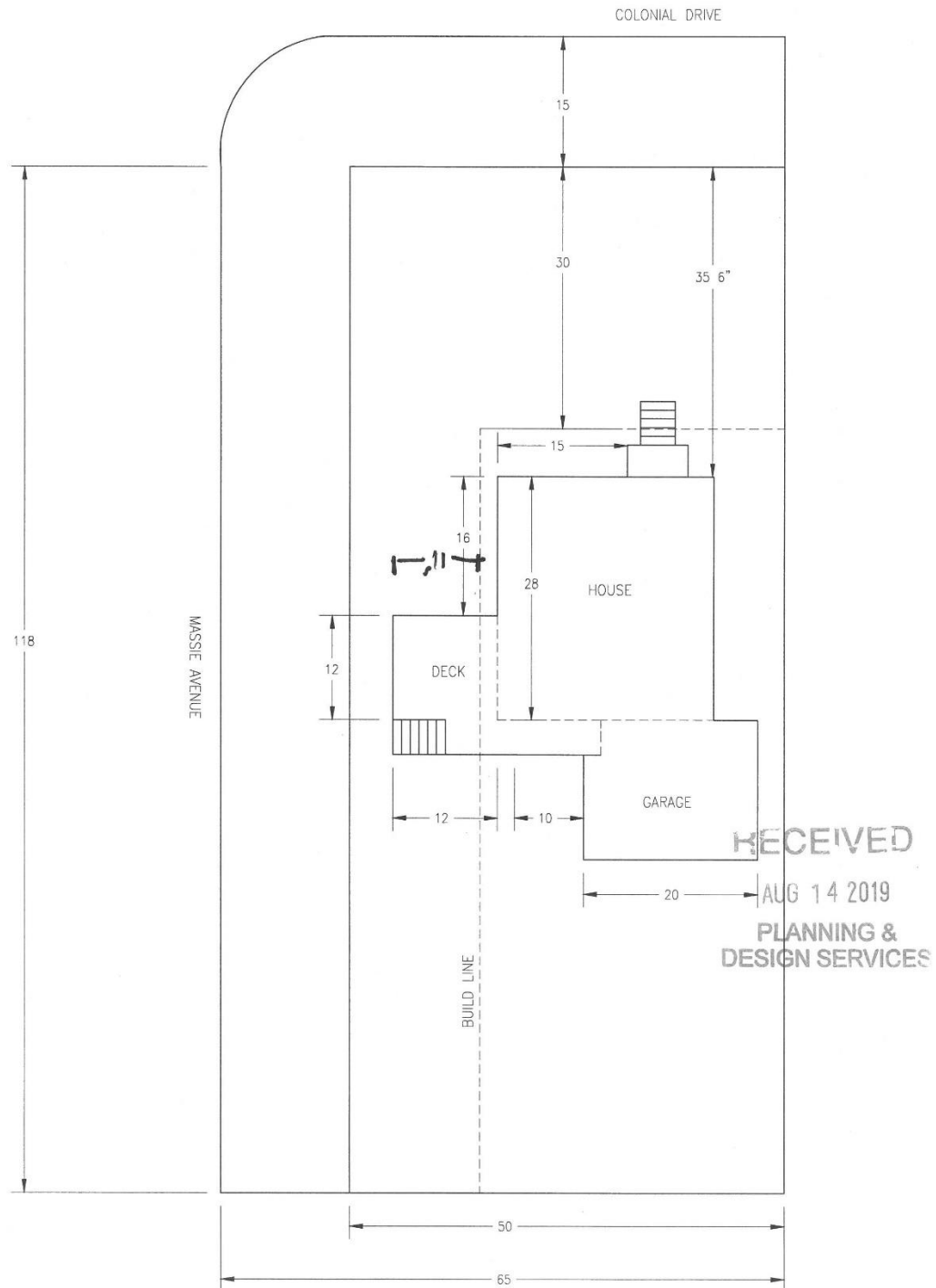


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Map Created: 10/16/2019



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3. Site Plan



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4. **Site Photos**



The front of the subject property.



The property to the left.



The property across Massie Avenue.



The property across Colonial Drive.



New deck and street side yard setback.



New deck and street side yard setback.



New deck from Massie Avenue.