

Board of Zoning Adjustment

Staff Report

May 4, 2020



Case No:	20-VARIANCE-0030 20-VARIANCE-0031 and 20-WAIVER-0025
Project Name:	E. Chestnut Street Variances and Waiver
Location:	941 E. Chestnut Street
Owner:	Daniel Hofmann
Applicant:	Daniel Hofmann
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Zach Schwager, Planner I

REQUEST

- **Variance** from Land Development Code table 5.2.2 to allow a proposed principal structure to encroach into the required front and rear setbacks
- **Variance** from Land Development Code section 5.4.1.D.3 to allow a private yard area to be less than the required 20% of the area of a lot
- **Waiver** from Land Development Code section 5.4.1.C.2 to allow parking in the Principal Structure Area

Location	Requirement	Request	Variance
Front Yard	15 ft.	5.5 ft.	9.5 ft.
Rear Yard	5 ft.	3 ft.	2 ft.
Private Yard Area	701 sq. ft.	0 sq. ft.	701 sq. ft.

CASE SUMMARY

The subject property is located in the Phoenix Hill neighborhood on the west side of E. Chestnut Street in between E. Chestnut Street and S. Wenzel Street. The property is currently undeveloped and the applicant is proposing to construct a two-story single-family residence. The proposed structure would encroach into the front and rear yard setbacks as well as the required private yard area, therefore, variances are required. The proposed parking area is in the Principal Structure Area, which is not permitted in the Traditional Neighborhood without the granting of a waiver.

STAFF FINDING

Staff finds that the requested variances are adequately justified and meet the standards of review. Staff finds that the requested waiver 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 variances established in the Land Development Code from table 5.2.2 to allow a principal structure to encroach into the required front and rear setbacks and section 5.4.1.D.3 to allow a private yard area to be less than the required 20% of the area of a lot. The Board of Zoning Adjustment must also determine if the proposal meets the standards for granting a waiver from Land Development Code section 5.4.1.C.2 to allow parking in the Principal Structure Area.

TECHNICAL REVIEW

- The plan has received preliminary approval from Transportation Planning.

INTERESTED PARTY COMMENTS

Wanda Mitchell Smith, Legislative Assistant for Council District 4, had a general inquiry about the proposal.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM TABLE 5.2.2

- (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 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 there is a variety of development and land uses in the area including single-family, multi-family, commercial, and industrial.

- (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 constructed to comply with all building codes, including 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 lot is irregular in shape and is smaller in size, which does not allow much space for development.

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 arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the subject property is irregular in shape and size compared 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 because the subject property is irregular in shape and size compared to surrounding properties.

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.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.4.1.D.3

- (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 there is a variety of development and land uses in the area including single-family, multi-family, commercial, and industrial.

- (c) The requested variance will not cause a hazard or nuisance to the public.

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.

- (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 irregular in shape and is smaller in size, which does not allow much space for development.

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 arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the subject property is irregular in shape and size compared 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 because the subject property is irregular in shape and size compared to surrounding properties.

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.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 5.4.1.C.2

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners as the proposed parking underneath the structure will reduce on-street parking in the area.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: The waiver does not violate specific guidelines of Plan 2040 as Plan 2040 states that revitalization and reinforcement of the Traditional Neighborhood Form will require particular emphasis on (a) preservation and renovation of existing buildings in stable neighborhoods (if the building design is consistent with the predominant building design in those neighborhoods), (b) the preservation of the existing grid pattern of streets and alleys, (c) preservation of public open spaces. The proposed parking area does not violate specific guidelines of Plan 2040 because while there is alley access, it is on the side and the applicant is using the alley to access the lot; however, the only room for parking is underneath the proposed structure as the lot is smaller in size compared to others in the area.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the property is smaller in irregular in shape and smaller in size compared to other lots in the area.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would 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 the subject property is irregular in shape and size compared to surrounding properties.

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.

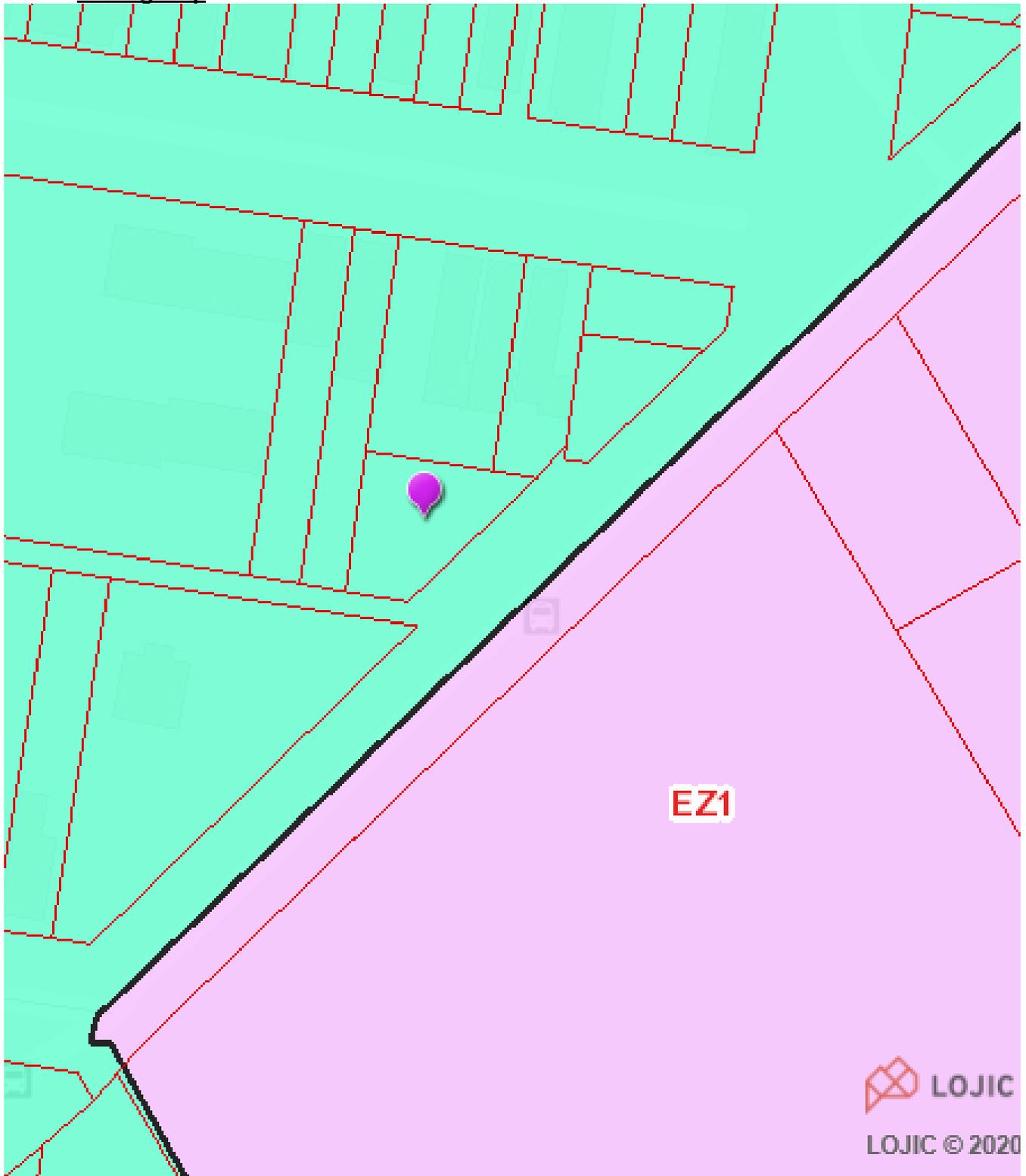
NOTIFICATION

Date	Purpose of Notice	Recipients
04/17/2020	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 4
04/23/2020	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



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5. **Site Photos**



Subject property.



Property to the right.



Property to the left across the alley.



Property across E. Chestnut Street.



Access location.



Front yard setback variance location.



Rear yard setback and private yard area variance location.